

Public sector pay and procurement in Europe during the crisis:

The challenges facing local government and the prospects for segmentation, inequalities and social dialogue

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Executive Summary

Background

In the wake of the 2008-9 financial crisis and subsequent sovereign debt crisis, governments across EU member states have, to varying degrees, acted to reduce government expenditures in an attempt to restore their fiscal position. While the scale of the crisis has been experienced very differently - with the most severe, Troika-led pressures for fiscal consolidation and structural reforms occurring in Greece, Ireland, Portugal and Spain – there has been a surprising convergence of reforms towards cutting back government spending, in marked contrast to previous recessions when government spending was widely considered a valuable tool to boost aggregate demand. Because a large proportion of government spending covers the salaries of the public sector workforce, many countries have implemented measures to downsize jobs and to cut or freeze pay. But pressures to impose reforms quickly have encouraged many governments to implement reforms unilaterally, sidestepping formal or customary processes of social dialogue. Moreover, restructuring of services has led to the elimination of some public services, challenging longstanding norms of universal provision, as well as encouraging a renewed focus on outsourcing and privatisation in contexts where the private sector offers the promise of cost reductions.

Project aims and research questions

Against this background, the general aim of this comparative research project was to investigate the nature of public sector pay reforms and the associated strategies of procurement during the current period of fiscal austerity and to understand the challenges facing social partners. The project focused in particular on pay and procurement strategies within local government in a context of often increasing segmentation and inequalities. The programme of research was designed to address five specific research questions:

- i) What are the patterns of public sector pay reforms and pay settlements since 2005 (at national, regional and local levels)?
- ii) What are government and social partner strategies towards public sector pay and to what extent have there been changes in processes of social dialogue and in the industrial relations climate in the public sector?
- iii) Has government use of public sector procurement changed and if so how and what are the implications for pay and employment conditions both for workers in the private sector who provide the commissioned public services and for public sector workers?
- iv) What are the implications of public sector pay reforms and procurement strategies for indicators of wage and employment inequality, with a focus on gender, public-private and low-wage/high-wage inequalities?
- v) What are the lessons from the comparative research evidence for improving the mechanisms for, and quality of, social dialogue?

The project brought together a team of experts from five countries - France, Germany, Hungary, Sweden and the UK, selected to cover old and new members of the EU, as well as

different models of public sector pay and vulnerability to the austerity crisis. Each country team has produced a national report, drawing on secondary quantitative data and original qualitative data from case studies of local government municipalities. These five reports form the core source of data for the comparative report.

Pay cuts in the public sector

Against a context of rising debt to GDP ratios in all but a handful of EU member states during 2007-11, governments have implemented austerity measures ranging from moderate to severe, involving in some countries interventions by the Troika in exchange for bailouts. Austerity measures have been fuelled by neoliberal economic assumptions that lower government spending is an indicator of an economy's health, despite its well-known longer-term role in supporting economies out of recession. Most countries have made cuts to real pay:

- 18 out of 27 countries implemented austerity-related pay reforms during 2008-2012 involving combinations of pay freezes and/or pay cuts;
- 13 out of these 18 countries implemented pay adjustments in two or three consecutive years leading to major cumulative pay cuts;
- the largest annual nominal pay cuts were in Romania (25%-50%, 2010), Greece (varying up to 20%, 2010-14), Latvia (up to 20%, 2008-10), Estonia (up to 15%, 2009-10); and
- among the five selected countries, France froze the index points (2010-12), Hungary cut pay by 7% (2008-10) and cut the 13th month salary (2009), Sweden neither cut nor froze pay and the UK froze pay during 2010-12 (with a small supplement for low-wage central government workers).

Patterns of employment

Harmonised Eurostat data suggest the public sector accounts for one in four of the EU27 workforce, and ranges from 23% in Hungary to 33% in Sweden among the five countries selected. There is a relatively close alignment between level of government spending as a percentage of GDP and public sector employment. National data provide the best source for accurate monitoring of recent trends: France and the UK shared a trend increase until 2010 followed by a small decline (France) and an abrupt downsizing (UK); Germany experienced a long-term decline since the early 1990s but a small rise during 2008-11; Hungary has displayed an erratic trend since 1990, including a decline after 2004, a rise from 2008 to 2010 and a significant fall during 2010-11; and Sweden has experienced a slow shrinking share of total public sector employment since the mid-1990s up to 2011. Countries have experienced shifts in the composition of civil servants and non civil servants and between permanent and temporary contracts, opposing tendencies at central and local government levels and new regulations on hiring and firing.

Comparing employment conditions in the public and private sectors

i) Public sector pay premium?

The austerity crisis has centred attention on the levels of public sector pay relative to the private sector. The report reviews the results of international econometric studies that

decompose the pay gap after controlling for educational and demographic differences among public and private sector workers. The results suggest the following pay patterns in the five countries:

- France: a small public sector pay premium at the median wage that especially benefits female and lower paid workers;
- Germany: a public sector premium for women not men at the median wage, of greater benefit to low-wage workers;
- Hungary: varying gap over time but a public sector penalty since 2007;
- Sweden: a public sector pay penalty for men and women; and
- UK: a significant public sector pay premium at the median wage, greater for women and for the lowest paid.

ii) Is the public sector a ‘good employer’?

A comparison of public and private sector workplaces ought not to be restricted to pay. The report includes a detailed analysis of whether or not the state acts as a ‘good employer’ in the five selected countries with attention to six features: job security; income security (eg. sick pay, pensions); fair level of pay based on fair comparisons; employee voice and collective bargaining; due process; and adoption of equal opportunity policies. The analysis highlights not only the major inter-country differences but also the vulnerability of public sector employment conditions and standards to political change and the power of the state to impose changes on the public sector even in contexts where there is a legacy of long established traditions of fair employment standards. For civil servants in Hungary, France and Germany changes can be made by government decree. In Germany and the UK, despite relatively strong trade unions in the public sector they have not been able to withstand the erosion of its pay premium and its role as a standards’ setter. In Hungary, the public sector has not established itself as a standard setter and is subject to volatile swings in government policy. In France and Sweden there are limited or no pay privileges for working in the public sector and it is the statutory minimum wage that guards against low pay in France and in Sweden the private sector has set pay trends for the public sector for several years.

iii) Does the public sector promote gender equality?

Six characteristics are analysed: women’s employment concentration (including highly educated women); female wage premiums; women’s pension income; work-life balance policies; affordable public services (especially childcare); and gender equality commitments and policies. A detailed appraisal of the five countries is used to generate an aggregate country profile reproduced here:

Table 4.4. Summary country profile of gender equality provided for by the public sector

	Employment	Working Conditions	Active Promotion of Gender Equality
Employment quantity	Public sector provides women with employment opportunities (female share and female concentration in public sector) • low – Germany, Hungary	Public sector provides women with work-life balance options that facilitate employment continuity • medium – Hungary	Public sector provides services such as childcare which facilitates labour market participation • low - Hungary, Germany, UK

	<ul style="list-style-type: none"> • medium – France, UK • high - Sweden 	<ul style="list-style-type: none"> • high – France, Germany, Sweden, UK 	<ul style="list-style-type: none"> • high - France, Sweden
Employment quality	<p>Access to higher quality jobs (high concentration of women graduates in public sector)</p> <ul style="list-style-type: none"> • medium - France • high – Germany, Hungary, Sweden, UK 	<p>Pay and pension premia especially for lower skilled (compared to discrimination in private sector)</p> <ul style="list-style-type: none"> • low – Hungary • medium - France, Sweden • high – Germany, UK 	<p>Active promotion of gender equality through specific duties and policies or through effective implementation of national policies</p> <ul style="list-style-type: none"> • low - Hungary • medium - France, Germany, UK • high - Sweden

This analysis demonstrates the importance of the public sector for gender equality but also the variations in this role across countries. Cuts to the public sector are primarily, however, hurting women and even where there are pay premiums, these may offset very low and discriminatory wages in the private sector

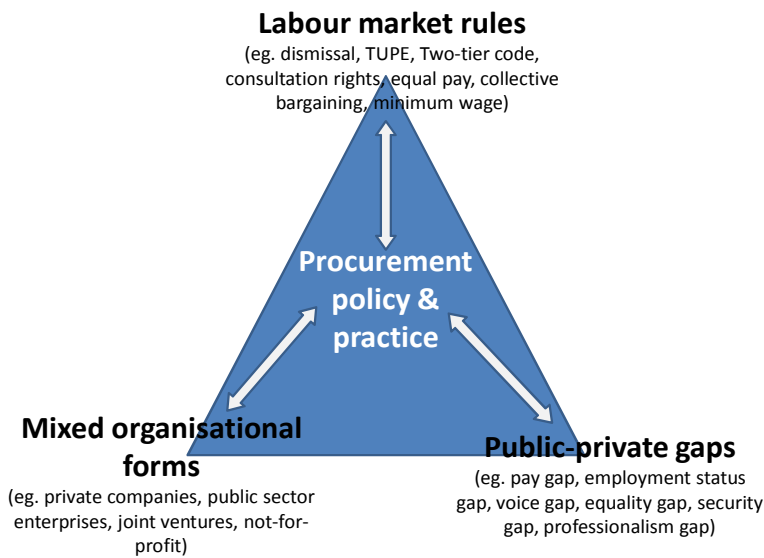
Comparing country institutions for setting public sector pay

Because public sector pay accounts for a significant proportion of public expenditures, the institutional arrangements for public sector pay determination are greatly influenced by a government’s need for budgetary control and public accountability for its wage decisions. Other important influences include the historical legacies of ensuring the political independence of public civil servants and patterns of mimicry of private sector pay institutions. There is a range of systems in place across the five European countries and limited evidence of convergence despite the common pressures of austerity facing governments. Following Marsden’s early work for the OECD, the report traces the five countries’ models along three dimensions: i) unilateral employer regulation versus collective bargaining; ii) centralised versus decentralised pay systems; and iii) integrated versus fragmented pay systems. The mapping of country differences helps to illuminate the factors that enable or hinder problems arising from actions on pay restraint during austerity including whether collectively negotiated wage fixing may provide for a more flexible and legitimate model for reform, whether coordinated public and private sector pay settlements can avoid problems of recruitment and retention in the public sector, and whether more integrated public sector pay systems are better suited to avoiding a worsening of gender pay inequalities.

Comparing country approaches towards public services procurement

Government efforts to cut public spending during the current crisis also involve indirect measures that impact on employment conditions in sectors that rely upon government contracts to supply public services. The key mechanism is procurement - that is, the commissioning of external organisations to deliver public services. Many areas of public services involve a mixed-economy approach, although the extent varies among the five countries. Moreover, countries adopt different regulatory approaches to procurement, designed either to protect against deterioration of employment conditions or to extend and/or displace the negative effects of spending cuts. The report develops a novel framework for understanding the key interactions and uses it in an appraisal of the five countries.

Figure 7.1. A framework for understanding pressures on procurement policy



Pay and procurement in local government

The report draws on original case studies of local government in all five countries in an effort to better understand the dynamics of wage-setting, the impacts of pay reforms, approaches towards procurement of public services and the resulting consequences for pay and employment inequalities inside and outside the public sector. Following a brief overview of the diversity in local government functions and organisation across the five countries, in relation to services delivered, funding arrangements and employment organisation the report presents the results in four sections.

i) Models of pay determination: *the shifting national and local terrains*

A comparison of wage-setting in local government across the five countries identifies key differences along the three dimensions associated with unilateral government regulation/collective bargaining, centralised/decentralised, and integrated/fragmented wage-setting. A detailed appraisal is followed by further investigation of the scope for local level influence on pay, drawing on the case-study evidence. This identifies four factors or mechanisms through which there is some local discretion to adjust pay (with varying use across the five countries): pay grade classification; low pay; merit payments; and other supplements and bonuses. The strongest evidence of local level pay adjustments is found in Sweden, in keeping with its highly decentralised model, and the weakest evidence found in Hungary and Germany, again in line with their national characterisation. The local level data for Germany suggests new areas of contested terrain over the application of the new nationally negotiated low pay grade but limited discretion in practice. In France, municipalities have not taken up the opportunity to introduce local merit payments, at least not as intended, but do make local adjustments to the complex system of pay supplements and bonuses. Also in the UK, municipalities appear to have reacted against a three-year national pay freeze by negotiating local collective agreements that increase rates of pay for the lowest paid.

ii) Varieties of Procurement: Organisational forms and employment segmentation

The case studies of procurement of local government services suggest three significant results for our analysis of procurement:

- first not all procurement is undertaken to lower wage costs and in some cases it may be used to provide flexibility for higher pay;
- second, the causes and consequences of procurement are shaped in part by the varying legal statuses and costs for different employment groups. Divisions include those between central and local public sector employment status, civil servants and non civil servants (or employment under public or private legal codes), and flexible contracts (temporary, part-time) and standard contracts. The lines of segmentation are continuously shifting in response to public sector wage settlements and reforms to the models of wage-setting; and
- third, procurement involves a variety of practices and organisational forms. Procurement of local government services can be direct or it may be organised indirectly, such as through shared commissioning, devolution to a public sector unit under its control or, at the extreme, divesting of responsibilities to other organisations. Both direct and indirect procurement can involve a range of organisational forms, including private for-profit companies, a variety of shared public-private joint ventures, not-for-profit organisations and publicly owned companies.

The factors influencing choice of organisational form may include an assessment of implications for employment status; for example, publicly owned enterprises may be set up to circumvent constraints incurred through the special employment status of public sector workers or civil servants in situations where such enterprises operate under private law or outside specific collective agreements. As such, outsourcing ought to be considered as a choice along a spectrum rather than a simple public-private choice. Moreover, the report details a number of examples of re-municipalisation and identifies the key factors shaping decisions to return previously outsourced activities in-house. These examples demonstrate that not all outsourcing is cost effective and that where municipalities are not under pressure from central government to outsource come what may, decisions may change on where the balance of advantage between in-house and out of house provision may lie, even from simply a cost perspective.

iii) The mutual interaction between pay and procurement

Analysis of procurement in local government reveals three features of pay systems of relevance for outsourcing and insourcing actions:

- the presence of pay premiums or penalties in comparison with the private sector (private sector contractors tend to offer higher pay in France, Hungary and Sweden but lower in Germany and the UK);

- the strength of collective bargaining among private sector contractors (similar in the inclusive industrial relations models of France and Sweden but segmented in the UK, Germany and Hungary); and
- the value of the statutory minimum wage (including new sector minimum wages in Germany which have narrowed pay gaps and the dual minimum wage in Hungary which levels pay among a sizeable share of workers in both public and private sector organisations).

Finally, pay conditions are influenced by the application of TUPE rules (Transfer of Undertakings for the Protection of Employment), as well as innovative use of social clauses in procurement. Evidence from Germany and Sweden is used to illustrate changing practices.

iv) Social dialogue: varying roles and prospects

The five countries have differing institutional arrangements for social dialogue, involving a range of forums for negotiation, consultation and exchange of information and views between trade unions, municipality employers and government. National collective agreements and legal stipulations provide varying institutional spaces for trade unions to engage in wage setting at local level, ranging from strongly participative in Sweden to weak in Hungarian municipalities. Analysis of procurement decisions also reveals a variety of forms of union influence. For example, while unions in the UK campaign consistently against outsourcing of public services because it is associated with downgrading of employment conditions, in France the trade unions, building on a similarly strong mobilisation of members, adopt a pragmatic approach that takes into account the precise circumstances of organisational form and pay conditions. The case studies point to the resilience and relevance of social dialogue; in some cases it alleviates the effects on workers of austere national agreements and in others it encourages better scrutiny and monitoring of procurement contracts.

Conclusions: Lessons for policy and practice

The public sector is at the eye of the current fiscal storm in Europe. The current crisis is exacerbating longer term pressures to reform public sector pay and employment practices and to redefine boundaries between public and private sector employment through more extensive use of public procurement rather than direct delivery. This investigation of public sector pay and procurement in five EU member states is therefore timely as it provides much needed detailed evidence on actual pay and procurement strategies and practices. Four main policy findings inform the continuing debate on the role of the public sector in both the labour market and the fiscal crisis.

First, the extent of diversity across Europe among public sectors in respect of pay levels and procurement practices, coupled with the wide differences in availability of essential public services, suggest that any public sector reforms must take into account the actual situation within a particular country and not become a general mantra for fiscal consolidation.

Second, social dialogue arrangements are relatively weak in the face of major budget cuts and a determination of the state to enforce changes to wage systems. Changes are often not based on

any assessment that pay and conditions are too high and may bypass explicit commitments to social dialogue. Social dialogue remains strong primarily where budget cuts are less severe as in Sweden. However Sweden also demonstrates that strong social dialogue plus requirements for transparency may help overcome the inequalities associated with more individualised pay. Managers at a local level may still find they need ways to engage staff in services delivery even when pay and employment rates are cut.

Third, the public sector is primarily an area of women's employment and as such cuts to pay and conditions are likely to increase the gender pay gap and stall any progress towards gender equality. Not all public sector employees are well paid and some face a pay penalty for working in the public sector, particularly the higher skilled. Even when there is an apparent pay premium this may reflect low pay (and possibly pay discrimination against women) in the private sector. Whether or not the public sector can be considered to be offering fair pay or to be under or overpaying its employees depends on the specific institutional and labour market context and must take into account the extent of pay inequalities within the labour market as a whole. Women are also the group most affected by policies to increase the share of staff on non standard contracts, sometimes offering lower security and pay. This is increasing internal differentiation, but is also part of the spectrum of strategies available to public sector managers ranging from services delivery based on direct internal standard employment at the one end to delivery through fully outsourced activities at the other end.

Fourth, the study finds that there is not simply a dichotomous make or buy choice between outsourcing or retaining services in-house, but instead identifies many opportunities in between for public-private partnerships, joint enterprises or even for wholly-owned public enterprises with a different legal basis. Pressures to outsource are stronger where there are distinct wage cost advantages, but also ideological pressure at a central or local government levels. There is limited evidence that decisions are based on developed business cases or scrutinised or monitored through social dialogue. Insourcing occurs where wage cost advantages narrow or disappear, where there are problems of service delivery, where expected additional benefits of the contract fail to materialise, where the economic case for outsourcing changes, or where the political climate changes. There are also variations among countries in the constraints placed on outsourcing: Sweden and Germany are making much more extensive use of social clauses and giving the most rights to staff under pressure to transfer under TUPE regulations. France and Germany are re-internalising some outsourced activities at the municipality level. In contrast, UK municipalities are not using social clauses (with the exception of a small number that have introduced living wage clauses in procurement) and are evading TUPE transfers. These examples suggest the need for consideration of more extensive and innovative policies to ensure that procurement works in the interests of the wider society, defined to include users, employees and taxpayers.

Policy lessons

From these key findings three general lessons for policy can be identified: the first is to avoid generalisations and to recognise the diversity of conditions in the public sector and within groups within the public sector; the second is to recognise that the public sector is not only part of public accounts but also a vital deliverer of public services such that consideration needs to

be given to the terms and conditions on which staff are employed to deliver such services and not simply to budget targets; the third is that outsourcing does not always save costs and that there needs to be better scrutiny and monitoring of outsourcing decisions, including the real likelihood of re-internalisation if providers fail to deliver or circumstances change. Some more specific issues that should inform public sector reforms and shape public policy include the following.

- There is a need for careful assessment of pay levels, taking into account the skill level of the job and evidence of pay discrimination in the private sector before deciding on public sector pay reforms as not all public sectors pay positive pay premiums or to all workers benefit and where there is apparently higher pay this may be justifiable.
- Public sector workers are traditionally viewed as protected, but at a time when governments are implementing fiscal consolidation programmes they may be particularly vulnerable to monopsonistic employer power, which social dialogue may only counterbalance in the good times, with governments prioritising fiscal concerns over the needs of service users and the rights of the employees.
- Better scrutiny of outsourcing decisions should be introduced involving social dialogue systems to ensure a proper business case exists. Monitoring of the actual delivery after outsourcing should be more effectively scrutinised and be part of social dialogue as some services may need to be re-internalised and outsourcing should not be considered a one way process.
- Opportunities to include requirements for quality human resource practices in tender arrangements in the EU need to be extended and clarified and if necessary changes to EU competition law passed. Calls for tenders should insist on appropriate pay and grading, training and staffing levels as a minimum condition.
- Public sector pay and procurement needs to be considered within the wider context of appropriate pay systems and minimum employment standards. Attention needs to be paid to minimum wage levels prevailing in the private sector to ensure these provide reasonable levels of remuneration and to ensure that outsourcing is not encouraged simply in response to cyclical adjustments in minimum wage rates. In these difficult times for Europe and when there are pressures on employment standards in the private sector it is important to ensure that fiscal consolidation pressures do not lead to a downwards vicious spiral with the public sector being increasingly asked to match declining employment standards in a hard pressed and increasingly deregulated private sector.

Introduction

The last time a comparable wave of fiscal austerity was experienced across the EU was during the 1990s as member states prepared for Economic and Monetary Union and made subsequent responses to the Stability and Growth Pact. At present, fiscal discipline is once again perceived as an economic imperative among governments in an effort to recover from the increased deficits that resulted from large-scale bailouts of banks and countries during the initial 2008-9 recession.

While the scale of the crisis has been experienced very differently - with the most severe, Troika-led pressures for fiscal consolidation and structural reforms occurring in Greece, Ireland, Portugal and Spain – there has been a surprising convergence of reforms towards cutting back government spending, in marked contrast to previous recessions when government spending was widely considered a valuable tool to boost aggregate demand. Because a large proportion of government spending covers the salaries of the public sector workforce, there is pressure on all member states to reduce pay levels or employment or both, almost irrespective of whether or not public sector pay is high or low in relation to comparable private sector pay levels. But pressures to impose reforms quickly have encouraged many governments to implement reforms unilaterally, sidestepping formal or customary processes of social dialogue; to date, 18 out of 27 member states have taken measures either to freeze public sector pay or to cut pay, with many implementing pay adjustments in two or three consecutive rounds. Also, because the public sector is important for women's employment and because it tends to make a significant contribution to gender equality indicators, pay cuts and staffing freezes hurt women's employment position more than men.

Restructuring has also led to the reduction or withdrawal of some public services, challenging longstanding norms of universal provision and encouraging a renewed focus on outsourcing and privatisation. Much of Europe's public services involve a mixed-economy approach, although the extent and form varies by country. Moreover, countries adopt different regulatory approaches to procurement and to associated measures of employment protection; governments may design procurement to protect against deterioration of employment conditions or to extend and/or displace the negative effects of spending cuts. There are therefore important issues for policy and practice about the regulation of procurement policy, the economic, legal and political factors that motivate outsourcing to private sector providers and the consequences for patterns of segmentation and inequality in the labour market.

These inter-related issues raise key questions for the prospects for social cohesion, labour market inequalities and role of social dialogue. If real wages in the public sector fall further and for a more sustained period than in the private sector what are the consequences of an imbalance of public-private pay and will this hinder the effectiveness of public sector pay as a signal for labour market allocation? Given the strong presence of women in many areas of the public sector - both lower level and professional jobs - what will be the effects of pay cuts and job cuts on gender pay inequalities? To what extent is it the lower or higher paid public sector workers who are most exposed to public sector pay reforms? Where reforms favour the low paid, are these protective effects offset by increased outsourcing of lower skilled jobs? What happens in those countries where the state has not traditionally played a role in setting decent

employment standards or as a driving force in social dialogue– will there be a further levelling down? Answers to such questions are likely to reflect the particular circumstances of country models of public sector pay, regulations of procurement and functionality of social dialogue.

The central objective of this comparative report is to investigate the nature of public sector pay reforms and the associated strategies of procurement during the current period of fiscal austerity and to understand the challenges facing social partners. The report analyses the challenges for public sector pay and procurement in five countries – **France, Germany, Hungary, Sweden and the UK** – selected to cover old and new members of the EU, as well as different models of public sector pay and vulnerability to the austerity crisis. The report also focuses in particular on policy and practice within local government in a context of often increasing inequalities and diverse patterns of segmentation. It is hoped that this comparative analysis of new data in this area will strengthen European policy expertise, stimulate lessons for improved practices and promote the development of industrial relations in Europe. An additional goal is to contribute evidence to assist in the continuing development of European social dialogue (EC 2010) at both inter-sectoral and sectoral levels, especially through raising awareness and disseminating good practice.

The report draws on the work during 2011-12 of a collaborative team of experts from the five countries. The research was funded by the European Commission DG Employment, Social Affairs and Equal Opportunities. Each country team produced a national report, drawing on secondary quantitative data and original qualitative data from case studies of local government municipalities. These five reports form the core source of data for this comparative report and as such are listed here:¹

- Anxo, D. and Ericson, T. (2012) ‘The effects of pay reforms and procurement strategies on wage and employment inequalities in the Swedish public sector’
- Audier, F., Bacache, M., Courtioux, P. and Gautié, J. (2012) ‘The effects of pay reforms and procurement strategies on wage and employment inequalities in the public sector: the case of France’
- Berki E., Neumann L., Edelényi M. and Varadovics K. (2012) ‘Public sector pay and procurement in Hungary’
- Bosch G., Mesaros L., Schilling G. and Weinkopf C. (2012) ‘The public sector pay system and public procurement in Germany’
- Grimshaw, D., Marino, S. and Rubery, J. (2012) ‘Public sector pay and procurement in the UK’

The report is organised into four parts and concludes with lessons for policy and practice:

- Part I sets out the context of austerity in Europe and, for the five selected countries, provides an overview of patterns of public sector employment, gender differences in employment and country patterns of public sector pay premiums and penalties.
- Part II examines the role of the public sector in setting employment standards and gender equality standards and provides a comparative analysis of the five countries.

¹ All five reports are available for download at the ewerc website: <https://research.mbs.ac.uk/european-employment/Ourresearch/Currentprojects/Publicsectorpayprocurementandinequalities.aspx>.

- Part III presents a detailed characterisation of the country institutions for public sector pay and procurement in the five countries, with attention also to European level institutions for social dialogue and procurement legislation.
- Part IV draws on original case-study evidence to investigate pay and procurement practices in local government. The detailed analysis explores: local government models for pay determination (especially the scope for local level flexibility); the multiple models of procurement (involving complex mixes of organisational forms and employment statuses); the factors driving outsourcing, ‘internal externalisation’ and re-municipalisation; the role of public-private pay differentials in procurement decisions; specific pay and employment protection measures in procurement; and the role, resilience and effectiveness of social dialogue in procurement.
- A final conclusion chapter identifies four key lessons for policy and practice in the interconnected areas of public sector pay and procurement.

Part I: The crisis affecting public sector employment

1. The austerity crisis, public sector pay cuts and downsizing

In the wake of the 2008-9 financial crisis and subsequent sovereign debt crisis, governments across EU member states have to varying degrees acted to reduce government expenditures in an attempt to restore their fiscal position. While the scale of the crisis has been experienced very differently - with the most severe, Troika-led pressures for fiscal consolidation and structural reforms occurring in Greece, Ireland, Portugal and Spain – there has been a surprising convergence of reforms towards cutting back government spending, in marked contrast to previous recessions when government spending was widely considered a valuable tool to boost aggregate demand. Because a large proportion of government spending covers the jobs and salaries of the public sector workforce, many countries have implemented measures to downsize jobs and to cut or freeze pay. But pressures to impose reforms quickly have encouraged many governments to implement reforms unilaterally, sidestepping formal or customary processes of social dialogue. Moreover, restructuring of services has led to the elimination of some public services, challenging longstanding norms of universal provision, as well as encouraging a renewed focus on outsourcing and privatisation in contexts where the private sector offers the promise of cost reductions.

This chapter identifies the key characteristics of austerity measures with respect to our overall focus on public sector pay and procurement. It provides an overview of all 27 EU member states in order to establish the wider context for the focus on five countries adopted in the rest of the report. The following issues are covered:

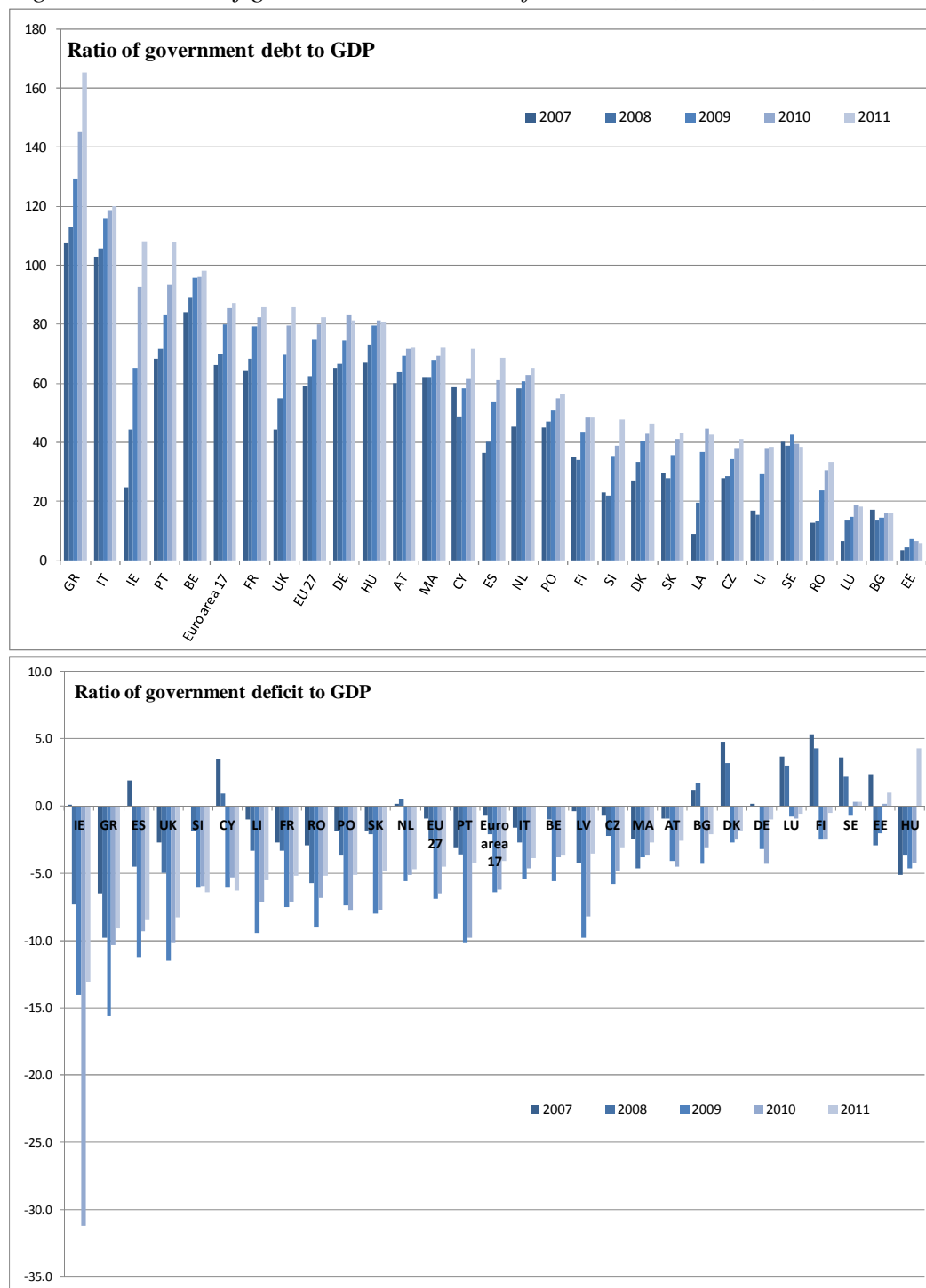
- the worsening fiscal position across much of the EU;
- reduced levels of government spending;
- pay cuts; and
- downsizing measures

1.1. The fiscal crisis

Government bailouts of the banking sector, along with the recession-induced falls in tax revenues and increased welfare payments, combined to increase government deficits and debts in many European countries beyond levels considered sustainable by the global financial markets and rating agencies and far outstretching targets set by the EC's Stability and Growth Pact (3% deficit and 60% debt). Falling GDP has further inflated the headline indicators – government deficit and government debt as ratios of GDP. In 2011 Greece and Italy had the highest levels of government debt as a ratio of GDP among EU countries. However, unlike most countries both entered the recession with already high levels of debt – over 100% of GDP. By 2011, Portugal and Ireland joined the 100% plus club of debt to GDP levels, having witnessed soaring debt and falling GDP since 2007 (figure 1.1). Deficits of around 10% were

experienced in several countries but in all cases the deficits appear to be on a downward trend. The same cannot be said of government debt which continues to rise – more than 80% of GDP for the 27 member states of the EU. A small group of countries did not experience a ballooning deficit during this period, notably the Scandinavian countries, Sweden, Finland and Denmark, as well as Estonia and Luxembourg and to a lesser extent Germany.

Figure 1.1. Ratios of government debt and deficits to GDP, 2007-2011, EU



Source: Eurostat online ‘government statistics’, own compilation.

(http://epp.eurostat.ec.europa.eu/portal/page/portal/government_finance_statistics/data/database, accessed September 2012).

Downwards adjustments in government deficits have not, in the main, occurred as an automatic response to a recovery of GDP growth. Instead, most countries have implemented austerity measures – combinations of reduced government spending and increased taxes – to reduce deficits in response to the sovereign debt crisis. Three countries (Greece, Ireland and Portugal) have had to implement strict deficit reduction plans in return for bailouts negotiated between the nation state government and the so-called Troika (officials from the IMF, EC and European Central Bank) (box 1.1). Also, during 2012, Spain requested a bailout in 2012 and Cyprus reached an agreement with the Troika officials. For all euro-zone countries and six others (the exceptions are Hungary, the Czech Republic, Sweden and the UK), wide-ranging pressures to reform were also formalised with the 2011 agreement of the Euro-Plus Pact, explicitly designed as a more stringent successor to the Stability and Growth Pact and orchestrated through the Open Method of Coordination as one feature of the EU’s strengthened approach to economic governance. In addition to public spending controls, the new Pact also includes supply-side controls (and recommendations) that seek to address employment participation, overly centralised wage-setting institutions and tax reforms.

Until early 2012, the policy focus was dominated by an emphasis on fiscal austerity and supply-side measures as the best mechanisms to find a way through the debt crisis. During 2012, there was some shifting in the policy rhetoric towards acknowledging the need for a pro-growth approach as it became increasingly evident (including admissions by the IMF) that stringent fiscal austerity measures have worsened the potential for recovery. Reduced government spending, falling consumption and drops in investment spending have depressed economic output in many countries and highlighted the need to reconsider various possible Keynesian policies in an attempt to boost aggregate demand. The European Commission released a joint statement in January 2012 (‘Towards growth friendly consolidation and job-friendly growth’) and is steadily signing up euro member states to its fiscal compact treaty on the basis of new agreed measures (and spending) for job creation, which satisfied the explicitly pro-growth strategy of the French President among others.

Box 1.1. Troika interventions in EU member states, including information on rescue packages (provisional)

The European Commission, with the ECB and IMF, have taken many steps since the start of the economic crisis to provide financial assistance to countries with corresponding conditions of austerity measures. The first countries targeted were three CEE countries - Latvia, Hungary and Romania - that agreed enhanced provisions for medium-term financial assistance for non-euro-area member states plus further IMF assistance in order to avoid a worsening balance of payments. Each received respectively €7.5 billion, €20 billion and €20 billion conditional on implementation of austerity measures.

In 2010, a first ‘rescue operation’ was launched for Greece (a loan of €110 billion, mobilised via bilateral credit from euro-area member states and the IMF, to be paid at interest rates of 5% and 3%, respectively) in return for policy measures to reduce the budget deficit from 12.7% to 8.7% of GDP by end of 2010 and to 2.8% by the end of 2013. Subsequently, the EC set up a new mechanism to stabilise financial markets by providing financial assistance to euro zone states in difficulty, involving the purchase of government bonds up to €750 billion (€60bn from the EU budget via the European Financial Stability Mechanism (EFSM), €440bn guaranteed by euro-area member states (via the newly created European Financial Stability Facility, EFSF) and €250bn from the IMF). Ireland was the first country to seek funding from the new facility in November 2010 (€85 billion).

	Amount	Funding body	Year
Latvia	€7.5 billion	IMF and EU	2008
		IMF and EU	2009
Hungary	€20 billion	IMF, World Bank and EU	2008

Romania	€20 billion	IMF, EU, World Bank and European Bank for Reconstruction.	2009
Greece	€110 billion	EU and IMF	2010
Ireland	€109 billion	EFSM, IMF, EFSF	2011
Ireland	€85 billion	EFSM, IMF, EFSF	2010
Portugal	€78 billion	EFSM, EFSF, IMF	2011

During 2011, the economic situation in Greece deteriorated further; the debt storm spread to Spain and Italy, and even Germany experienced partial failure in its bond auctions. Portugal received an emergency loan package of €78bn (funded by EFSM, EFSF and IMF). The European Council established a permanent stability mechanism for the euro-area, the European Stability Mechanism (ESM), which will be operational after June 2013 (with an effective lending capacity of €500 billion) replacing the EFSF and EFSM in providing financial assistance to euro-area member states in a balance of payment crisis. The ESM shall be activated only 'if indispensable to safeguard the stability of the euro-area as a whole' (background paper). In exchange for solidarity, the euro area governments agreed to adopt a 'stronger economic convergence'. In this respect, the 'Pact for the Euro', then the 'Euro Plus Pact' (extended to countries outside the euro area), and governance tools like the Stability and Growth Pact are intended to enhance individual country's budgetary discipline. The so-called 'six-pack' (five regulations and one directive, introduced in December 2011) strengthens fiscal discipline, as defined in the Stability and Growth Pact, through closer monitoring and clearer quantitative measures. Running parallel is the Fiscal Compact (one element of the Treaty on Stability, Coordination and Governance), which enters force once 12 euro area states have signed.

These agreements all include 'conditionality' with respect to austerity measures. Conditionality also extends to the monitoring of social and employment policies, with a focus on the decentralisation of collective bargaining and wage indexation, which, according to some commentators, risks weakening trade union's ability to set wage norms at national or industry levels. Overall, in 2011, the austerity packages amounted to a total of €487 billion over the next 3-5 years. By adding the measures taken prior to 2010 in Hungary, Latvia and Ireland, the packages amount to €501 billion.

Questions were asked in 2012 about the possible perverse macroeconomic effects of austerity measures. The case of Greece is illustrative: GDP has continued to fall since 2010 (by 8.5%) despite the series of interventions of the Troika. The economic crisis in Greece and other euro area countries has not halted. Financial markets are far from being 'reassured' and the political legitimacy of the EU has declined. Nevertheless, EU policymakers continue to pursue an austerity strategy.

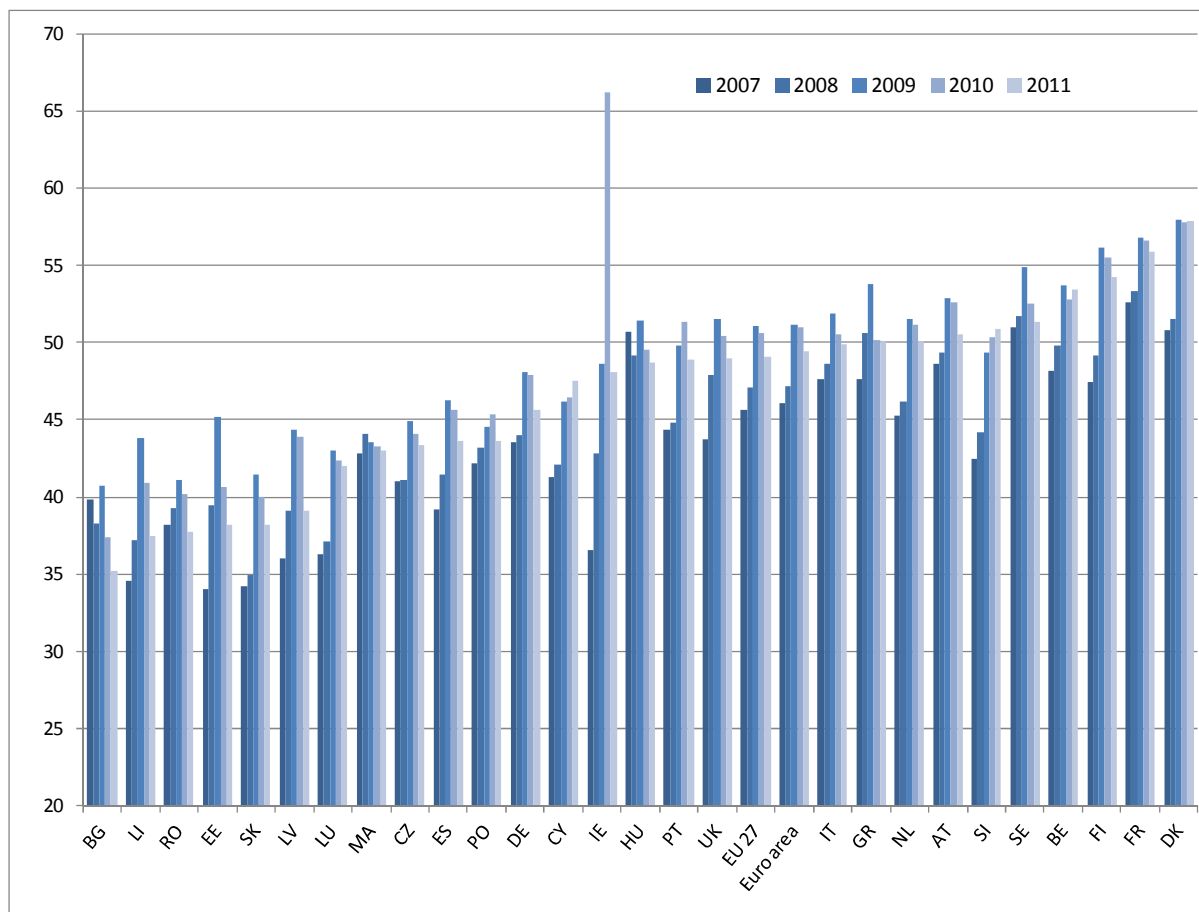
Sources: http://ec.europa.eu/economy_finance/index_en.htm; Glassner (2010), Dräger (2011), Natali and Vanhercke (2012), Theodoropoulou and Watt (2011).

Nevertheless the emphasis of ongoing reforms is on spending cuts. Most member state governments have continued during 2012 to cut public spending in an effort to reduce government deficits. The focus on cutting government spending is at odds with the widely known fact that richer countries tend to have higher levels of government spending as a proportion of GDP than poorer countries, suggesting that government spending can be a spur, or a foundation, to development; Denmark, France, Finland, Belgium and Sweden are the top five ranked as a percentage of GDP (figure 1.2). The focus does fit, however, with a renewed neoliberal argument that government spending crowds out private sector investment, as well as potential tax revenues, as well as the notion that government spending may be captured by private interests thereby fostering corruption. Indeed, in its regular monitoring of the eurozone, the European Commission includes size of government outlays as one of the indicators of a country's economic health, where it is assumed the smaller the size the better the economy's health. The analysis contained in the 2011 Euro Plus Monitor², for example, ranks France bottom out of the 17 countries on this measure and this is the explanation for the rather surprising result that France's overall 'health rating' falls below that of Spain.

² <http://www.lisboncouncil.net/publication/publication/68-the-2011-euro-plus-monitor.html>.

Eurostat data confirm both a wide cross-country variation in government spending as a percentage of GDP - ranging from 35% in Bulgaria to 58% in Denmark in 2011 – and a general trend of reductions in spending levels (figure 1.2). The position of Ireland is conspicuous, with the huge costs of the banking bailout lifting government spending to 66% of GDP in 2010, followed quickly by a cut to 48% in 2011, close to the EU average. Otherwise, it is in fact surprising that the other countries that register large drops in government spending during the austerity crisis are Central and Eastern European countries that had relatively low levels of spending – Estonia, Lithuania, Bulgaria, Latvia, Romania and Slovakia. The two other countries under strict Troika governance, Greece and Portugal, register falls of 7% (2009-2011 in Greece) and 5% (2010-2011 in Portugal).

Figure 1.2. Total general government expenditure as a percentage of GDP, 2007-2011



Source: Eurostat data, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_a_exp&lang=en.

1.2. Pay freezes and pay cuts in Europe

Pay freezes and pay cuts for public sector workers have constituted the core of governments' consolidation programmes in an effort to reduce public expenditures and thereby restore state finances and re-establish financial credibility. Table 1.1 summarises the pay reforms adopted across Europe (identified in 18 out of 27 countries during 2008-2012). Most countries, 14 out of 18, have adopted a combination of pay freeze and cuts in nominal pay, while five (Bulgaria, France, Poland, Cyprus and the UK) have implemented a pay freeze. Moreover, 13 of this

group of 18 countries have implemented pay adjustments in two or three consecutive rounds in a period ranging between 2008 and 2014.

Table 1.1. Pay cuts and pay freezes in Europe, 2008-2012

	Pay freeze?	Pay cut? (nominal)	Public sector employees covered	Years
Austria	No	No: pay rise of +0.85 to 2.1%	Low paid workers	2010-12
Belgium	--	--	--	--
Bulgaria	Yes	--	Ministries and publicly funded bodies	2009-11
Cyprus	Yes	--	--	2011-14
Czech Republic	--	Yes, -4%	Senior legal officials, other civil servants	2010
	Yes	--	--	2011-14
	--	Yes, -10%	Public sector employees excluding teachers	2011
Denmark	No	No, +6.3% rise	Public sector employees	2012-14
Estonia	--	Yes, -8% to -10%	General public sector, healthcare sector	2009
	Yes	--	General public sector	2010-14
	--	Yes, -15%	General public sector	2010
Finland	No	No, rise of approx. +1%	--	2010-12
France	Yes (index point only)	--	--	2010-12
Germany	No	No, +1.2% pay rise	Federal & Municipal sectors	2010
	No	No, +0.6% (Jan. 2011), +0.5% (Aug. 2012)	Federal & Municipal sectors	2011
	No	No, +3.5% (March 2012), +1.4% (Jan. 2013), +1.4% (Aug. 2013)	Federal & Municipal sectors	2012-14
Greece	Yes	--	All earning > €2,000 per month	2009
	--	Yes, -12% to -20% plus cuts to 13 th and 14 th month salaries	General public sector Civil servants	2010
	Yes	--	--	2011-12
	--	Yes, -17% over 3 years planned	--	2012-14
Hungary	--	Yes, -7%	--	2008-10
	Yes	Yes, abolished 13th month salary	General public sector	2009
	Yes	Yes (including reduced net income because of regressive income tax reforms)	--	2010
	--	No, bottom-weighted compensation for low paid	Low paid workers	2011
Ireland	Yes	--	Civil servants	2008-10
	--	Yes, -5% to -7% (pensions levy related to level of income)	Public sector employees (with the higher paid losing more)	2009
	--	Yes, -5% to -8%	--	2010

	Yes	--		2010-14
Italy	Yes	--	Public sector employees	2010-12
	--	Yes, reduced productivity payments	High-wage earners	2010-2012
	--	Yes, -5% to -10%	High-wage earners public sector	2010
Latvia	--	Yes (unspecified)		2008
	--	Yes, -5% to -20%	Public sector employees	2009
	--	Yes, -5% average (new pay system)	Employees in both local and central government	2010
Lithuania	--	Yes, -8% to -10%	Civil servants	2009
	Yes	Yes, -15%		2010-12
Luxembourg	--	--	--	--
Malta	--	--	--	--
Netherlands	--	No, approx +1%		2010-12
Poland	Yes	--		2011-12
Portugal	Yes	--	Civil servants, employees in public companies	2010-13
	--	Yes, -5%	Higher paid civil servants	2010
	--	Yes, -3.5% to -10%	Salaries > €1500 per month	2011
	--	Yes, 13 th and 14 th monthly pay abolished (>€1000) or reduced		2013-14
Romania	--	Yes, -25% up to -50% with cuts in additional payments	Temporary measure July-Dec.	2010
	--	Elimination of a wide range of bonuses and the 13th month pay		2011
Slovakia	--	--		--
Slovenia	Yes	--		2009
	--	Yes, -4%		2011-12
Spain	--	Yes, -5%	Civil servants	2010, 2011
	Yes	--	Civil servants	2011-12
Sweden	--	--	--	--
UK	Yes (except low pay supplement)	--	All (although local government since 2010)	2011-13

Countries that were more severely hit by the economic crisis implemented pay reforms in the period immediately after the start of the economic crisis (in 2008 in Latvia and Hungary and in 2009 in Lithuania, Estonia, Bulgaria, Slovenia, Romania, Ireland and Greece). It is within this group of countries that the highest pay cuts have been implemented: in Estonia a 15% pay cut affected the whole public sector through budgetary measures and employment cuts in 2010; in the same year, a 20% pay cut was extended to all public sector workers in Greece; in Latvia, a 20% pay cut was implemented across the public sector in 2009; Romania registered the highest pay cuts (25%) introduced as a provisional measure for six months. In most of these cases pay reforms were introduced as a direct consequence of financial aid provided by the IMF and the EU (see box 1.1). Countries that sought external assistance from the EU and the IMF, such as Hungary, Latvia, Ireland, Romania and Greece, have adopted more severe measures. In this

respect, however, it has to be underlined that the measures taken by the Hungarian centre-right government from 2010 onwards were not directly attributable to any IMF conditionality (Theodoropoulou and Watt, 2011).

Then, from 2010, austerity measures implementing public sector pay freezes or cuts have been implemented in those countries which were characterized by a high and/or a fast rising ratio of government debt to GDP, including Italy (119%), Portugal (93%), Spain (61%) and the UK (80%).³ But other countries have also imposed pay reforms despite enjoying a relatively low level of debt, such as the Czech Republic (40%), or despite being relatively unaffected by the economic downturn, such as Poland where government imposed a pay freeze in 2011 as a preventive measure in view of the 2008-9 rise in its public deficit (Glassner, 2010). The absence of a clear association between macroeconomic conditions and pay reforms suggest governments' interventions in public sector pay may have shifted from a tool to be used as an 'emergency measure' to a tool for implementation of mainstream economic and fiscal policy.

In 2011, most European countries implemented public sector pay freezes and cuts. Moreover, even in those countries where pay cuts and freezes have not been explicitly adopted the regular functioning of collective bargaining machinery has nevertheless been adversely affected (see, also, Glassman 2010). In Germany, following a pay increase of 2.3% in 2010, in 2011 the Christmas bonus for civil servants was initially reduced (equivalent to a 2.5% pay cut) but then restored in late 2011; they are now paid 60% of a monthly payment as opposed to the former 30% (Bosch et al. 2012: 22, national report). The highest pay increase in table 1.1 is in Denmark in 2012. Such outcomes, achieved against a generalised trend of pay cuts in public sector pay across Europe, point to the divergence of pay outcomes and varying resilience of social dialogue in shaping pay settlements. In those countries most adversely affected by the economic crisis, trade union opposition to governments' unilateral decisions has had very limited influence.

³ 2010 data as reported in figure 1.1; the EU27 average debt to GDP ratio was 80%.

2. Country patterns of public sector employment: trends, austerity measures and the impact on women's employment

While the severity of austerity measures varies across Europe, the significance of public spending cuts for employment depends to a large extent on the importance of public sector employment. Among the five countries investigated in this programme of research – France, Germany, Hungary, Sweden and the UK - the public sector accounts for between one in five and one in three jobs. As such, spending cuts and measures to downsize the public sector can be expected to have a significant impact on the labour market, especially in a context of persistent low economic growth and even recession, which hinders expansion of the private sector. However, the impact of current austerity reforms has to be interpreted in the context of prior trends, which include a diminishing of the size of the public sector in Germany and Hungary, for example, compared to a decade of steady expansion in the UK. The austerity measures are also likely to have more adverse consequences for women's employment than men's in light of women's over-representation in the public sector in all European countries. This chapter investigates each of these issues in turn and addresses the following questions:

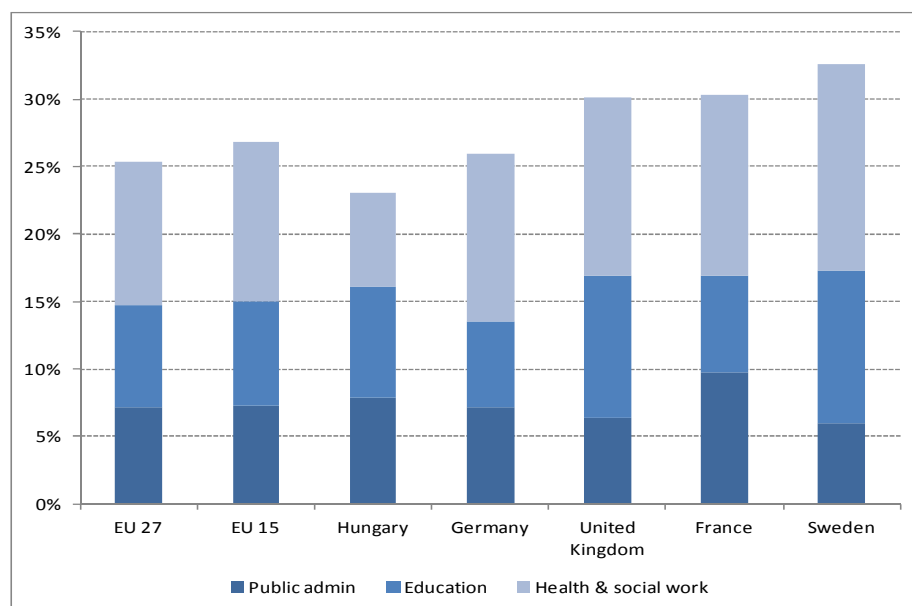
- Drawing on the harmonised Eurostat data, what are the country patterns of public sector employment and how have these varied over time?;
- Using national data sources, what has been the impact of austerity measures on public sector employment and what are the notable features in each of the five countries?; and
- What are the consequences for women's employment?

2.1. Employment patterns by country

The public sector is a major source of employment for workers in all five countries, especially for female workers. An approximate indication of its size is provided by using the harmonised European LFS data, taking the NACE sectors of public administration, education and health and social work (categories O, P and Q). This is far from perfect since a varying share of the education and health sectors across the five countries is provided by the private sector – for example, while the UK health sector is almost entirely provided by the public sector in Germany it is mostly private sector. For this reason we supplement our analysis with national data sources below.

The harmonised Eurostat data suggest the public sector accounts for one in four of the workforce for the 27 member states of the EU, while among the five countries investigated it ranges from 23% in Hungary to 33% in Sweden. The distribution among the three categories of public sector employment varies: France is distinctive for its high share of public administration jobs (almost 10% of all employment); the UK and Sweden for their high shares of education; and Hungary for its high share of public administration and low share of health and social work employment (figure 2.1).

Figure 2.1. Public sector employment as a share of the total workforce, ELFS 2012 Q1

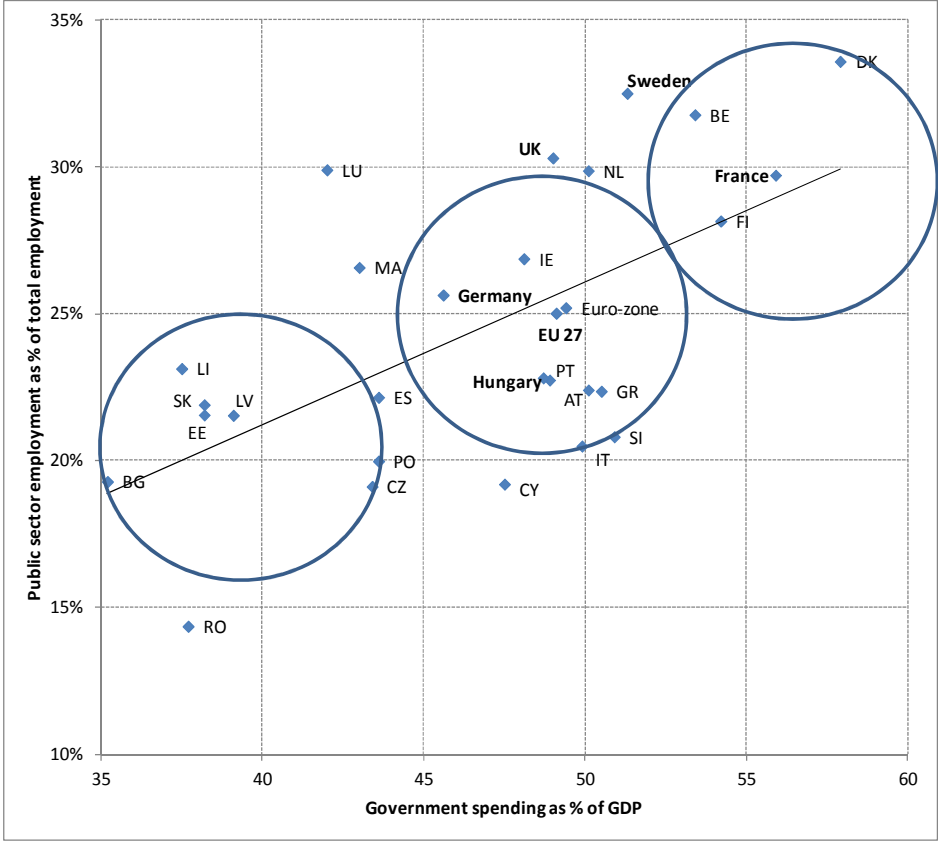


Source: European LFS (NACE rev.2 O, P, Q, employment 15-64 years old).

As might be expected, there is a relatively close alignment between the size of public sector workforce and the size of public expenditures among countries, even in the wake of the financial crash when public spending in several countries initially increased (bank bailouts and the welfare costs of the recession) and then decreased under austerity measures (section 1). 2011 data suggest France and Sweden are among the high spenders in the European Union, the UK and Hungary close to the EU average, and Germany is somewhat below. Their relative ranking by employment size is similar, although Germany overtakes Hungary and the UK ranks alongside France, according to the harmonised Eurostat data. We can identify the relationship more clearly by tracing the public spending and employment data for all EU member states, shown in figure 2.2. This shows the positive relationship (correlation measure of 0.61) between the two indicators and identifies three groups of countries placed at high, medium and low points along the line of correlation. This suggests that, compared to European performance, Sweden and the UK both achieve a higher share of public sector employment relative to their public spending outlays. The difference between the UK and Hungary is notable, with a far larger workforce supported by a similar level of public spending in the UK than in Hungary.

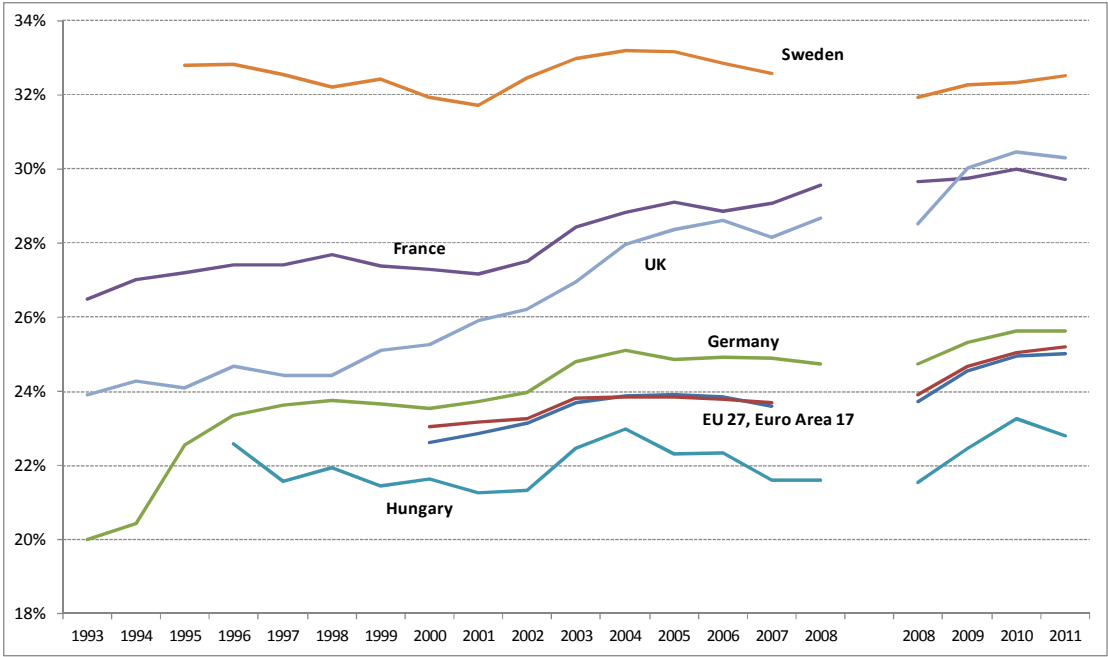
Trend data for public sector employment from Eurostat (again relying on the imperfect NACE categories O, P, Q) show dissimilar patterns among the five countries (figure 2.3). Public sector employment in Sweden displays a remarkably stable trend over the 16 years for which data are available (32-33% of total employment) while in France and the UK there is clear evidence of a steady rise in its share of all employment, most pronounced in the UK where the share has increased from 24% to 30% over the period. In Germany, the share has been steady since around 2003 but the data reveal two periods of rapid rises in the early 2000s and the mid-1990s. Finally, public sector employment has remained relatively low in Hungary (21-23%) albeit subject to volatile swings over the period.

Figure 2.2. Comparison of public spending and public sector employment (as percentages of GDP) for EU countries, 2011



Source: Eurostat data, own compilation, public sector employment defined as NACE O, P, Q.

Figure 2.3. Trends in public sector employment, NACE O, P, Q, 1993-2011



Source: Eurostat data, own compilation. Note the change in NACE classification in 2008 breaks the trendline.

There is some evidence of the impact of austerity measures during 2010-2011 leading to a drop in employment shares in three countries, France, the UK and Hungary. The absolute drop in numbers employed in the three NACE categories used as a proxy for the public sector was around 1% in France and Hungary and in fact remained relatively stable in the UK according to these data (although see below for the more accurate national data), while total employment increased by around 1% in Hungary, by 0.3% in the UK and remained flat in France (table 2.1). In Sweden there was a drop in all in employment and in public sector employment during 2008-2009 but numbers have increased in tandem since then. In Germany, numbers of public sector workers have increased each year by around 2%, ahead of total employment growth in 2008-9 and 2009-10 although again national data sources on actual public sector employees paint a somewhat different picture.

Table 2.1. Annual changes in total employment and public sector employment, 2008-2011

	Total employment				Public sector employment			
	Size 2008	Annual % change			Size 2008	Annual % change		
		2008-9	2009-10	2010-11		2008-9	2009-10	2010-11
EU 27	217,401.5	-1.8%	-0.5%	0.3%	51,603.1	1.6%	1.1%	0.5%
Euro area 17	142,335.2	-1.9%	-0.6%	0.3%	34,021.7	1.3%	1.0%	0.9%
Germany	37,902.3	-0.2%	0.7%	2.4%	9,377.4	2.1%	2.0%	2.4%
France	25,756.3	-1.0%	0.1%	0.1%	7,638.8	-0.6%	0.9%	-0.7%
Hungary	3,849.2	-2.5%	0.0%	0.8%	829.5	1.6%	3.5%	-1.2%
Sweden	4,493.8	-2.3%	1.0%	2.1%	1,435.2	-1.3%	1.3%	2.6%
United Kingdom	28,670.8	-1.7%	-0.3%	0.3%	8,177.1	3.5%	1.2%	-0.1%

Source: Eurostat data, NACE rev2, public sector defined as NACE O, P, Q.

2.2. National data: trends and patterns in public sector employment

An alternative and more detailed picture of the size and trends in public sector employment can be derived from national data sources (see the five national reports for more details). The data are not comparable and we therefore present the analysis for each country successively. In summary, the national data point to divergent fortunes. The UK is the only country among the five where a previous decade-long upwards trend in numbers employed in the public sector has been abruptly reversed by a dogmatic implementation of downsizing during 2010-2012 (and expected to continue). In Hungary and Germany, the public sector workforce was diminishing prior to the austerity crisis (albeit rather erratically in Hungary) although this accelerated during 2010-2011 in Hungary. France and Sweden, by contrast are emblematic of relative stability in the size of the public sector workforce. There are measures to reduce numbers in France (largely in central government) - as well as a rise in the share of *contractual* workers (non civil servants) - and there has been no growth in public sector employment in Sweden since its massive contraction in the early 1990s, meaning that its share of total employment has declined during the 2000s, but hard-headed austerity measures have not been implemented. Table 2.2 provides a summary.

Table 2.2. A summary of public sector employment patterns in five countries (national data sources)

	Size of public sector employment	Recent trends
France	22% (5.4 million) using a restricted definition of public services (<i>Fonction Publique</i>) 27% (7.0 million) including state-owned organisations and publicly funded private organisations	Trend increase until 2010, but a small decline since. Rise in the share of <i>contractual</i> workers (up to 15% in 2011)
Germany	11.2%, 4.6 million	Long-term downward trend since early 1990s (privatisations and downsizing at all levels of government) but small rises during 2008-2010 at Länder and Municipality levels; 2010-2011 a further small rise (+0.4%) Increasing share of civil servants (<i>Beamte</i>) (26% to 34% to 37%, 1991-2000-2011)
Hungary	26-30% (including civil servants and public service employees)	Trend decline since 2004 but overall large upward and downward swings in employment since 1990; evidence of recovery during 2008-2010 but then a 5% fall during 2010-2011 Cuts targeted public service employees (19% reduction) rather than civil servants
Sweden	32% (1.32 million)	Stable trend of numbers employed since 1996 but shrinking share of total employment: from 38% (1996) to 35% (2006) and further in recent years to 33% (2008) and 32% (2011)
UK	20% (5.9 million)	Trend increase from 1999-2010 followed by an abrupt downsizing by 7% during Q1 2010 to Q1 2012 11% cut in local government workforce (2.3 to 2.0 million) over the same period

Source: National reports for France (Audier et al.), Germany (Bosch et al.), Hungary (Berki and Neumann), Sweden (Anxo) and the UK (Grimshaw et al.).

Defined to encompass state-owned companies and public administration employees covered by private labour law as well as the *Fonction Publique*, the French public sector may be said to account for 27% of total employment. A more restricted national definition restricted to the *Fonction Publique* adds up to 22% of total employment, some 5.41 million employees, divided across central government, regional and local government and the public health sector. In 2012 civil servants amounted to around 85% of the public service workforce. During the decade prior to 2010, the French public sector enjoyed a steady trend increase in public sector employment (with a mean annual growth rate of 1.2% for the 1998-2009 period). However, since 2010 there is evidence that this trend increase has halted and turned negative.⁴ Moreover, during 2006-2009 the overall trend rise obscured two opposing trends: a fall in central government employment and a rise in local government employment (with a mean annual

⁴ Sourced from <http://blogs.lesechos.fr/dominique-seux/historique-moins-de-fonctionnaires-a10934.html> (cited in Audier et al. 2012, national report).

growth rate of 3.8% during 1998-2009). Recent employment trends have been strongly influenced by government efforts to curb public spending, most notably with a new ‘one-for-two replacement ratio’ applied to the central government sector. In fact, Gautié (2012) shows that the balance between authorised job creations and job cuts had already switched to the negative in 2003; the economic crisis reinforced the trend and the net cuts to employment tripled in size to around 30,000 per year during 2009-2011 (op. cit.: figure 5.5). Alongside job cuts, the central government sector also witnessed a rise in the share of non-civil servants (*contractual* workers) from 12% to 15%, a trend mirrored in the hospitals sector, although not in regional and local government.

The size of the public sector workforce in Germany is relatively small – just 4.6 million employees in 2010, or 11% of total employment. It has dropped considerably over the last two decades⁵, especially in the 1990s for a variety of reasons. Three features of the downward trend are notable. First, privatisations in the 1990s and continuing into the 2000s shifted large numbers of public sector workers from ‘direct’ to ‘indirect’ public services, including workers in postal services, telecommunications, railways and hospitals; numbers employed in indirect public services increased from 325,000 in 1991 to 845,000 by 2010.

Second, over the last two decades Germany has undertaken a steady shrinking of the size of the public sector workforce employed at all levels of government – central (federal), regional (Länder) and local (Municipalities).⁶ Over the last two decades, the workforces have been cut by 30% at federal level, 25% at Länder level and 37% at Municipality level. The rate of decline slowed considerably in the 2000s and bottomed out by 2008, followed in fact by a small rise of 2.2% during 2008-2011. Like France the overall trend since 2008 obscures opposing tendencies at central and local levels. Germany witnessed a small rise during 2008-2011 in numbers employed at both Länder and Municipality levels – increases of 3.3% (74,200 employees) and 2.7% (35,800 employees), respectively – but a fall in central government employment of 2.2% (536,000 to 525,000 employees).

Third, the changing composition and scale of public sector employment in Germany has been accompanied by an increased share of workers with civil servant (*Beamte*) employment status, the contrary of the trend in France where cuts appear to have targeted civil servants. At all levels of government, numbers of civil servants in fact increased over the last two decades while cuts have targeted non-civil servants; the share of civil servants employed at Federal, Länder and Municipality levels rose from 26% in 1991 to 34% in 2000 to 37% in 2011. It is notable that non-civil servants outnumber civil servants among the middle and lower service ranks where there is a greater propensity of activities subject to outsourcing. The state in fact benefits in the short term from employing a high share of civil servants since, although eventual pension liabilities are clearly higher, it does not pay employer contributions to social security (saving around 20% of the gross payroll). Furthermore civil servants have no right to

⁵ The size of Germany’s public sector workforce as a share of total employment has dropped from 16.8% in 1990 to 13.4% in 2000 to 11.2% in 2011 (Jann et al. 2007; Bosch et al. 2012, national report).

⁶ These developments are not picked up by the Eurostat data shown above, in part because health is not included in the public sector in Germany.

collective representation in determining pay and other employment conditions allowing for unilateral adjustments.

The best estimates from national data sources of the size of the public sector workforce in Hungary suggest it accounts for around 26-30% of total employment, including civil servants, public service employees and the state enterprise sector, although a precise figure is difficult to estimate because of the grey area of contracting organisations that are funded by the public sector and may or may not be counted in definitions (Hámori and Köllő 2012: 166). It has witnessed relatively large swings in employment over the last two decades with an overall trend decline in numbers employed in the last seven or eight years. The choppy pattern of employment has been characterised by expansion during the transition years, a fall by close to 10% during the second half of the 1990s (due largely to the neo-liberal Bokros reforms), expansion during 2001-2004, severe cuts of 12% by 2008 (in response to a growing government deficit) and a minor expansion followed by a fall in recent years. Thus, while it averaged around 780,000 employees during 2000-2011, the public sector workforce reached a peak of 819,000 (in 2003) and a trough of 722,000 (in 2008).

Among the different categories of public sector workers in Hungary, greatest stability in numbers employed is evident among the civil servants, who accounted for around 15% of the public sector workforce in 2011. Numbers increased in the early 2000s but since 2004 have fluctuated around 125,000. By contrast, the number of the larger category of 'public service employees' also increased until 2004 but then has been cut quite considerably: from a peak of 609,000 in 2004 public service employees dropped by an average of 4% per year until 2011, a fall of 150,000 employees. Separate to these figures, Hungary also employs around 219,000 workers in state-owned companies and, in response to the recession, has deployed a system of 'public works employment' which reached a peak of 196,000 in 2009 and has since fallen to around 61,000 in 2011.

With a large public sector workforce (second only to Denmark in the European Union), Sweden has enjoyed relatively stable numbers of employment in both central and local government since the late 1990s with little evidence of austerity-related downsizing as witnessed in Hungary and the UK. In 2011, around 248,000 people were employed in central government and 1,074,000 in local government – together representing 32% of total employment (similar to the Eurostat data estimate above). In fact the major adjustment in the public sector workforce occurred in the first half of the 1990s; after steady expansion of the Swedish welfare state since the mid-1960s there was an abrupt downsizing during the economic crisis of the early 1990s and implementation of what can be seen as early fiscal consolidation, involving budget cuts, regionalisation and the privatisation of various nationalised companies. Since this adjustment, numbers employed in the public sector have in fact remained relatively stable (a decline of 1.2% during 1996-2011). Yet because employment has expanded in the private sector since the late 1990s (from around 2,100,000 to 2,700,000 during 1996-2010), the share of public sector workers in total employment has in fact declined quite significantly. The result is a fall in the public sector employment share from around 39% in 1996 to 36% in 2006 and then a sharper drop to 32% in 2010. This downward trend contradicts the stable trend estimated by Eurostat above.

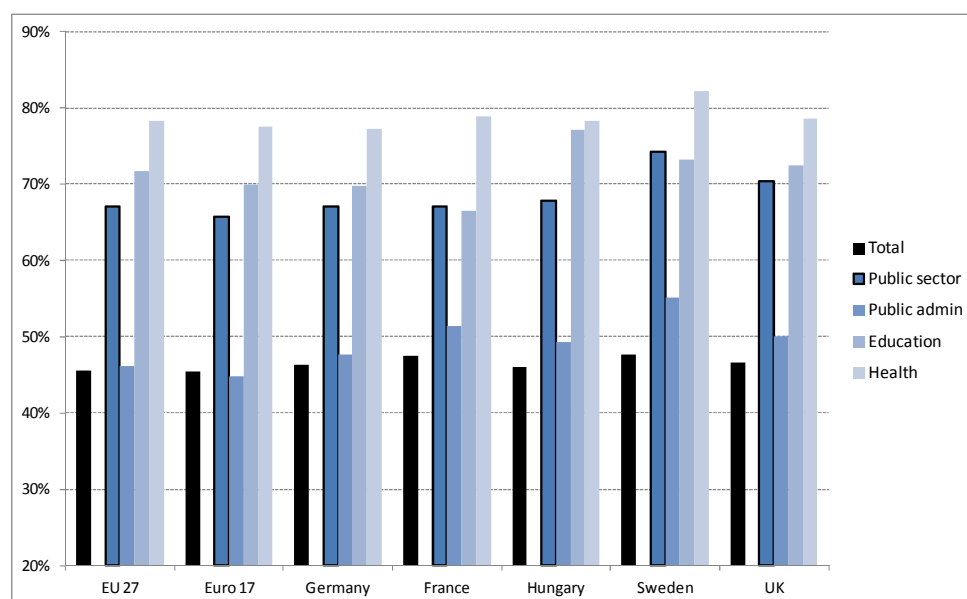
Finally, in the UK, after a decade of expansion of its public sector workforce it has embarked since 2010 on a sustained and controversial policy of downsizing. The catalyst was, on the one hand, the austerity crisis and a concern that the sovereign debt crisis of the euro-zone might infect the British economy if the deficit was not repaired, and on the other hand the result of the election of a right-wing coalition government that explicitly seeks to shrink the size of the state as a direct employer of public sector workers. Numbers employed in the public sector increased from 5.5 million in 1999 to 6.3 million at the beginning of 2010 but then during the 24 months since the first quarter of 2010 have been cut by around 420,000, or 7%. As a share of total employment the public sector workforce has reduced from 21.9% to 20.1%. Like France, the UK's health sector has been relatively protected from job cuts (a 3% cut over the same 24 month period). But unlike France local government has been very severely affected in the UK, a cut of 11% from 2.3 million to 2.0 million. The only other group to have experienced such large downsizing, although on a much smaller scale in terms of numbers affected, is the police, which have been cut by an equivalent 11%, from 199,000 to 187,000 over the same period.

2.3. The consequences for women's employment

In common with all European Union member states, women are over-represented in public sector employment in all five countries and therefore can be expected to be most adversely affected by the current fiscal consolidation approach of spending cuts and downsizing of the public sector. Given that the public sector is a key site of opportunity for high skilled employment there is an understandable concern that the private sector may be unable in the context of ongoing recession to reproduce the types of high level jobs leading to an overall decline in the quality of women's employment (Rubery 2012). Research using the European Foundation's JOBS database (1997-2007) demonstrates that across Europe the public sector has been a major contributor to women's overall job change and in most countries it has contributed to upgrading of women's jobs, albeit with a polarising effect in the UK (Grimshaw and Figueiredo 2012). As we saw above, the current austerity crisis has to date affected some countries more than others but in all five countries ongoing policy reforms are likely to place a growing number of women's jobs at risk. We consider the wider issues for gender equity in section 4. Here we document the employment patterns and effects of job cuts, again drawing on both Eurostat and national sources of data.

With the same cautions regarding use of Eurostat NACE categories for estimating public sector employment (see above), figure 2.4 shows the degree of over-representation of female employment in the public sector. Women's share of public sector employment is fairly similar among the five countries, a range of 67%-74%, highest in Sweden and lowest in France and Germany. The degree of women's over-representation, that is the difference between female shares of total employment and of public sector employment, is also largest in Sweden (48% and 74%, respectively) and smallest in France (48% and 68%). Among the three categories of public sector employment – public administration, education and health and social work – women's employment share is highest in health in all five countries (and the EU 27 average) and lowest in public administration where in fact women are only marginally over-represented in Germany.

Figure 2.4. Female shares of public sector employment (NACE categories), 2011

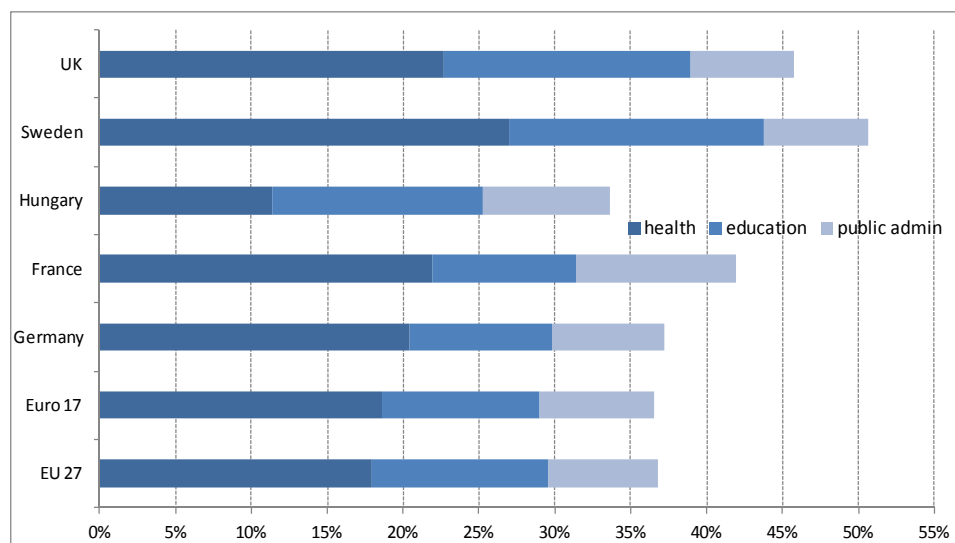


Source: Eurostat data. NACE categories O (public administration), P (education) and human health and social work (Q).

The measure of concentration of women’s employment in the public sector (that is, the percentage of all female workers employed in the public sector) varies rather considerably among the five countries – from 34% in Hungary to 51% in Sweden, reflecting both the differing sizes of the public sector (see above) and women’s varying levels of integration into the private sector (figure 2.5). Closer inspection suggests the variation is largely explained by differences in women’s concentration in health and education employment. The Eurostat data suggest that more than one in four women in Sweden are employed in the health and social work sector, one in five in Germany and barely over one in ten in Hungary. Also, while less than one in ten women work in the education sector in Germany and Hungary their concentration rises to one in six in Sweden and the UK. It is notable that the neoliberal UK model appears similar to the social democratic Swedish model with respect to women’s welfare state employment opportunities.

Austerity measures, most visible in Hungary and the UK, are likely to have a disproportionate effect on women’s employment because of the higher concentration of women compared to men in the public sector. In Hungary, the reduction of the predominant category of ‘public service employees’ (outside of civil servant status) since 2004 has displaced three times as many women as men (overall employment reductions of 111,000 and 39,000, respectively, during 2004-2011). The negative trend appears to have halted since 2009, after which men have benefited from a 3% increase (113,000 to 117,000) in public sector employment opportunities while the number of women in public services jobs has remained stable at around 340,000. The gender divide among civil servants is similar although both men and women enjoyed job growth during 2008-2011 – 10% and 6%, respectively.

Figure 2.5. Concentration of female employment in public administration, education and health (NACE), 2011



Source: Eurostat data.

In the UK during 2010-2012 women occupied three in five of the jobs lost across the public sector. The largest job losses have to date been among female part-timers employed in the non-managerial and non-professional occupations, the result of widespread downsizing of part-time school teaching assistants and part-time workers in local government and health. The explicit targeting of local government in the package of spending cuts has been especially damaging for women's employment and has resulted in women to date accounting for two in every three jobs lost, 160,000 out of 240,000 jobs during 2010-2012 (Grimshaw 2012).

The position for women in France and in Germany is quite different. In both countries women's share of public sector employment has increased slightly during the crisis as men have faced larger employment losses. In France, women's share of public sector employment increased from 60.5% to 61.9% during 2007-2010 (Gautié 2012). In Germany, despite the decade-long trend decline in public sector employment, women maintained a relatively stable level of employment while men faced a decline in their employment by close to 10% from 2002 to 2010. The result has been that women's share of public sector employment rose from 51% to 54% over the period; moreover, there was in fact a rise of 82,000 jobs for women during the economic crisis (2007-2010) and a fall of around 36,500 jobs for men. The changing sex composition in the German public sector has a lot to do with the long-term trend substitution of part-time for full-time jobs, evident in the public and private sectors. In the public sector, the share of part-time employment has increased from 16% in 1991 to 26% in 2001 and 32% in 2010; more than 80% of part-timers in 2010 are women. Because of stricter regulations in the public sector that require substantial part-time hours - at least 50% of normal full-time hours -there is a very low incidence of the controversial 'mini-jobs'. Part of the increasing number of part-time jobs instead reflects the right of returning mothers to request flexible hours, as well as early retirement schemes that for a time encouraged part-time working schedules.

3. Patterns of public sector pay: pay premiums and pay penalties

A characterisation of public sector pay depends to a great extent on its relationship with the pattern of private sector pay. In this chapter we explore three key questions, each of which define this relationship and, as we demonstrate, vary by country and over time.

1. On average, do public sector workers earn a premium over the private sector and is this sustained once differences in education, skill, age and experience are accounted for?
2. Is there a gender divide such that more women experience a public sector premium (or penalty) than men and the public-private sector pay difference is greater for women than for men?
3. Is the public sector wage structure more compressed than in the private sector such that the wage difference between sectors declines as wages increase?

We explore each of these questions for the five selected countries. We begin with an analysis of national pay data and follow with a summary of results from decomposition studies that adjust pay for a variety of individual and occupational characteristics.

3.1. Descriptive statistics on public sector pay in five countries

Austerity measures across Europe have focused attention not only on the size of the public sector workforce but also on the size of the public sector paybill and the level of public sector pay relative to the private sector. In the interests of promoting better fiscal governance, the European Central Bank has published several working papers on the issue. In their 2010 working paper, for example, Holm-Hadulla and colleagues argue that evidence of stronger wage growth in the public sector compared to the private sector in the euro zone countries suggest many countries have pursued pro-cyclical policies. Such an approach is potentially problematic, they argue, because it risks becoming entrenched, inducing a ‘secular growth’ of public sector pay, reducing public investment and undermining wage competitiveness in the private sector (2010: 17-20). The data for 1999-2008 in fact suggest a mixed picture with Germany, France, the Netherlands and Finland enjoying very similar pay trends across the two sectors, while large gaps have clearly opened up in Ireland, Greece, Spain, Italy and Portugal (op. cit.). The strong inter-country variation calls for more detailed understanding and analysis of country patterns and country wage-setting systems.

Moreover, there is limited agreement in the many comparative empirical studies of public sector pay regarding its level relative to the private sector in particular countries. The reasons for different headline results include the variety of wage data sources used (eg. ECHP, EU-SILC, OECD, national data), differences in sampling of full-time and part-time workers and differences in the definition of the public sector – including for example, employee self-definition or use of the standard industry (NACE) categories. Table 3.1 illustrates some of the differences among studies by summarising the headline raw, unadjusted data on the public-private sector pay gap as presented in a selection of comparative studies. The results for France are most varied and range from a negligible public sector pay gap in the Holm-Hadulla et al. (2010) study to a wider premium in the Ponthieux and Meurs study among both men and women.

Table 3.1. Illustrative public-private sector pay gaps (unadjusted), from selected studies

Authors	Data source	Country	Workforce group	Public-private wage gap
Giordano et al. (2011)	EU-SILC, gross hourly pay	Germany	All	1.19
		France	All	1.15
Holm-Hadulla et al. (2010)	OECD data	Germany	All	1.22
		France	All	1.04
Lucifora and Meurs (2004)	National data – log hourly wage	France	Male, Female	1.05, 1.10
		UK	Male, Female	1.07, 1.13
Ponthieux and Meurs (2005)	ECHP, gross monthly pay, 2000	France	Male, Female	1.13, 1.26
		Germany	Male, Female	1.12, 1.21
		UK	Male, Female	1.02, 1.18
<i>Grimshaw et al. (2012, this report)</i>	<i>National data, gross average (median for Hungary), 2010</i>	<i>France</i>	<i>Male FT, Female FT, Female PT</i>	<i>1.10, 1.13, 1.22,</i>
		<i>Germany</i>	<i>All, Male, Female</i>	<i>0.93, 0.95, 1.04</i>
		<i>Hungary</i>	<i>All</i>	<i>0.94</i>
		<i>Sweden</i>	<i>All, Male, Female</i>	<i>0.92, 0.98, 0.96</i>
		<i>UK</i>	<i>All, Male, Female</i>	<i>1.15, 1.17, 1.29</i>

Drawing on national sources of wage data, as provided in the five national reports for this project, table 3.2 sets out the headline indicator, namely the public-private pay gap, using the available data. Caution is required in drawing direct inter-country comparisons because the national data are different; they define the public sector differently, survey different samples of the population and present different measures of wages. Our analysis here is meant to be illustrative rather than conclusive. There are two key results. First, considering male and female employees combined, there is a contrast between an unadjusted public sector pay premium in France and the UK and a public sector pay penalty in Germany, Hungary and Sweden, when considering all employees.

Second, there are considerable differences by sex and, where data are available, by full-time/part-time. The public-private pay gap is more advantageous for women than for men in France, Germany and the UK but in fact it is marginally less advantageous in Sweden (a penalty of 4% for women but just 2% for men). In Germany, while there is a public sector pay penalty for all employees this turns into an average pay premium (of around 4%) among women only, and in the UK the pay premium for women (at 29% in 2011) is considerably higher than that among men (17%). In Hungary, the very wide discrepancy between civil servants' pay and that of non civil servants ('public service employees') merits separate analysis of these groups; we find a large premium in average public sector pay for the relatively small group of civil servants (men and women, 21%-24%) but a medium-sized penalty among public service employees (10%-15% for men and women). Finally, availability of full-time and part-time earnings data for three countries reveals a consistently larger public sector pay premium among female workers in part-time jobs, up to 8% in Germany, 22% in France and 44% in the UK.

Table 3.2. Public-private gaps in average pay in five countries, national data 2010

		Public	Private	Public/Private
		(national currency)		
France	Female full-time	11.21	9.89	1.13
	Female part-time	11.06	9.10	1.22
	Male full-time	12.53	11.43	1.10
	All employees			
Germany	Female full-time	18.13	17.90	1.01
	Female part-time	16.49	15.23	1.08
	Male full-time	21.41	22.54	0.95
	Female	17.85	17.11	1.04
	Male	21.23	22.35	0.95
	All employees	19.30	20.76	0.93
Hungary	Female*	236278, 174961	194659	1.21, 0.90
	Male*	277098, 190020	223058	1.24, 0.85
	All employees**	189600	201100	0.94
Sweden	Female	25600	26700	0.96
	Male	30000	30700	0.98
	All employees	26800	29200	0.92
UK	Female full-time	15.79	12.65	1.25
	Female part-time	13.00	9.03	1.44
	Male full-time	18.23	15.87	1.15
	Female	15.04	11.69	1.29
	Male	18.19	15.51	1.17
	All employees	16.27	14.18	1.15

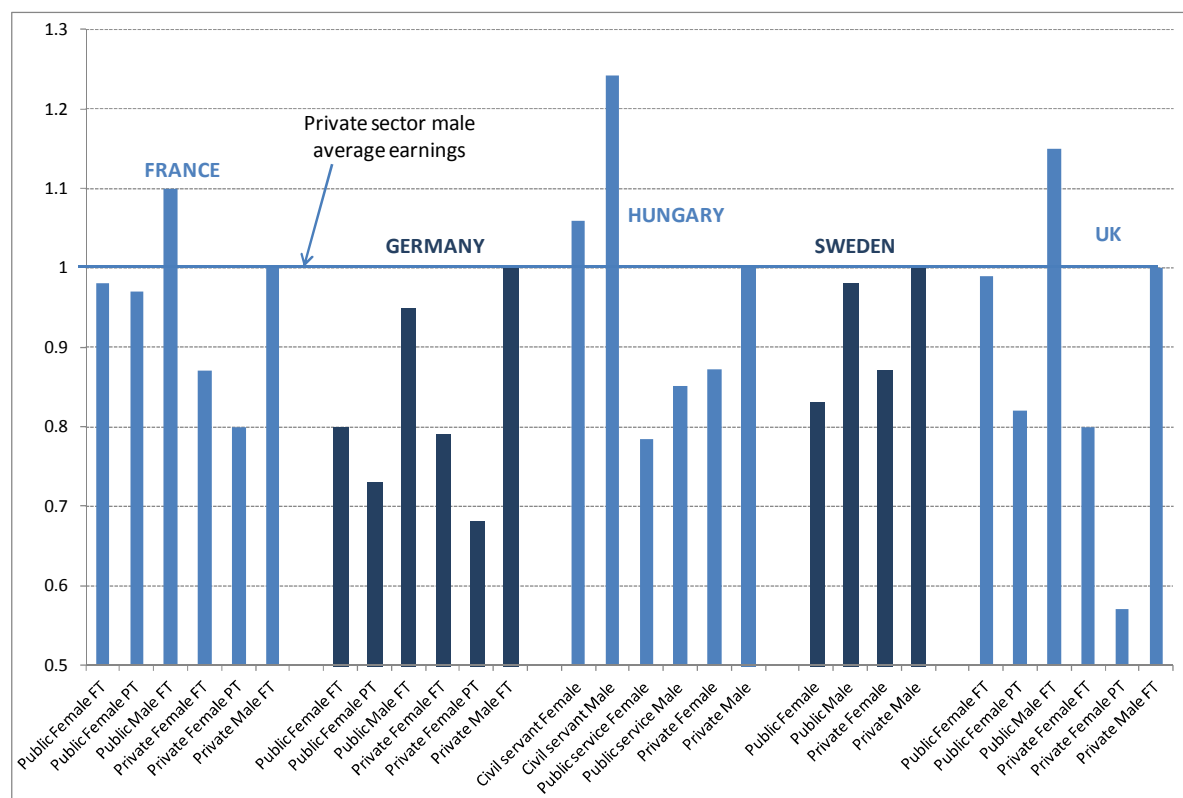
Notes: France – **median net** hourly earnings, LFS 2010; Germany – gross hourly pay excluding charities, 2010; Hungary - * average monthly earnings for civil servants and public service employees, respectively, **2011**, ** full-time equivalent average monthly earnings, 2010 (Hámori and Köllö 2012: table 8.4); Sweden – gross monthly earnings, 2010; UK – gross hourly pay excluding overtime, ASHE **2011**.

Source: National wage data, national reports and supplementary wage data by communication with the national report authors.

While it is usual to compare public-private pay gaps within particular groups, such as women, men, full-time and part-time, an alternative comparison uses average male pay in the private sector as a common comparator. This is arguably a more reasonable wage benchmark given the numerous studies that identify problems of sex discrimination in pay in the private sector; as such, comparing women’s pay in the public sector against women’s pay in the private sector obscures the issue. With this alternative wage benchmark the picture changes considerably (see figure 3.1). Only a limited number of public sector workforce groups now earn an unadjusted pay premium; it applies to male and female civil servants in Hungary (who are outnumbered by public service employees by around four to one) and to male full-time workers in France and the UK. The pay advantage that women enjoy when compared to other women in the private sector disappears in France, Germany and in the UK when we compare women’s earnings against men in the private sector; also, among the four groups distinguished for Sweden, women in the public sector rank lowest and register a penalty of 17% against male employees in the private sector. This is a significant result. Moreover, the relative position of female part-time workers falls dramatically. Women in part-time jobs experience a pay gap of 27% in the

German public sector, 32% in the German private sector, 18% in the UK public sector and a striking 43% in the UK private sector. The pattern in France is not dissimilar to that of the UK with the exception of a far narrower gap among female part-time workers in the public and private sectors in France where the private sector wage penalty for female part-timers extends to 20%.

Figure 3.1. Public and private sector pay for men and women relative to average male earnings in the private sector, 2010



Notes and source: see table 3.2.

A further interesting difference between the public and private sector wage structures is their varying spread from lowest to highest pay. Mainstream economics studies in the 1980s and early 1990s used to refer to a general problem of ‘dual imbalance’ in the public sector with insufficient wage incentives at the top to encourage high performance and too much rigidity at the bottom that was said to crowd out private sector low-wage job growth. However, in the context of public sector reforms and country differences in wage-setting institutions it is likely that a pattern of more compressed wages in the public sector and greater wage inequality in the private sector exhibits interesting country differences.

The key results are contained in table 3.3. For the four countries shown, the gap between top wage decile and bottom wage decile is consistently higher in the private sector than the public sector with the two exceptions of female part-time workers in the UK and male employees in the civil service in Hungary. It is also important to acknowledge the very wide differences in wage inequality between countries, with very low measures of wage inequality registered in Sweden – an interdecile ratio of just 1.77 in the Swedish public sector (gross monthly earnings,

all employees) – and high in the Hungarian civil service, as mentioned (5.43 among men). In France and the UK, higher private sector wage inequality tends to be a result of wider inequality in the bottom half of the wage distribution. The pattern is different for female part-timers for whom the public sector offers significantly greater opportunities to earn high pay than the private sector in France and the UK. For all workers, however, the public sector in both countries shores up the bottom of the wage structure. Sweden is the reverse, with similar wage inequality in the bottom half the wage structure but higher pay at the top in the private sector than in the public sector.

Table 3.3. Inter-decile wage ratios in the public and private sectors, five countries, 2010

		<u>Interdecile - P90/P10</u>		<u>P10/Male private</u>		<u>P90/Male private</u>	
				<u>P50*</u>		<u>P50*</u>	
		Public	Private	Public	Private	Public	Private
France	Male FT	2.59	2.71	0.74	0.69	1.90	1.88
	Female FT	2.17	2.51	0.69	0.61	1.50	1.53
	Female PT	2.78	3.12	0.58	0.46	1.60	1.43
Sweden	All	1.77	2.17	0.73	0.72	1.30	1.56
UK	Male FT	3.17	4.16	0.75	0.56	2.37	2.35
	Female FT	2.83	3.47	0.70	0.51	1.97	1.77
	Female PT	3.39	2.36	0.54	0.48	1.83	1.13
	All	3.34	4.04	0.63	0.49	2.02	1.98
		Civil service	Public service	Private			
Hungary	Male	5.43	3.19	4.66			
	Female	3.72	2.60	4.26			

Notes: * Ratios expressed relative to median male pay in the private sector (Sweden) and median male full-time pay in the private sector (France, UK).

Source: National wage data, national reports.

3.2. The adjusted public-private pay gap: a summary of decomposition results

Because differences in public and private sector pay reflect variety in workforce composition – by skill, age, experience and education for example – it is necessary to consider country differences in the adjusted pay gap. In this section, we draw on a variety of decomposition studies to provide an overview of findings for the five selected countries. Again, a note of methodological caution is needed since the empirical studies reviewed here rely on different econometric techniques, use different data sets, vary in their selection of time period and exploit different independent variables, not to mention differences in definition of public and private sectors. The exercise is nevertheless worthwhile as a state-of-the-art review of comparative decomposition analysis. The results are summarised in table 3.4 and in the form of a highly stylised graphical portrait in figure 3.2.

Table 3.4. Key characteristics of public/private sector pay gaps, after adjustment

	Adjusted pay premium at the median wage?	Gender divide?	Larger adjusted premium for low paid, declining as wages increase?	Main workforce beneficiaries of public sector premium?
France	Yes	Yes, larger premium for F than M	Yes, results in a penalty for high paid M and zero/small penalty for high paid F	-F workers -Low-wage workers -Low educated M -Medium& high educated F -Short & long tenure workers
Germany	Yes	Yes, premium for F but not for M	Yes, results in a penalty for high paid M and zero/small penalty for high paid F	-F workers -Low-wage workers -Workers with medium tenure
Hungary	No, gap varies substantially over time – premium (2002-6) and penalty since 2007	No information	No, among low educated higher incidence of low paid than in private sector	n.a.
Sweden	No, pay penalty	No	No, similar sized pay penalty along all decile points, M and F	n.a.
UK	Yes	Yes, larger premium for F than for M (insignificant for men in some studies)	Yes for full-timers, declining to zero for high paid F and a small penalty for high paid M; F part-timers enjoy a rising premium	-Female workers -Female part-timers, rising with pay level -Low to medium paid male workers

Source: summary of meta-analysis of results from selected decomposition analyses - see Appendix table A1.

France

As we showed above, net hourly earnings data for 2010 suggest median public sector pay in France was approximately 10% higher than that in the private sector. Since 2003 the premium has diminished from around 15%. This unadjusted, or raw, pay gap is approximately double the size for women than for men, although this is partly due to a larger premium experienced by female part-timers (Audier et al. 2012, national report).

Studies that control for educational and demographic differences among public and private sector workforces tend to show the public sector premium is still significant and positive. Lucifora and Meurs (2006) find an adjusted premium of 6% and Dickson et al. a premium of 4%. Also, while Brindusa et al. (2011) find a similar sized adjusted premium of around 15% for women and 17% for men, most studies suggest the adjusted premium is larger for women (eg. Giardino et al. 2011), including evidence of a negative penalty for men in the analysis of Tepe et al. (2012).

Across the wage distribution, from low-wage to high-wage workers, the decomposition analyses point to a significantly larger premium for workers at the bottom decile and a diminishing premium as wages increase. This fits with evidence from French LFS data that show the incidence of low pay is only 3% among public sector workers compared to 6% for the private sector (Audier et al. 2012, national report). It also fits with a pattern of more compressed pay in the public sector than in the private sector among both men and women (see above).

Moving up the wage distribution, the results suggest for male workers the premium turns to a penalty at the top decile. However, the question as to whether or not the premium is retained among the highest paid female employees has a mixed answer, ranging from a small premium of 3% at the top decile (Lucifora and Meurs 2006) to a penalty (Tepe et al. 2012). A related study that analyses pay patterns over an individual's lifetime finds that the French public sector premium follows a U-shaped pattern, dipping to zero after around 13 years tenure then rising again with further experience (Dickson et al. 2010).

Germany

On average, pay in the German public sector only generates a significant premium over the private sector for women, not for men. The raw earnings data for 2010 from the national statistics show that average public sector pay is around 1-4% higher than the private sector for female full-timers, using hourly, monthly or annual earnings, but 2-5% lower for male full-timers. Women in part-time employment enjoy a higher public sector pay premium, approximately 8% considering hourly earners and 16% considering monthly and annual earnings (Bosch et al. 2012, national report).

Adjusting for individual characteristics, decomposition analyses confirm a significant pay premium for female public sector employees (eg. 8% in Brindusa et al. 2011 and 19% in Giardino et al. 2011), but point to conflicting findings for male employees; different studies find evidence of a small premium, insignificant difference and a significant penalty (see appendix table A1).

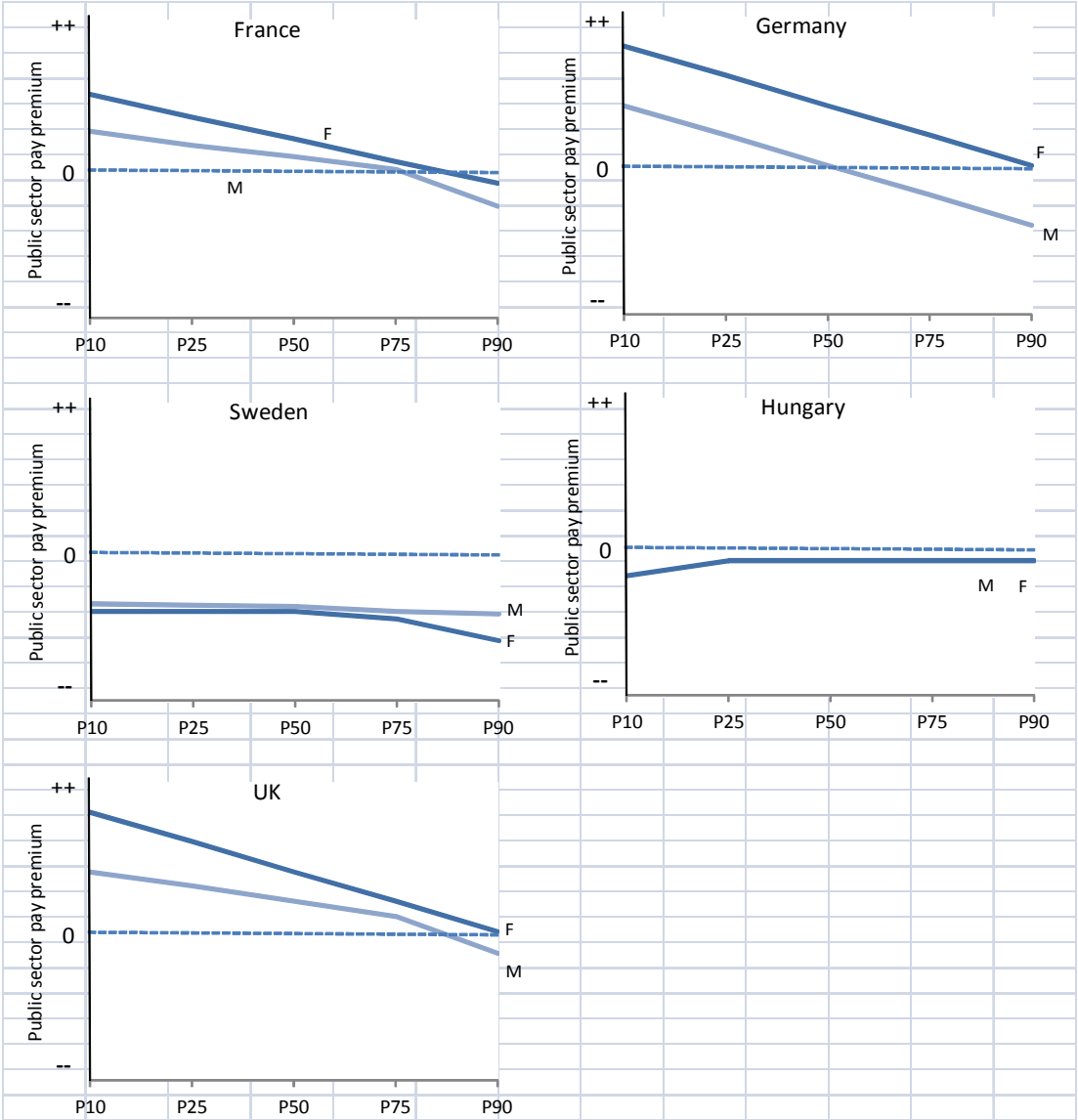
Like France, quantile regression analyses demonstrate that the size of premium is largest for the lowest paid in the German public sector, although Giardino et al.'s (2011) results suggest the premium at the bottom decile is two to three times greater than the comparable situation in France, resulting in a steeper diminishing of the premium as workers' earnings increase. For female workers the premium diminishes to zero or slightly above at the top decile pay point while for men it crosses the zero point at around the median pay point and generates a significant wage penalty at the top decile, roughly mirroring the size of premium at the bottom decile.

Separating out the results for west and east Germany shows that for both women and men the adjusted premium is higher at all points of the wage distribution in east Germany (Tepe and Kroos 2010). Men in the upper half of the wage distribution experience a penalty in west Germany, but this only occurs for men in the top quintile of the wage distribution in east Germany. Similarly, women in west Germany enjoy a premium for most of the wage

distribution with the exception of the very top but in east Germany the premium is significantly greater from the lowest to the highest paid.

Disaggregating workers by level of education suggests it is high skilled men rather than low skilled men that experience the public sector pay penalty (Tepe and Kroos 2010), while among women all levels of education benefit from the premium (Giardano et al. 2011) although Tepe and Kroos (2010) suggest this tapers out at the top among highly educated women. Over a worker's lifecourse, Dickson et al.'s analysis suggests the opposite to France with an inverted U-shape pay premium in Germany such that workers with tenure of 16-34 years experience a small positive premium (2010: 10).

Figure 3.2. Stylised portrait of the adjusted public sector pay premium along the wage distribution



Notes: this is a stylised portrait, hand drawn and derived from the results presented in table 3.4 and not from a set of technical equations. The portraits are not precise because of the range of differing methodologies, datasets, time periods and independent variables used in the various studies referred to.

Hungary

Full-time equivalent average monthly earnings in the Hungarian public sector were lower than in the private sector in 2010 (a raw gap of around -6%), bringing to an end a short period during which public sector workers earned a premium over the private sector (Hámori and Köllő 2012). The pay penalty remains after controlling for education, age and experience differences, suggesting, as we also show for Sweden, that pay for public sector workers is lower than for comparable workers in the private sector. While there is a legacy of low pay for public sector professionals from Hungary's socialist era, there is also evidence of a more recent downturn directly associated with austerity-led public sector pay reforms since 2009 (Berki et al. 2012, national report).

Low-wage workers in the public sector were not shielded from austerity measures. In practice many public sector and private sector employees are paid at minimum wages, possibly more in the public sector. However since 2010 there has been an even higher incidence of low paid workers among the low educated in the public sector than in the private sector – a significant result given that the level of pay earned by private sector workers is very often under-reported (Hámori and Köllő 2012). Higher paid workers are also paid below the private sector (figure 3.2) with particularly large negative premiums for some professional groups such as teachers (see part II, chapter 4). Male and female public service employees (the majority group of non civil servants) are much lower paid, on average, than male and female private sector workers.

Sweden

Similar to the post-2010 situation in Hungary, Sweden also registers lower average pay in the public sector compared to the private sector: for all workers the raw pay gap is 8% pay. This result holds for both men and women; the national data for monthly earnings in 2010 suggest average earnings were 4% lower for women and 2% lower for men (Anxo and Ericson 2012, national report). Unlike Hungary, however, the evidence suggests the wage penalty precedes the current austerity crisis and reflects a longer term pattern.

Decomposition of the public sector pay penalty finds the adjusted gap is in fact not significant, nor does this result change over the 1995-2004 period (Tepe et al. 2012). Adjusted at the various quantile points of the wage distribution, Tepe et al. find no evidence of a diminishing public sector pay difference, unlike France and Germany. Instead, the (insignificant) negative pay gap between public and private sectors is relatively consistent along the wage distribution, albeit with some marginal evidence of an inverted U-shape for female workers with higher paid women experiencing the highest public sector pay penalty (op. cit.).

UK

The UK pattern of public sector pay conforms to a gender differentiated pattern similar in some respects to France and Germany. As we saw above, unadjusted for individual and workplace characteristics the raw average hourly earnings data for 2011 reveal a substantial public sector pay premium for all workers – 25% for female full-timers, 44% for female part-timers and 15% for male full-timers.

Once adjusted, these premiums are reduced to a great extent because of the higher share of professional workers in the public sector. Brindusa et al.'s (2011) analysis of ECHP data

suggests an adjusted premium of just 9% for female workers and a zero premium for men. Also, Bozio and Disney's (2011) analysis of UK Labour Force Survey 2009-2010 data suggests that controls for education and age cut the raw premium to around a third its size for women (from +28% to +10%) and to around a quarter for men (from +21% to +5%).

Along the wage distribution, the raw earnings data suggest an important distinction between full-time and part-time workers. Among full-time workers, both male and female workers enjoy the largest public sector pay premium among the bottom half of the wage distribution and experience a decline in the premium among the higher paid, steeper for men (reducing to zero) than for women for whom a small premium is sustained. For female part-timers, however, the pattern is the reverse with a substantial increase in the raw premium from 13% at the bottom decile to 42% at the median point and 77% at the 80th percentile point (Grimshaw et al. 2012, national report). Results from quantile regressions confirm the pattern for full-timers: from the bottom to the top decile the adjusted gap reduces from 18% to zero among women and from 7% to a small penalty of 1% for men (Lucifora and Meurs 2006).

Part II. The role of the public sector in setting minimum standards and equality standards

One key issue in assessing recent trends in public sector pay and procurement is to identify the implications of these trends for both employment standards in the wider labour market and for pay equality for specific groups, in particular gender pay equality. In countries where the public sector has traditionally taken on the role of the good employer (Beaumont 1981, Corby 2000, Fredman and Morris 1989, Carter and Fairbrother 1999), acting also as a role model for the private sector, changes in the pay policies and practices in the public sector may be expected to have repercussions not only within the public sector itself but across the labour market as a whole. Furthermore, as the public sector is a major employer of women, both low and higher skilled women, any major changes in public sector pay can be expected to have particular implications for gender pay equality.

4. Is the public sector a ‘good employer’?

While there is a tradition in some of the five countries included in this report of the public sector performing the role of the good employer, and acting as an example to the private sector, this role has been contested and changed over recent decades as the public sector came under pressure to follow examples from the private sector (Farnham and Horton 1992). Furthermore, the extent to which the public sector has acted as a lead model in setting fair pay, particularly for low grade workers, critically depends upon the adequacy of interventions and mechanisms to establish employment standards in the private sector. Even more importantly, in other national contexts particularly those of the transition economies, this lead role for the public sector has often simply not been present. In these contexts, the public sector may in fact have acted as an example of poor employment practice (Pollert 2003, Healy and McKee 1997, Brainerd 2000, Pillinger 2004).

4.1. Six features of the ‘good employer’

The public sector’s status as a ‘good employer’ can be linked to six characteristics that could be considered to contribute to setting higher employment standards and which in some contexts and time periods have been clearly associated with the public sector. These are as follows:

- 1) Providing job security
- 2) Providing for income security (sick pay, pensions etc)
- 3) Setting fair levels of pay, based on ‘fair comparisons’
- 4) Allowing for employee voice and/or collective bargaining
- 5) Following due process (a characteristic of bureaucracy)
- 6) Adopting equal opportunity policies

Table 4.1 provides a summary for the five countries. Many of these dimensions to employment standard setting have been called into question by the spread of new public management ideas in the 1980s and 1990s, albeit to different degrees dependent on context. In some countries some of these ‘standards’ have never been developed or applied and in all five countries there were undoubtedly gaps in standards and divisions among parts of the public sector (Bach et al. 2009). Furthermore the extent to which these principles were either adopted or had salience depended on the extent and form of the social wage available to all workers (that is, entitlements based on citizenship rather than employment status) and on the human resource practices and policies that applied in the private sector.

If we consider first the role of the public sector in providing job security, it is clear that although this characteristic still prevails it has been subject to challenge at least to some degree in all five countries. Germany and France have maintained the principle of job security for civil servants and effectively extended this to non civil servants on permanent contracts but at the same time, the share of public sector workers on temporary or fixed term contracts has increased strongly. In Hungary job security for both civil servants and public service employees is not enshrined in law but underpinned by high levels of compensation for redundancy (15 months pay for civil servants and 20 for public service employees) but compensation levels are due to be decreased in 2012 and redundancies are feared following the planned major reorganisation and centralisation of education and other local government functions (Hámori and Köllő 2013). Sweden has also increased the use of fixed term contracts as it also offers job security for those on open ended contracts but without any specific protection attached to civil servants unlike France and Germany. Even in the UK there has been some tradition of maintaining job security for those on public sector open-ended contracts and this has fuelled the growth of those on temporary or agency contracts but this job security is based only on employer good practice and in the current austerity cuts is rapidly coming to an end. Thus there is clear evidence that the public sector in all five countries has narrowed its ‘job for life’ commitment to those providing public services by changes in contracts, outsourcing or simply willingness to make redundancies where the job security was based on practice rather than legal provisions. There is nevertheless evidence of a legacy effect, such that job security still tends to be higher in the public sector, at least relative to the severity of pressures on budgets (an issue we explore in our local government case study below).

The public sector has also tended to provide for greater income security through provision of pensions, sick pay and, more recently, paid parental and maternity leave. The importance of these provisions depends on the extent to which these represent an improvement or otherwise on private sector provision. Where this is mandatory and similar to the public sector this aspect of employment standards has less importance. Only the Hungarian pension system is identical in public and private sectors but in France, Sweden and to a lesser extent Germany the pension systems are quite similar between public and private sectors although public sector workers still enjoy some advantages. In France public sector workers pay lower contributions (but upwards equalisation is planned by 2020) and have a higher minimum pension entitlement⁷. In

⁷⁷ There are further differences in as much as public sector employees’ pension is based on final salary while private sector employees on career average (25 years) but bonuses are taken into account more in the private than the public sector.

Germany civil servants have better non contributory pensions with other public sector workers having opportunities to contribute to similar pension schemes at relatively low cost to the employee and while the private sector has occupational pensions a much higher share of employees are not covered (around 52%) and with the relative decline in statutory pensions, there is likely to be increasing dualism in the future between those with and those without occupational pension additions. In Sweden the public sector collective agreements provide for relatively generous collectively agreed top ups to national pensions but comparable to provisions in some other sectors and large organizations based again on collective agreements. In all three cases, however, good pension provision is still less exclusively found in the public sector than is the case in the United Kingdom where in 2008–2009 around five million employees in the United Kingdom were in defined benefit pension schemes in the public sector compared to under two million in the private sector (Bozio and Disney 2011). While good pension provision in the UK has always been patchy, the big public/private sector divide has opened up not because of improvements in the public sector but because employers have withdrawn from their voluntary schemes in the private sector.

The public sector also plays a more significant role in providing income security against risks of ill health in countries such as the UK where guaranteed replacement rates under statutory systems are relatively low; in the UK statutory sick pay is set at a low flat rate level⁸ but public sector employees are more commonly offered sick pay at full or half pay. In France civil servants only have to wait one day compared to three days for private employees before sick pay kicks in and in Sweden the ceiling on benefits is normally not applied in the public sector along with some other private sector agreements. Germany and Hungary have the same system in both public and private sectors. It is also in the UK where the gap between public and private sector payments for maternity and parental leave is greatest (see below). Sweden and France also offer some advantages in the public sector but these mainly affect higher level women and men as the public sector does not apply the earnings cap to parental leave benefits which applies in the statutory system. In Germany and Hungary paid parental leave is the same in public and private sectors, the only differences related to opportunities to take longer unpaid leaves with job security in Germany and to more generous working time flexibility in Hungary if women return to work early after childbirth which in practice rarely happens. Also in Germany the public sector traditionally provided security of living standards by offering additional payments linked to children and marital status; these payments run contrary to principles of equal pay for equal work and were abolished as part of the major reform in 2003. However family and housing allowances have been retained in France for civil servants.

The third area where the public sector may act as a good employer is in setting fair pay, based on principles of fair comparison and where pay for more vulnerable groups is protected, often by providing minimum pay above that prevailing in the private sector. This corresponds broadly to the model in use in the UK up until the 1980s and which was at least temporarily reinvigorated by some pay policies under the New Labour government, in particular the ‘Agenda for Change’ agreement in the National Health Service which set a significantly higher

⁸ In France and Hungary the replacement rate is between 50 to 60% of normal earnings up to a cap of 1.8 to twice the minimum wage in France and Hungary respectively. Germany and Sweden provide a 70 to 80% replacement but Sweden has a cap although higher than in France and Hungary (MISSOC data).

minimum rate than the national minimum wage and provided for its application to subcontractors as well as directly employed staff (Grimshaw 2009). In the intervening period there had been a significant watering down of the principle of fair pay in the public sector, reinforced by a tendency to outsource where a significant differential could be identified between public and private wage levels and an abandonment of fair comparison as a core principle (although pay review bodies have tended to maintain relative wages (Dolton 2009)).

In France from the 1980s onwards the position of the public sector in setting a high pay standard was eroded by the increasing overlap between the national minimum wage- the SMIC-and the lower wage points on the public sector pay grid, Some of the problems have been reduced by the agreement from the end of the 1990s to index the lowest wage levels in the public sector to the SMIC but the upgrading of the pay points above the SMIC level is only partially assured and the outcome has been a compression of starting salaries in the public sector and an erosion of age and seniority earnings profiles for the lower grade staff. In Germany the role of the public sector in setting relatively high minimum rates became increasingly evident due to the fragmentation of pay rates in the private sector and the absence of a national minimum wage which allows for some very low rates of pay in the private sector, providing considerable incentives to outsourcing. As a consequence the employers moved to reduce the minimum rate set by introducing a new lower rate of pay to provide some defence against low cost outsourcing. By 2011 a total of 0.6% of public employees were classified in this grade but 1.3 per cent of municipal public sector employees. Although the share is low it is four times higher than in 2006. However, there is now a move towards establishing prevailing wage laws in many Länder (Bosch 2013) which should moderate wage competition between the public and private sectors.

In Sweden there is no specific presumption of higher minimum rates in the public sector in part because of the tradition of regulated egalitarian wages across both public and private sectors. Thus the situation in Sweden has historically been close to the situation now prevailing in France where there is a common but relatively high minimum applying in the public and private sectors. Indeed evidence for Sweden suggests that the public sector and, as we show in part four, specifically the municipality sector tends to set relatively low minimum wage rates although the degree of inter-sectoral variation is relatively low in Sweden. In Hungary the history of the public sector since transition has been too volatile, involving large swings in relative pay for any clear model to emerge. These swings in relative pay have resulted in a high share of low pay within the public sector in the crisis years as there have been no changes to the wage grids setting public sector pay since 2008 leading to major declines in real and relative pay as the consumer price index has increased by 18% between 2008 and 2011 in Hungary.

Alongside this role for the public sector in setting fair minimum standards, there is also evidence of long-term tendencies for the public sector to take advantage of its monopsonistic position in relation to significant professions such as teaching and nursing by setting pay at levels below what workers with comparable educational qualifications and experience might expect to earn in the private sector. This tendency is particularly acute in Hungary where there are long term problems of exceptionally low pay for public sector professionals that predate the

transition period and reflect the low pay and status attributed to service professionals in the previous socialist regime in Hungary and elsewhere and often associated with the employment of women as teachers and doctors as well as nurses (see chapter 4 below and Pollert 2003; Healy and McKee 1997; Brainerd 2000; Pillinger 2004). While the feminisation of these professions is now commonplace it occurred earlier in the socialist regimes and was associated with lower employment status than similar jobs in the west. In the post transition period there was some tendency for wages for public sector professionals to rise as they had been so suppressed under the previous regime (Disney and Lausev 2011) but the rise was much more limited than for similar professionals in the private sector and under the crisis the gaps have been allowed to widen again, resulting in industrial action by doctors and estimated pay deficits of around 50% for prime age professionals in Hungary (Hámori and Köllő 2013).

Thus the key characteristic of public sector pay policy in Hungary has been that of monopsony as part of the legacy from the previous regime. These tendencies may be found to a lesser extent in some of the other countries as in part indicated by the lower and sometimes negative premia for higher skilled groups especially for men. It should also be noted that the positive premia found in Germany, the UK and to some extent France for higher educated women are estimated in relation to the earnings of women in the private sector where discrimination may also apply and not to any estimate of gender neutral pay in the labour market as a whole.

Table 4.1. The public sector as a good employer?

	France	Germany	Hungary	Sweden	UK
Job security	Job security for civil servants and non civil servants on open ended contracts but increased use of more precarious work forms.	Lifetime employment for civil servants and job protection for non civil servants on open-ended contracts. Use of temporary contracts high (15%)	Civil and non civil servants have high job security in practice- no legal protection- but underpinned by severance compensation	No specific job security status for public sector workers- overall employment protection relatively high. Increased use of fixed term contracts (>17%)	No special job security- some tendency to use fixed term contracts but also redundancies of permanent staff
Income security	Improved pensions, sick pay and parental leave but marginal	Improved pensions for civil servants and non civil servants subject to contributions; paid parental leave and sick pay are national system.	No differences in pensions, parental leave or sick pay	Improved pensions, parental leave and sick pay but marginal	Significantly better pensions, sick pay and paid maternity leave
Fair pay	Compression of age earnings profiles for lower skilled due to pay grid being upgraded at a lower rate than the SMIC. Wage differences between civil servants and non civil servants. Low pay advantage in public sector	Pay premium for lower skilled, women and also men in eastern Germany. New lower entry rate negotiated and now applying to 0.6% of workforce but prevailing wage laws may reduce public/private sector wage competition.	High share of low paid in public sector and many jobs paid at minimum wage. Also very low pay for professional groups.	No tendency to set higher minimum wage rates in public sector. No or even negative wage premium in public sector	Significantly higher minimum wages in public sector especially health. Main pay advantage is for lower skilled workers and women.

Employee voice	No collective bargaining -only consultations- but 2010 law is encouraging social dialogue.	Collective bargaining for non civil servants (100% coverage) but somewhat more fragmented-civil servants terms set normally according to negotiated agreements for others	Consultations only for civil servants, bargaining only for public service employees at workplace level	Collective bargaining across all the public sector (100% coverage)	Collective bargaining plus pay review bodies (65% coverage public sector, 17% private sector)
Due process	Formalised pay grid and seniority.	Obligated to pay according to collective agreements. More performance pay but limited.	Published pay grids but minimum wages apply in half of the wage bands and some problems of solvency among municipalities	Open scrutiny of wage structure - acts as constraint on individualised negotiations	More discretionary pay and reduced seniority but within framework of pay grading structures and trade union scrutiny
Anti-discrimination policies	Some gender equality initiatives but not in relation to pay and job gradings	Strong public sector equality law but failure to agree on gender neutral job evaluation.	No specific equality measures	Strong equality policies including gender pay audits- but also found in private sector. No gender neutral job evaluation as job grades not used	Gender neutral pay grading agreements and other equality initiatives

These developments in setting pay standards can be considered reflective of the scope for effective collective bargaining and employee voice in the public and the private sectors, an issue we explore in details in part III. Thus the revitalisation of the role of the public sector in setting the lead in minimum pay under New Labour in the UK was due to a large extent to the strength of the public sector unions and their focus on issues of equal pay in the public sector, particularly in contrast to the weakness of the unions in the private sector where often low or no premia above the minimum wage is achieved. Although much of the pay setting was undertaken by pay review bodies, these acted as ‘quasi-collective bargaining’ bodies in that they were sensitive to the pressures from the relatively strong trade unions. In France the erosion of the public sector pay premium and the low minimum rates set in the public sector area reflect in part the absence of collective bargaining and the increasing importance of the SMIC in protecting wage standards in both public and private sectors. In France the public sector is more a field apart, defined by a distinct status, rather than acting as an exemplar for the private sector. However a new law in 2010 is aimed at renewing processes of social dialogue. Collective agreements will still not be legally binding but public entities signing such agreements can be committed to implementing them quickly and without loss of substance so the public sector is moving more towards a collective bargaining system.

In Germany civil servants are also not engaged in collective bargaining and although traditionally their pay and conditions have followed the collectively agreed wage rates, more recently there have been imposed changes to both working time and pay, revealing the exposed position of those public sector groups excluded from collective bargaining (Keller 2011). The larger non civil servant groups are active in bargaining but the increasing fragmentation of the public sector employers and the emerging problem of low pay in the private sector prevented the trade unions delivering on their objective of bringing in a major wage reform to promote

equality and instead led to them agreeing to the introduction of a lower rate of starting pay and to the right for Länder to use opening clauses to vary working time. However this emergence of somewhat greater heterogeneity in employment conditions within the German public sector is, according to Keller (2011), only remarkable in a German context in comparison to a highly unified previous system.

In Sweden private and public sector trade unions are apparently still able to maintain comparatively high minimum wage levels relative to average earnings although mandatory minimum wage levels may not now be specified within collective agreements even in the public sector. The internationally-traded sector sets the going rate of wage increases which tend to be followed in the public as well as private sector negotiations but the private sector acts more like the public sector in other countries in maintaining relatively egalitarian wage structures with a high minimum wage level. However, the municipalities' sector has a much lower rate of wage dispersion than other parts of the public or private sector. In Hungary wage decisions are made by the government and it is changes in governments plus changes in government policy direction that have led to major upward and then downward swings in relative pay for the public sector.

Pay setting in the public sector could be expected to be more rule bound than in the private sector. Pay policies and scales tend to be published, increments have traditionally been based on objective criteria such as seniority and the discretion available to public sector managers to vary pay has been limited. These characteristics of public sector pay underpinned much of the criticisms of the public sector under the new public management debates as the lack of flexibility in pay and the tendency to reward time served or status rather than performance was argued to lie behind non responsive and unproductive public services. The trend in all countries included here has been towards a reduction in the role of seniority payments but not always due to new public management principles. For example changes to pay principles have been made in Germany, the UK and Sweden, with Germany reducing the former 12 seniority increments per grade to six levels depending on job tenure and job experience, the UK combining performance and seniority criteria in most pay systems and Sweden moving to individual negotiated pay based on performance and other factors but without reference to seniority. However in France the value of seniority payments has eroded at least for lower grade staff even though there has been no change in pay principles but due instead to the relative upgrading of the starting salary; likewise in Hungary seniority scales still prevail but the weight of seniority pay in total pay has reduced due to the need to pay above the formal pay rate for new recruits and because for many groups the effective pay rate even for those with seniority is the minimum wage.

Despite these changes, there may still, however, be greater scope for scrutiny of pay decisions in the private than the public sector; in Sweden these individualised pay decisions have to be made public, as also applies in the private sector, thereby maintaining pressure for fairness and due process. In the UK trade unions are still much stronger in public sector workplaces than in the private sector and may be able to protect workers against arbitrary performance appraisal (such that in some sectors it is argued that performance payments may be relatively automatic – for example for police). In France the bases for the bonuses that vary by department are not

made explicit and there is only limited trade union scrutiny although the bonuses are normally allocated by group or department and are not individualised. In Germany there are strong constraints on public sector managers which require them to follow collective agreements but some increased discretion has been introduced through more scope for performance-related pay. In Hungary there are published pay scales and policies but many of the groups are now paid the minimum wage due to the erosion of differentials between the public sector wage grid and the minimum wage and some parts of the public sector pay well above these rates, either due to being in a better budgetary position (for example government ministers) or because the rates are too low to attract some groups of staff. It is also the case that there is a risk of non payment of wages in insolvent municipalities, which is far from a rule bound approach to employment, although the government has announced plans to take over municipalities' debts.

As a consequence of the public sector's bureaucratic characteristics, it can be expected that public sector employers would be more likely to implement new employment regulations than private sector employers. Thus public sector employers in the UK were at the forefront of adopting equal opportunity policies (Dex and Forth 2009), first of all for gender and race but then also in extending these policies to other forms of discrimination. These policy programmes have also been associated in all four countries with more attention to issues of work-life balance than in the private sector- as explored further below. To some extent this take up of equality issues in the public sector could be considered more an extension of its underlying character than a new development in public sector employment practice but in some countries the developments have gone a stage further where public sector employers have been pressurised by either trade unions or by government to recognise the embedded discrimination in their own pay structures and practices and to take action to change these structures to reduce discrimination. Thus although the public sector could be regarded as providing better employment standards in the form of higher minimum pay and benefits, in its relative treatment of employees it was still perpetuating discrimination and relative disadvantage.

The extent and form of attention paid to this problem has varied considerably across the five countries (Rubery 2013). In the UK and Germany the trade unions have focused on introducing gender neutral job grading; this has had more success in the UK – particularly in the health sector - than in Germany where there was in the end no agreement to introduce a gender neutral form of job grading as part of the major 2003 reform although some progress has been made in some regions. For example Munich has introduced gender sensitive job evaluation (Scheyögg 2011).

In France pay for civil servants, at least in the central public service, relates to the individual not the job, thus rendering gender neutral job evaluation an ineffective tool for gender equality. All collective bargaining units in France should negotiate on gender equality in pay but there is no collective bargaining in the public sector in France although there is a new law encouraging non legally binding collective bargaining. In Sweden the issue of gender equality is addressed more through the longer term policy of egalitarian pay coupled with published pay data and requirements for gender audits. Gender neutral pay grading is not widely used as the system of wage setting is now individualised and performance based with no references to published or standardised pay grades. In Hungary there is no evidence of the public sector taking up issues

of gender equality. There are more opportunities for flexible working after childbirth in the public sector but these tend not to be taken up as most women take full-time leave. The impact of these different approaches to discrimination on gender equality are explored further below.

4.2. Variation and change in the state's function as good employer

From this exploration of the public sector as an employment standards' setter in the five countries it is clear that there are not only very large differences historically in the role of the public sector in the wider labour market but also major differences in the extent to which those roles have been eroded or changed over recent decades. The examples taken together indicate the extreme vulnerability of public sector employment conditions and standards to political change even in contexts where there are long established traditions of good employment practices. This vulnerability is found where there are no rights to collective bargaining and changes can be made by decree, for example in the change made recently to civil servants' terms and conditions in Germany, in the rapid swings in pay for civil servants in Hungary coupled with long term low pay levels and in France in the erosion of public sector pay premia particularly in the 1980s and 1990s. However, in each of these cases the rights to job security have been maintained, thereby setting these groups somewhat apart particularly in a period of crisis. Thus the ability of the public sector to set employment standards may to a large extent depend upon the compliance of the state in promoting this role.

Where the state decides to change the role of the public sector in this respect it may be able to do so more easily where there is no right to collective bargaining or effective representation. For example in the UK the Pay Review Bodies followed the government call for wage freezes, thereby giving up their position as semi-independent bodies. Moreover ability to exercise bargaining power may not be strictly linked to rights to collective bargaining as there are areas of trade union strength for example among French civil servants in the Ministry of Finance even though they do not have legal bargaining rights.

However, the state may also be able to use other tools to bring about change, such as budget cuts and threats of job loss where the public sector workers have no specific rights to protection. Thus, for example in the UK there is no doubt that the erosion of the public sector premium in the 1990s and 2000s would have been greater had it not been for strong public sector trade unions and their efforts to take up opportunities both for collective bargaining and for utilising European equal pay laws to change existing pay practices in the public sector. Nevertheless, these characteristics may still not be sufficient to withstand the impact of current budget changes and unilaterally imposed pay freezes (see below). Likewise the German public sector trade unions were unable to resist the erosion of public sector pay in the early 2000s in the face of continued budget pressures, widening wage inequality in the private sector and the fragmentation of collective bargaining due to emerging differences among public sector employers. In both the UK and Germany there is a great deal at stake in the policies to reduce the role of the public sector as an employment standards' setter. This arises in the UK out of the fact that the public sector is the main remaining area of union organisation and the only sector now to offer access to reasonable pensions. In Germany the lack of a national minimum wage exposes all collectively regulated sectors to potentially severe wage competition which could lead to a downward spiral in minimum pay levels in efforts to maintain 'competiveness'

with the private sector although recent expansion of prevailing wage laws should reduce the intensity of competition.

In France and Sweden the public sector has a less explicit role in the maintenance of labour standards at the bottom end of the labour market for in France the SMIC is the tool used in both public and private sectors to guard against low pay and in Sweden there have been no specific pay privileges for working in the public sector for some time and the public sector is more a follower of pay trends in the private sector. In Hungary the public sector has not had the autonomy to establish its position as either a standard setter or a follower but instead is an arm of government, subject to the wide swings in government approaches to pay policy. Its core problem is the longer term underpayment of its public sector professionals, many of whom are women.

We also found major variations in the extent to which the public sector conformed to the notion of a rule-based bureaucracy. The Swedish approach had turned the notion that rules are required for public accountability on its head and instead focused on public scrutiny of pay outcomes, having abandoned most explicit rules. The UK, France, Germany and Hungary all had rules but their application could to varying degrees be considered flexible. In the UK and to a lesser extent Germany and Hungary there was some discretion over the application of grading systems and/or the implementation of performance pay systems. In France, the application of bonuses is less than transparent although they normally are applied to specific groups or units rather than individualised. The involvement in promotion of gender equality, as we discuss below, could be regarded as a relatively new form of good employer practice in the public sector, particularly in countries such as the UK where this has been a major feature of recent pay developments. The German and French public sectors have focused more on processes of recruitment and promotion, with indirect implications for women's pay. In Sweden the focus on equality has been more nation-wide and less specific to the public sector, and in Hungary this issue has not been taken up and is not on the government or trade unions' agenda.

While this pattern of variegated adherence to notions of good practice and the evidence of clear erosion of the public sector's lead in setting strong employment standards is a matter of concern for those interested in pay and employment equity, under the economic crisis and subsequent sovereign debt crisis, this role has been portrayed by politicians not as a force for public good but as evidence of public sector profligacy which not only harms tax payers but also constrains the private sector. According to the UK's chancellor, current public sector pay practice '... hurt[s] private sector businesses that need to compete with higher public sector wages; lead[s] to unfair variations in public sector service quality; and reduce[s] the number of jobs that the public sector can support.' (HM Treasury 2011: 37).

Thus the stated aim in the austerity policies has become that of the public sector following the private sector downwards in reducing employment standards and in lowering pay and conditions to meet the twin needs of competitiveness and public expenditure restraint. These objectives are increasingly overshadowing and even supplanting the perceived requirement for the public sector in representing the state to set good or fair employment standards.

5. The public sector as promoter of gender equality

5.1. Lessons from comparative research

Comparative research on women's employment position has suggested that a large public sector tends to both increase women's employment participation and reduce the gender pay gap (Whitehouse 1992; Estévez-Abe and Hethy 2010; Kolberg 1991; Whitehouse 1992; O'Connor 1993; Gornick and Jacobs 1998; Pillinger 2004; Mandel and Semyonov 2005, 2006; Mandel and Shalev 2009). The impact on employment participation arises both from the direct effect of more jobs in areas traditionally dominated by women and the impact of public services on women's ability to combine work and care. The impact on the gender pay gap also derives from direct effects, including the tendency of the public sector in Western welfare states to adopt higher minimum floors to wages, in effect paying a wage closer to a non discriminatory wage than that which prevails in the private sector (in the absence of comprehensive trade union coverage or a high legal minimum wage) and also providing high quality benefits such as pensions where these vary by industry, workplace or profession. There are also indirect effects from other aspects of public sector employment policies on women's lifetime earnings, where, for example, greater opportunities are offered for women to continue in their career jobs over the period of childbirth and childrearing due to flexible working time arrangements. A further set of effects may arise out of specific commitments in the public sector to implement gender equality policies and to change existing wage structures and employment practices: for example through gender neutral job evaluation, gender pay audits and specific requirements with respect to recruitment and promotion processes.

However, a number of caveats need to be introduced into this rather positive view of the public sector with respect to its impact on gender equality. First, the main variation in the public sector that has been taken account of in these studies is size of the public sector, yet as we have already seen there are considerable differences among welfare state systems as to the employment conditions provided within the public sector. This is an issue which we will explore with respect to our five selected public sector systems.

The second caveat has informed some recent work by Mandel and co-authors within the general framework of comparative welfare state analysis and women's employment and that is that the public sector has different impacts on different groups of women. This intersectionality approach clarifies that there is not just one simple effect on gender equality but that in any system some women may lose out and some may benefit. Mandel points to the tendency towards pay compression in the public sector as giving rise to different outcomes for low skilled and high skilled women. The argument is that the use of regulation to set pay in the public sector, whether through collective bargaining or by administrative decree, limits flexible and variable pay particularly at the top end. The outcome for gender equality is thus mixed as Mandel and Shalev (2009) argue:

‘As a result, we hypothesize that in restraining class inequality, the public sector has an ambiguous effect on gender wage inequality. Its relatively high wage floor narrows

gender differentials at the low end of the class structure while its restricted wage ceiling widens them at the top. The two-sided impact of the welfare state as an employer on women's representation and intra-class inequality leaves us with no specific prediction.' (Mandel and Shalev 2009: 1881)

A recent article by Mandel (2012) takes this argument further by showing that large public sectors tend to reduce the share of women in low paid jobs but also reduce the relative pay of those in higher level jobs. These effects may be exacerbated if the state acts as a monopsonistic employer, seeking to depress wages in professions that are not found in the private sector or only under contract to the public sector. This argument has been made to explain, for example, relatively low earnings in the care sector for both lower skilled care workers (Rubery et al. 2011; Machin and Manning 2004) and higher skilled nurses (Nowak and Preston 2001). These tendencies may also in part explain the often very low wages enjoyed by professionals in public services – including teachers, nurses and doctors – in many Central and Eastern European welfare states (Rubery 2013). These are in part a reflection of long-term low valuation of these public service jobs, which may be linked to the early employment of high shares of women in these occupations under the previous socialist regimes (Pollert 2003; Healy and McKee 1997; Brainerd 2000; Pillinger 2004).

The third caveat is that where the public sector is providing a significant premium over the private sector, particularly for women, the existence of these premiums has been identified as an incentive for outsourcing of those jobs from the public to the private sector. This problem is particularly acute in Germany where there is no national minimum wage and trade unions have reported very low wages in health and social care - for example one social enterprise, operating in cooperation with an Hungarian care company, was paying only €2 per hour (EPSU 2010) before the adoption of a sectoral minimum wage in the elder care sector. The positive impact on women's pay may thus be under threat in periods of austerity and where there is a policy push towards market testing of wages in the public sector against the private sector by competitive tendering. Policies to reduce public-private wage gaps presume that wages in the private sector provide an appropriate benchmark but this approach ignores the evidence of continuing wage discrimination against women which remains despite women's more continuous careers and investments in human capital. If pay discrimination prevails in the private sector, then higher pay in the public sector may quite reasonably be interpreted as the effect of not applying a discrimination discount rather than as 'overpayment'. The empirical evidence would support a public sector pay practice of offsetting wage discrimination but in practice policies to 'market test' do not take this into account.

5.2. Six conditions for gender equality

To compare the impact of the specific public sector regimes in the five countries on gender equality the following six factors are considered:

- the concentration of women's employment in the public sector;
- the importance of the public sector for higher level employment opportunities;
- evidence of pay premiums (positive or negative) and better pensions;

- evidence of work-life balance policies to facilitate women's employment within the public sector;
- evidence of general promotion of gender equality through affordable public services, especially childcare for public and private employees; and
- evidence of specific gender equality commitments and policies.

To provide comparable information on women's employment concentration in the public sector it is necessary to use the NACE categories of public administration, health and education (as in Part I chapter 2). This raises particular issues for Germany as the health sector is largely in the private sector. Nevertheless in all countries these sectors are primarily influenced by state expenditure even if there are variations in the extent to which this is associated with direct employment. Table 5.1 shows that in all five countries women's share of employment in these sectors is very high, with the female share ranging from 67% in France to 76% in Sweden. Moreover these sectors account for a sizeable share of total employment but an even greater share of women's total employment particularly total female graduate employment. The overall share of these three sectors in total NACE employment in 2010 varies from 22% in Hungary (due to a low share of health and social care) to 32% in Sweden but the concentration of women's employment ranges from 33% in Hungary to 51% in Sweden, such that women's concentration is some 40 to 59% higher than for all in employment. In all five countries the concentration of women graduates in employment found in these sectors is even higher, ranging from 48 % in France to 66% in Sweden. The skill mix in Hungary and Germany is particularly skewed to graduates. These very high concentrations indicate the importance of these sectors for quality employment opportunities for women.

Table 5.1. Female employment in the public sector in five countries (NACE O, P, Q), 2010

	France	Germany	Hungary	Sweden	UK
Share of the public sector:					
in total employment	30	25	22	32	28
in female employment	42	36	33	51	43
in high-educated female employment	48	56	56	66	59
in medium-educated female employment	39	31	24	45	37
in low-educated female employment	37	26	23	33	31
Share of women in total public sector employment	67	66	69	76	70

Source: ELFS 2010.

If we consider the size of the wage premium for women in the public sector we find evidence that it is significantly positive in the UK, also positive but lower in Germany and France, volatile but low in Hungary and slightly negative in Sweden. There is evidence of significant but declining differentials as one moves through the pay distribution in the UK and Germany, with a similar pattern in France but at a lower average premium level while in Sweden the premia are negative across the distribution. In Hungary the main problems are for professionals as lower skilled workers tend to be paid the minimum wage in both public and private sectors.

Box 5.1 illustrates the wide degree of variation in pay for both teachers and nurses across the five countries.

Box 5.1. Pay in feminised public sector professional jobs

Women account for the majority of many public sector professional jobs. Here we focus primarily on teachers and nurses, two of the most feminised professions. According to Galgóczi and Glassner (2008) women account for 70 to over 80% of primary school teachers in our sample countries and to around 50% in Sweden, 60% in France, Germany and England and two thirds in Hungary of secondary school teachers. Women normally make up 90 per cent or more of the nursing workforce (WHO 2009). Comparative data reveal very marked differences in the levels of pay in these professions, both in absolute but also in relative terms. This suggests a high degree of political choice in the way in which these professions are paid, influenced in part by the overall pay structure in the society and by the overall position of the public sector in the pay structure and possibly also by attitudes to gender equality.

We have most information with respect to teachers' pay. Table 5.2 first of all shows statutory pay for experienced (15 years) lower secondary teachers as a percentage of GDP per capita. This reveals a range in 2009 from 0.73 in Hungary to 1.71 in Germany, with Sweden and France being slightly below and slightly above average GDP per capita and the UK paying teachers at a ratio of 1.31 to GDP per capita significantly above the other countries but also significantly below Germany. These data fit with the overall characterisation of public sector pay levels in the five countries with Hungary underpaying public sector professionals, Sweden and France also paying public sector workers at below or close to market rates, while there is a more significant premium in the UK, partly due to the wider wage inequality in the UK, particularly compared to Sweden. The importance of the wider wage inequality is evident in the second part of the table where teachers' pay (same definition) is compared to pay for full year workers with tertiary education. On this basis Germany has the highest ratio again at 0.97 but the UK's ratio at 0.81 now lies between that for France at 0.85 and Sweden (at 0.75), indicating the much lower pay for tertiary level graduates in these latter two countries. Hungary, however, comes in at the very low ratio of 0.45, indicating the scale of the underpayment of teaching professionals in Hungary.

Table 5.2 also indicates the trends in the level of teachers' pay in both real terms and as a ratio of GDP; these are again in line with the general evolution of public sector pay (no data for Germany) with public sector pay in Hungary first improving somewhat from a very low level but falling back again in the crisis; France has also experienced a relative deterioration on both measures while in Sweden and the UK real pay has increased although at a slower rate than GDP (reversed slightly after 2008 when GDP was stagnant or declining).

Table 5.2. Comparative levels of teachers' pay

Lower secondary teachers' statutory pay	France	Germany	Hungary	Sweden	UK
As % pay of all full year workers with tertiary education 2009	0.85	0.97	0.45	0.75	0.81
Trends in real pay (2000=100)					
2008	91		145	110	109
2009	91		129	113	109
Trends in pay compared to GDP per capita					
2000	1.27	No data	0.73	1.00	1.43
2008	1.05	No data	0.79	0.89	1.26
2009	1.06	1.71	0.73	0.96	1.31

Source : OECD (2011a, 2012).

The national reports provide further data on changing employment conditions and pay for teachers. In France there has been some recognition of the problems of low pay for teachers leading to an 18%

increase in the starting salary for teachers and improvements in pay for those with less than 7 years service. Overtime pay has also been exempted from tax but requirements for overtime hours have increased due to a decline in the number of teachers. Moreover the use of non civil servants mainly on temporary contracts has increased and they receive lower pay, estimated at a 30% discount over a full career.

In Hungary despite the very low salaries for teachers working time has been increased from 22 teaching hours per week to 22 to 26 hours with a new requirement for 32 hours to be spent in the school covering 80 per cent of teaching time. The objective is to reduce the need to hire as many teachers. In Sweden teachers now have their pay set on an individualised basis without any minimum guarantees but the range of pay levels remains very compressed, with a d9/d10 ratio of 1.46 for men and 1.37 for women with no tendency to widen. Men's and women's earnings are equal at the median level which represents 86% and 92% respectively of the median wage for men and women in the economy.

It is notable that in Germany, despite having much higher pay rates for teachers than the other countries there is still some concern about the attractiveness of teaching so that when responsibility for the working conditions was devolved to the *Länder* the richer *Länder* in the South (Bavaria and Baden-Württemberg) began to offering higher wages to attract teachers along with other scarce specialists but the northern *Länder* now agreed to coordinate their civil servant policy to avoid wage increases as a result of mutual overbidding. However teaching hours were also increased along with civil servants working hours in general.

In the UK – or rather England and Wales- there are four main issues concerning teachers. First there is the pay freeze, called for by the government and agreed by the pay review body for teachers. Second there is the reform of teachers' pensions which is replacing final salary with career average schemes and increasing contributions and extending the retirement age. Third there is a policy of setting up semi-independent academy schools which are likely to set their own rates of pay, breaking up national agreement arrangements. Fourth, there has been a policy of introducing non qualified teaching assistants into schools, as a way of changing the skill and salary mix. There had been an agreement to include teaching assistants within the pay review framework but this has been stopped, allowing municipalities and schools to set their own rates of pay, with undoubted negative consequences for this largely female group.

There is more limited information on nurses' wages but what is available reveals some interesting results. Firstly the high pay level of teachers in Germany is not found with respect to nurses who are not civil servants and many are employed in the private sector. Pay for German nurses is below that for UK nurses in purchasing power parity (OECD 2011b) and the wide differential between teachers and nurses is confirmed by data held by the International Council of Nurses (2011) in sharp contrast to other countries in this comparison. We only have data for the UK and Hungary on nurse pay relative to other full year tertiary educated workers; for both countries the ratios are slightly higher than for teachers at 0.89 for the UK but again a low 0.53 for Hungary. These ratios may not however be directly comparable with the teachers' pay data which refer to statutory pay as in the UK nurses tend to be less well paid than teachers (full-time nurses earned 85% of full-time teachers' weekly pay in 2011 (Table 14.1a ASHE 2011)). Swedish national data do, however, suggest that nurses are somewhat higher paid than teachers (about 10% higher at the median), that men's and women's pay as nurses is almost equal and that rates of pay dispersion are extremely low (D9/D10 ratios of 1.16 for men and 1.18 for women).

Nurses in the UK benefitted from an upgrading of their pay through the national 'Agenda for Change' pay agreement but have subsequently faced a two year wage freeze and cuts to their pensions. In France nurses have now the opportunity to be upgraded to grade A level civil service jobs due to increased qualifications but if they accept this change they also have to accept an increase in the retirement age from 55 to 60 so that many have not made the change. In Hungary hospital nurses benefitted somewhat from pay upgrading following the doctors' industrial action but not as much as doctors. They are also now faced, following a new healthcare act with expectations of doing more on call work and additional work above their 12 hour days in circumvention of the EU's working time directive.

The public sector pay premium for women in the UK is reinforced by better access to occupational pensions. Here the issue is not just the higher share of public sector employees in occupational pensions but the fact that women have always had limited access to occupational pensions in the private sector even before the recent decline in their provision. The wage premium is also reinforced through better pensions in the German public sector where the large gender gap found in coverage of occupational pensions in the private sector is also not present. Women also benefit more than men from the lower contributions and higher minimum pension entitlement for French public sector workers due to their shorter work histories and lower pay. The Swedish public sector's collective agreements provide for relatively generous pension top-ups but agreements in some other sectors and large organizations provide similar additional benefits. Nevertheless these are particularly beneficial to women given their concentration in the public sector. In Hungary the same pension system is found in public and private sectors.

The public sector can also act to promote gender pay equality through opportunities to maintain employment and career benefits over the period of childbirth and during the main period of childrearing (table 5.3). In Germany all public service employees who have a full-time job have rights to work part-time for family reasons and to return to full-time work but non civil servants may only be hired on a part-time basis and may therefore not be able to opt for full-time work. They can also seek a flexible distribution of hours and may combine part-time work with parental leave. In France all civil servants have the right to work part-time – from half time up to 90 per cent and those on half time receive 60 per cent of the full-time wage. These rights do not extend to contracted employees in the public sector.

In the UK a survey found 79 per cent of public sector employees had access to part-time work options compared to 65 per cent in the private sector (Hooker et al. 2007: 36) and a higher share of public sector workers (61 per cent to 52 per cent in the private sector) felt they would be able to work reduced hours on a temporary basis, work flexible hours and have job share options. A parallel survey of employers found that 36 per cent of public sector compared to 11 per cent of private sector workplaces offered job sharing and flexi-time was available in 31 per cent of public compared to 24 per cent of private workplaces. The United Kingdom has introduced a general right for parents to ask to work flexibly (extended now from young children to children 16 and under and for carers of adults). Survey results suggest that public sector workplaces are more likely to receive requests (59 per cent of public compared to 37 per cent of private sector workplaces had received requests) and are more likely to allow those returning from maternity leave to change to part-time hours (65 per cent willing compared to 56 per cent) (Hayward et al. 2007).

In Sweden there are opportunities for reduced hours working and returning to full-time work, which are even more extensive than the provisions found in the public sector in the UK, Germany and France, although these arrangements are in principle available across the whole labour market in Sweden. However, there is a much greater reduction in working time post maternity leave in the public than the private sector in Sweden (43 per cent compared to 34 per cent cut in working time for female professionals; EWCO 2006), suggesting a greater sense of

entitlement in the public sector. In Hungary there are some provisions for flexible working in addition to those for the private sector that should facilitate an early return to work by mothers. However, in practice most still take the three years of paid leave with only 12.5 per cent of mothers returning to work before the child is two including fewer than 15 per cent of higher skilled mothers, thereby reducing the practical significance of these entitlements (Hámori and Köllő 2013..

Table 5.3. Work–life balance options offered by the public sector relative to the private sector in five countries

France	Right to work 50 per cent to 90 per cent time and for those on 50 per cent time to be paid at 60 per cent. Also the right to return to full-time work. Maternity leave is paid in full without a ceiling unlike the private sector. Entitlements to 12 days rather than 3 days for care of sick child.
Germany	The Equal Opportunity Act gives all public service employees including managers the right to work part-time for family reasons and to return to full-time work. There are opportunities for a flexible distribution of hours and for combining part-time work with the parental leave allowance.
Hungary	Public employees have right to work two hours less per day until the child is two and one hour less until the child is four while private sector mothers only have the two hour reduction for one year and a one hour reduction for another six months but few mothers exercise these rights due to long parental leaves.
Sweden	Collective agreement in public sector since 1989 has provided top ups to parental leave pay; this influences particularly the take up by fathers of parental leave.
United Kingdom	Widespread practice of additional maternity leave pay (31 per cent of public sector establishments and 57.5 per cent of large public sector establishments compared to 11 per cent in private sector), opportunities for job sharing and flexitime and greater likelihood to grant request for part-time or flexible hours.

Source: adapted from Rubery (2013: table 2.6).

The European Foundation’s company survey found Germany and Sweden to be at the forefront of flexible work in the public sector but France and Hungary to be among those where flexible working was less prevalent than in the private sector (Riedman et al. 2006). However, this may be due to less employer-oriented flexibility in the public sector – that is, the flexible hours to meet employer goals rather than employee needs. In France flexible working, particularly part-time working, is primarily to meet employee needs. In Germany there are also fewer mini jobs among part-time workers in the public compared to the private sector. In the United Kingdom the private sector requires both long and irregular hours for full-timers and part-time work is oriented towards employer flexibility, such that the public sector contributes to work life balance by offering both more regular hours and more opportunities for employee-oriented flexible working although part-time work has also been used to provide flexibility at lower costs, including the avoidance of unsocial hours payments (Beynon et al. 2002).

Public sector organizations have also been found to be more likely to have experience of staff taking parental leave, supporting the notion that staff have a greater sense of entitlement in the public sector (Anxo et al. 2007: figure 3). The incidence in the public sector exceeded that in the private sector by a large margin in Germany and the United Kingdom, but only by a small margin in Sweden, although Sweden registered the highest overall incidence. In France and Hungary the incidence was higher in the private sector. In the United Kingdom most public sector employers provide much longer paid leave than the statutory provision (Hayward et al. 2007). In Sweden public sector employers provide 90 per cent of pay instead of the statutory 80 per cent and remove the statutory ceiling to compensation so that even higher paid workers are almost fully compensated when on leave, which accounts for the higher take up of leave among fathers in the public sector (Hass et al. 2011), although some similar agreements exist in parts of the private sector. In France the public sector pays for maternity leave at 100 per cent of salary with no upper ceiling while only large private employers do not apply the statutory ceiling. Also public sector employees are entitled to 12 days unpaid leave a year to care for a sick child compared to 3 in the private sector (Fagnani and Boyer 2011). In Hungary both public and private sector employees are entitled to three years paid parental leave and therefore there is no specific advantage in public sector arrangements. Most public sector employees take the full amount of leave so that opportunities for flexible working when children are young are by and large not taken up.

Public sector employers are also both more likely to offer other non childcare related leave opportunities (Anxo et al. 2007: figure 22) and to provide assistance with childcare (6 per cent of establishments in the public sector had their own kindergartens compared to 2 per cent in the private sector according to the European Foundation company survey). The availability of workplace childcare is likely to have more significance in the UK and Germany compared to Sweden and France where there are more comprehensive national systems and consequently less pressure on good employers to provide facilities. In the UK 10 per cent of public sector establishments provided childcare in the workplace compared to 2 per cent of private sector establishments (Hayward et al. 2007). Hungary also lacks good national provision but there is little likelihood of workplace provision as the system of comprehensive workplace childcare under the previous regime was phased out in course of widespread privatisation during the transition period.

A second aspect of work-life balance policies related to the wider role of the public sector in promoting gender equality is the provision of public services that can act as a substitute for female domestic labour. Cutbacks to services are likely to reduce such services and to create problems for both public and private sector female employees in accessing employment while having primary responsibility for childcare. While other public services, especially elder care, are of significance it is childcare that perhaps has the most direct impact on gender equality. The five countries have different levels of provision and different degrees of access to childcare; thus while Germany and Hungary have low enrolments in childcare for children under three but affordable costs, the UK has higher enrolments but much higher costs (see Anxo et al. 2010: p. 74). France and Sweden meanwhile have both high provision of childcare and medium (France) to low costs (Anxo et al. 2010: p.74).

The public sector is also more likely than the private sector to commit to gender equality policies and to implement national policies in a more thorough manner (table 5.4). The United Kingdom and Germany have both introduced a duty on public sector organizations to promote equal opportunity and to report on the outcomes. France has also introduced a general requirement for gender parity in recruitment committees and in 2008 adopted a charter for gender equality in the public sector, which resulted in some ministries developing action plans for gender equality. Sweden requires both private and public sector organizations to undertake gender audits and develop gender equality plans. Hungary stands out for having no specific commitments to action to promote gender equality in the public sector.

These employer commitments may also be reinforced by or even instigated as a consequence of trade union campaigns and actions. In the United Kingdom trade unions have lodged many equal pay claims for women, such that employers have agreed to introduce single pay spines for the whole sector – for example in health, local government and universities – to reduce the risks of future claims. In Germany the new pay system in the public sector was brought about in part by the trade union objective of introducing more gender sensitive pay grading although this goal has not yet been achieved due largely to employer opposition. German trade unions have also been active in gender equality initiatives at the local government level. In Sweden the Trade Union Confederation (LO) in 2007 promoted the use of ‘equality pools’. These were taken up in the municipality sector along with other sectors so that those areas with a mainly female workforce benefitted, particularly assistant nurses, but this focus on female-dominated workplaces has now been changed to a policy to assist the low paid in general. Again there have been no specific trade union campaigns in Hungary.

Table 5.4. Gender equality policy programmes and trade union equality campaigns in the public sector

	Public sector employer equality policies	Public sector trade union equality campaigns
Germany	The Federal Equality Act for the Public Sector also covering Länder requires: gender neutral job adverts; equal numbers of women and men invited to job interviews in job areas where women are underrepresented and equal gender representation in selection committees; preferential consideration of the underrepresented sex in recruitment and promotions; interruptions of work for family reasons, partner’s income to be disregarded in recruitment and promotion decisions; an obligatory equal opportunity plan, actions to increase female share which should not decrease even in a job freeze or planned redundancies; family friendly working hours and conditions; opportunities offered to move from part-time to full-time with no discrimination on grounds of part-time, telework etc.; involvement of an equal opportunity appointee; and regular reporting	The trade union ver.di sought to develop an integrated collective agreement for all public sector employees, based on a gender neutral job evaluation system but although in 1998 the union established an ‘upgrading commission’ to draw up concrete proposals for ‘gender fair’ job evaluation within the public sector, this failed due in part to employer associations’ threats to walk away from the collective agreements. Trade unions have also campaigned to cover private as well as public sector workers in health and social care and although some collective agreements have been negotiated cover both sector other organizations are not covered and church providers are specifically exempted.
France	From 2001 there has been a progressive move towards gender parity in recruitment committees in the public sector. In central government these committees must include at least one third women and the female share increased from 36.1 per cent in 2001 to 47.6 per cent in 2006 but progress in local authorities and the public health sector was more limited. In 2008 following adoption of a charter to promote equality in the public sector some ministries adopted “action-plans” with	No trade union campaigns

	quantitative targets, especially for top executive levels, and committed to promoting gender friendly working time arrangements (Gautié 2013)	
Hungary	No employer initiatives	No trade union campaigns
Sweden	Each organization in both the public sector and private sector in Sweden must have a gender equality plan (gender pay monitoring) and look whether there are unexplained gender wage differences and take measures if there are such differences (Anxo 2013)	The Trade Union Confederation (LO) in 2007 promoted the use of 'equality pools'. These were taken up in the municipality sector along with other sectors so that those areas with a mainly female workforce benefitted, particularly assistant nurses. However concerns were raised that this neglected the interests of female workers in male-dominated sectors and the equality pool has been transformed into a 'low income pool' which still benefits women in general but with less specific effects on the public sector. (EIRO 2011)
UK	Since 2007 all public organizations have a duty to promote gender equality and the 2010 Equality Act introduced a single equality duty with the requirement to eliminate discrimination, harassment and victimization; advance equality of opportunity and foster good relations between people who share a characteristic and those who do not. Public organizations (>150 employees) should publish information on the effect of their policies and practices on employees, service users and others from the protected groups including evidence of analyses undertaken. They are also asked to ensure their pay system is designed to achieve equality between men and women; equal pay audits for gender are recommended not mandatory but over 40 per cent of public bodies are reported to be auditing their pay systems for sex bias. (EHRC 2011).	Trade unions have actively pressed for change to public sector pay grading and have brought a large number of legal cases, encouraging employers to agree to introduce single pay spines based on gender sensitive job grading to reduce the basis for future claims in local government, the NHS and universities. The implementation in the latter two has been much smoother than in local government where there has been more scope for local variations and also continuing problems of resolving equal pay issues (Perkins and White 2010).

Source: adapted from Rubery (2013: box 2.1 and box 2.2).

5.3. Summary country profile of gender equality in the public sector

From this overview of the role of the public sector in gender equality we can provide an aggregate indicator of the importance of the public sector for promoting gender equality in the five countries concerned. We use a three by three matrix through which we can identify both a quantity and a quality effect dimension to women's employment and a separate employment and working conditions dimension (table 5.5). We treat work-life balance policies primarily from the perspective of facilitating women's continuity of employment which then contributes to the quantity of women's employment although it obviously would also impact on quality of the work experience too.

Table 5.6 provides the scores for the five countries on the basis of the information presented above on the six dimensions. Overall four countries score between 13 and 17 points while Hungary trails at 9 points. Sweden has the highest score reflecting its high scores for general promotion of gender equality, its high levels of female employment in the sector and its work life balance policies but the pay and pension advantages of being in the public sector are only medium (reflecting mainly better pensions). The UK and France both score 14 but again France does not score highly on pay but more on work life balance policies and promotion of

gender equality while the UK scores highly on pay and pensions, employment concentration and promotion of gender equality within the public sector. Germany has a slightly lower score of 13 partly due to lower employment concentration and low provision of childcare. The low overall score for Hungary results primarily from the poor working conditions but also a relatively low concentration of employment (though the concentration of graduates is high), low provision of childcare and no specific gender equality policies.

Table 5.5. Summary country profile of gender equality provided for by the public sector

	Employment	Working Conditions	Active Promotion of Gender Equality
Employment quantity	Public sector provides women with employment opportunities (female share and female concentration in public sector) <ul style="list-style-type: none"> • low – Germany, Hungary • medium – France, UK • high - Sweden 	Public sector provides women with work-life balance options that facilitate employment continuity <ul style="list-style-type: none"> • medium – Hungary • high – France, Germany, Sweden, UK 	Public sector provides services such as childcare which facilitates labour market participation <ul style="list-style-type: none"> • low - Hungary, Germany, UK • high - France, Sweden
Employment quality	Access to higher quality jobs (high concentration of women graduates in public sector) <ul style="list-style-type: none"> • medium - France • high – Germany, Hungary, Sweden, UK 	Pay and pension premia especially for lower skilled (compared to discrimination in private sector) <ul style="list-style-type: none"> • low – Hungary • medium - France, Sweden • high – Germany, UK 	Active promotion of gender equality through specific duties and policies or through effective implementation of national policies <ul style="list-style-type: none"> • low - Hungary • medium - France, Germany, UK • high - Sweden

Table 5.6 The public sector and an index of its importance for gender equality

	Germany	France	Hungary	Sweden	UK
Employment opportunities					
Quantity	1	2	1	3	2
Quality	3	2	3	3	3
Total for employment	4	4	4	6	5
Working conditions					
Work-life balance policies	3	3	2	3	3
Pay and pensions	3	2	1	2	3
Total for working conditions	6	5	3	5	6
Active promotion of gender equality					
Child care provision	1	3	1	3	1
Gender equality policies	2	2	1	3	2
Total for active promotion	3	5	2	6	3
Overall total score	13	14	9	17	14

5.4. Consequences of public sector adjustment policies for gender equality

The consequences of policies to reform and restructure public sector pay and employment for gender equality in part depends upon the role played by the public sector in promoting gender equality. These policies may take on greater significance where it acts as role model for the private sector and provides significantly better pay and employment conditions, as applies particularly in the UK but also in Germany. In Sweden and France conditions are more similar to those prevailing in the private sector but there are some additional benefits that may disappear. Furthermore in a country such as Sweden where principles of gender equality are more embedded in both sectors, the public sector may still have acted as a role model for the private sector, such that any rollback in the public sector could still undermine pay and conditions for women in other areas. In Hungary the problem is an already high level of discrimination in pay and conditions for women in the public sector, particularly in the professions, so any further cutbacks serve to intensify these problems. The second factor that will influence the impact on gender equality is the nature of the public sector adjustment. The range of public sector adjustment policies are outlined in table 5.7, where their potential consequences for gender equality are identified and some examples from the five country cases provided.

Table 5.7 Public sector adjustment and implications for gender equality

Type of adjustment	Implications for gender equality	Country examples
Reduction in size of public sector employment	Reduced employment opportunities primarily for women Possible increase in work intensity for remaining staff, mainly women	Employment cuts in UK. Restrictions on vacancy filling in France.
Change to contracts	Reduced job security and possibly lower terms and conditions More women may be employed on lower status contracts	Greater use of non civil service staff in France- affects more women and involves lower benefits including work life balance options. More use of temporary contracts in four countries- but not always higher share of women
Changes to outsourcing	Increase in outsourcing may lead to lower pay and conditions in subcontractors, mainly involving women .	Increased outsourcing in UK, Germany and Sweden –issue of lower pay more in UK, Germany.
Changes to pay	Pay cuts, freezes or below average pay rises may widen overall gender pay gap Performance pay may increase managerial discretion/discrimination	Recent pay cuts in Hungary, pay freezes in UK, France, more long decline in public sector pay differential in Germany and France, stability Sweden despite individualised pay
Changes to pensions	Changes to public sector pensions may disproportionately affect women’s pension entitlements due to shorter work histories and more women employed in public sector	Major changes to public sector pension cuts in UK; removal of some benefits in France
Changes to promotion opportunities	Freezing of promotion possibilities may disproportionately affect women’s careers	Some evidence of failure to appoint to higher grades in Germany

Changes to working time	Increased working time may reduce work life balance with particular problems for women. Increased use of part-time as a means of employment reduction may mean part-time more involuntary.	Increases in full-time working hours in Germany plus increase in part-time work. Increased use of unpaid overtime due to staff cuts in France.
Changes to equality policies	Any withdrawal or weaker implementation may hinder gender equality. Any shrinkage of public sector may reduce coverage of gender equality policies.	Planned shrinkage of public sector in UK will reduce coverage of gender pay audits etc. Some cutbacks to maternity leave etc.

Part III. Comparing country institutions of public sector pay and procurement

6. National institutions for wage setting

Because public sector pay accounts for a significant proportion of public expenditures, the institutional arrangements for public sector pay determination are greatly influenced by a government's need for budgetary control and public accountability for its wage decisions. Other important influences include the historical legacies of ensuring the political independence of public civil servants and patterns of mimicry with private sector pay institutions. There is a range of systems in place across Europe and limited evidence of convergence despite the common pressures of austerity facing governments. One difference is between unilateral and joint wage-setting. As Marsden (1994) argued, in his early work for the OECD, where the public sector employer fixes pay unilaterally (following either fixed statutory rules or flexible criteria), this may provide governments the means to meet their budgetary needs more effectively. However, systems of joint pay fixing between employers and trade unions may provide a 'more flexible means for legitimating change' (op. cit.: 17), suggestive of a trade-off between direct and immediate budgetary control (with the risk of employer-employee conflict) and more sustainable pay reforms that enjoy a greater degree of employee consent.

A second difference is between centralised and decentralised systems of public sector pay. Again, centralised systems may provide the means for greater budgetary control than decentralised systems (Meurs 1993), and there may indeed be a reinforcing influence between unilateral wage systems and centralised systems. However, in the absence of policies of coordination of wage settlements with the private sector, centralised public sector pay restraint may generate difficulties in recruiting and retaining staff in the public sector with adverse consequences for the quality of public services provision.

A third important difference is the degree of integration of pay structures for public sector employees. In principle, the more integrated the pay structure the more consistent will be the effects of pay restraint among the public sector workforce, which may be a valued outcome where it equalises pressures on female-dominated and male-dominated groups employed in different occupations or sectors of the public sector (Rubery and Fagan 1994). While more integrated and centralised pay systems may be perceived as favourable for balancing cuts in public spending with the public paybill, the significance of solidaristic wage-setting arrangements for facilitating the expression and voice of public sector employees ought not to be ignored as a means to foster future economic and political stability.

Drawing on these three key institutional differences, this chapter maps the five countries against a classification of models of public sector pay with attention to cross-country patterns

and recent trends. Box 6.1 provides a brief summary of developments at European level in public sector social dialogue.

Box 6.1. Developments in European Sectoral Social Dialogue Committees in central and local government

European sectoral social dialogue is a forum of consultation between social partners on European social policy and industrial relations, as well as an instrument to develop joint actions and negotiations at sectoral level. Sectoral social dialogue was introduced in the sectors of agriculture and transport during the 1960s and has been successively extended to other sectors in the course of time. However, the European Commission established formal structures in the form of sectoral social dialogue committees (SSDCs) only in May 1998 following a joint request by sectoral social partners. SSDCs covered 18 sectors while another six were covered by unstructured arrangements (Keller and Bansbach 2000). Through this process, the Commission sought to invigorate the process and procedures of sectoral social dialogue in order to increase its coverage, improve the quantity and quality of its outputs as well as promoting a shift of sectoral dialogue from a 'tripartite' to a 'bipartite' character (Hoffmann et al. 2002; Marginson 2005). By September 2010, there were 40 SSDCs, which have signed a variety of joint texts and agreements covering 145 million workers in a wide range of sectors across Europe.

There are two European SSDCs for the public sector:

- o the European sectoral social dialogue committee in **central government administration** (established very recently in 2010) includes representatives from the Trade Unions' National and European Administration Delegation (TUNED) affiliated to EPSU (European federation of Public Sector Unions) and CESI (*Confédération européenne des syndicats indépendants*), as well as the European public administrations network (EUPAN) from the side of employers; and
- o the European sectoral social dialogue committee in **local and regional government** (established in 2004) includes members of EPSU for the workers side and the Council of European Municipalities and Regions (CEMR) represents employers, national associations of towns, municipalities and regions.

The EC (2002) defines the sectoral level as the proper level for consultation and negotiations on a wide range of matters such as working conditions, vocational training and industrial change as well as knowledge society, demographic patterns, enlargement and globalisation. Pay is not an issue discussed at European level, except in an indirect way by for example discussing equal pay; one of the first joint statements from the SSDC in central government made a commitment to equal pay and improved data collection.

1998 marked a qualitative shift in the outcomes of sector-level dialogue towards 'new generation' texts, which are characterized by recommendations to the European social partners members that they undertake to follow them up at national level (Marginson, 2005). For instance, the SSDC for local and regional government has resulted in the adoption of 17 joint texts that 'reflect a shared desire to defend the specific nature of the public services delivered by local and regional authorities, especially in the face of European liberalisation and competition policies'.⁹ Examples include the 2008 declaration, 'What role for social dialogue?', addressed to the national organizations and the 2008 statement, 'Supporting the reform process in local and regional government: Joint evaluation of the experience in different forms of service provision' addressed to the European social partners. Framework agreements and codes of conduct have to be considered as non-binding guidelines on the affiliates of the employer and trade union organizations and incite further action by the parties within member states. For these reasons, they can be defined as 'soft' forms of regulation (Marginson, 2005).

⁹ Quote from <http://www.worker-participation.eu/EU-Sozialdialog/Sectoral-ESD/Local-and-regional-government/Outcomes>

In 2010, the EC published a staff working document where it took stock of the main achievements and functioning of the European SSDCs. Its analysis emphasised that while SSDCs have ‘contributed to modernising industrial relations and to adopting new social standards’ there is still room for improvement.

Our interviews with senior officials at the European social partner organisations suggest that while there has been a great deal of positive work undertaken to date the SSDCs for central government and for local and regional government face clear challenges. The first is country representation, which is most urgent for the central government body reflecting its recent formation. The second is how to transfer actions for social dialogue to national level when member organisations are not necessarily involved in social dialogue in their home country- where changes to pay and employment conditions are instituted by government decree rather than through social dialogue. A third challenge is how to incorporate country differences in wage-setting systems in a manner that reflects European SSDC structures since some countries have relatively integrated arrangements for all local and central government workers while others have distinctive arrangements. And a fourth is how to sustain the engagement and common purpose of all European members at a time when countries are experiencing the austerity crisis in very different ways, ranging from deep crisis in some to limited effect in others.

6.1. Unilateral employer regulation versus collective bargaining

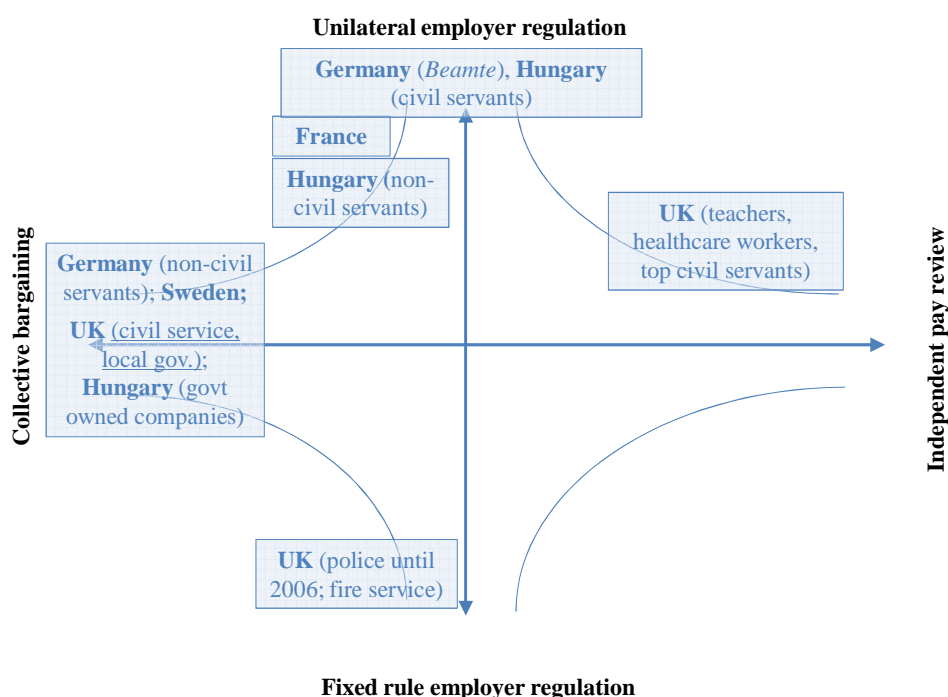
Marsden’s (1994) analysis of public sector pay systems in OECD countries provides a useful template for the differentiation of forms of employer regulation and collective bargaining in public sector pay determination: the former distinguishes different approaches towards unilateral or ‘non-negotiable’ employer pay fixing and the latter distinguishes the nature of employees’ input into pay fixing. Employer regulation takes two forms: it may be guided by fixed rules set in advance, such as forms of pay indexation, or by loose criteria that in principle provide governments with greater flexibility to apply a pay decision based on its ‘ability to pay’. Collective bargaining may also take two contrasting forms. At one end of a spectrum it allows a relatively high degree of freedom and at the other it takes the form of ‘quasi-collective bargaining’, involving the reporting of trade union and employer views to an independent pay body or pay commission, which make independent recommendations to government. Figure 6.1 maps the five countries along these two axes and table 6.1 summarises the key features.

Among European countries, traditional collective bargaining for the entire public sector workforce is rare. Sweden is one of the few examples to provide a relatively high degree of freedom to social partners in negotiating pay rises for all public sector workers (in multiple agreements and at different levels of negotiation as we show below), except senior public officials. In Germany, Hungary and the UK, a model of collective bargaining applies to a sub-group of the public sector workforce – in Germany to those without *Beamte* (civil service) status, in Hungary to workers employed in government-owned companies (at least until 2012, see below) and in the UK to civil servants in central government and local government workers.

Because of its importance for the government’s public spending targets it is perhaps no surprise to find that collective bargaining agreements are often subject to parliamentary approval following Ministerial assessment of their implications for the state budget. In France, while pay for the public services workforce (*Fonction Publique*) has been agreed through collective bargaining since the early 1980s (Maier et al. 1993), the agreements are not legally

binding (as they are in the private sector) and the government regularly exercises its veto rights (Gauvin et al. 1993). In particular, the level of the multiplier applied to the ‘index point’ (*point d’indice*) is generally decided unilaterally by government following a round of bargaining at central level. Trade unions nevertheless play a role in determining pay and employment conditions through active bargaining over the levels of premiums and bonuses for particular occupations or sub-sectors, as well as fixing career rules and job assignments in consultative committees (*comités techniques*). Moreover, a new law adopted in 2010 seeks to rejuvenate social dialogue in the public sector by providing some legal protection – by stating for example that the pay agreements have ‘political value’ and by obliging social partners who have signed an agreement to ‘commit themselves to implement them as fast as possible and with no loss in substance’ (Audier et al. 2012, national report).

Figure 6.1. Patterns of unilateral and joint wage-setting in the public sector in five countries



Source: adapted from Marsden (1994: figure 1).

In Hungary, public sector workers classified as ‘public services employees’ (non-civil servants who are largely employed in health, education and social care) have their pay set by collective bargaining, although ongoing budgetary constraints limit the scope of bargaining such that in practice only wage supplements and bonuses are negotiated locally. Also, as in France the national sectoral collective agreement is subject to government veto since the government is represented in the tripartite forums (Berki et al. 2012, national report). Moreover, the participation of trade unions in the joint setting of pay is potentially undermined by wide-ranging legislation in 2012,¹⁰ which grants new rights to works councils to conclude a local

¹⁰ The Labour Code, implemented 1 July 2012.

‘works agreement’ with employers where no union is present. The same legislation has placed new restrictions on collective bargaining in state-owned companies by removing the right to set pay outside that defined by the law.

Use of unilateral employer regulation without predetermined rules is limited to particular public sector groups in Germany and Hungary. In Germany, all civil servants (*Beamte*) are excluded from collective bargaining and have their pay determined by government regulation. Although legislation specifies that an ‘appropriate standard of living’ must be maintained, the criteria for establishing this is left in the hands of the government. Hence pay has traditionally been adjusted according to changes in average earnings, some measure of general living standards or the state’s fiscal constraints (Meurs 1993). It used to be argued that in practice the civil servants in fact indirectly benefited from the wage bargaining power of public sector trade unions since public sector collective agreements for non-civil servants acted as pattern setter, albeit with pay decisions often postponed by several months (Maier et al. 1993: 59). However, since the early 2000s the informal coordination appears to have diminished. A symbolic moment was the unilateral government decision in 2004 to abolish holiday pay and reduce the Christmas bonus for *Beamte*. In Hungary the government unilaterally sets the salary base rate of civil servants (and government officials) using the occasion of the annual Budget Act. Representative bodies for civil servants have consultation rights at the national and sector levels but are excluded from the right to collective bargaining. Moreover, new legislation in 2012¹¹ has removed the right altogether of law enforcement workers to collective bargaining, thereby expanding the sub-group of public sector workers whose pay is directly and unilaterally set by government.

Table 6.1. Forms of employer regulation and collective bargaining in the public sector in five countries

	Form of employer regulation	Form of collective bargaining
France	Unilateral government decisions have prevailed over centralised collective agreements in recent years.	Collective bargaining between employers and unions is established for the public services workforce (<i>Fonction Publique</i>). However, it is limited. Collective agreements are not legally binding (as they are in the private sector) and the government retains the right not to implement the agreement. Unions are also active in bargaining for bonuses, premiums and the upgrading of pay ladders for particular occupations or sub-sectors, as well as in consultative committees in fixing career rules and job assignments.
Germany	Employer pay fixing without predetermined rules for civil servants (<i>Beamte</i>). Government has to meet with union representatives twice each year and unions must be consulted on all new legislation concerning working conditions and employment status. Pay rises have traditionally followed those set in the collective agreement for non-civil servants	Collective bargaining for all public sector non-civil servants characterised by the usual dual system of representation – namely, unions negotiate collective agreements and workplace level employee councils (<i>Personalvertretung</i>) represent all employees. Rights to codetermination vary by Länder.

¹¹ The Act on the Status of Civil Servants implemented 1 January 2012.

	but recent years have seen a diminishing of this interlinkage.	
Hungary	Annual government decision sets the salary base rate for civil servants (set out in the annual Budget Act). Legal rules established to fix pay. National forums for union consultation on pay, numbers employed and legal reforms for civil servants. 2012 Act banned collective bargaining for public service employees employed in law enforcement.	Collective bargaining for non-civil servant ‘public service employees’ (mainly in education, health and social care) takes place at workplace level, plus consultation rights (‘quasi collective bargaining’) at sector and national levels. New 2012 Act grants new rights to works councils to conclude a ‘works agreement’ with employers where no union is present.
Sweden	No unilateral employer wage fixing since 1965.	Collective bargaining for all public sector employees undertaken at sector and organisation levels, although with wage increases fully determined at local level for central government employees.
UK	Automatic indexation of pay for police officers (1978-2006), then pay arbitration decision and 2012 recommended formation of a new pay review body. Pay index for fire service (1978-2002, 2005-).	Mix of collective bargaining (central government civil servants, local government, police staff) and independent pay review bodies (school teachers, health workers, armed forces, prison service). Shift away from collective bargaining over last three decades towards pay review bodies except for the abolished pay review body for school support staff in 2012.

Unilateral employer wage setting may also take place with a predetermined rule, such as an indexation mechanism. This was the model of wage setting for police officers in the UK during 1978-2006 and for the fire service for most years since 1978. Pay indexation generally has the merit of being simple and of keeping pay in line with, or slightly above depending on the index, other public sector groups (see Disney 2011 for police pay in the UK). However, it was criticised in a recent review of UK police pay as being unduly reliant on retrospective pay data and preventing managers from actively and flexibly managing their cost base (Winsor 2012: Part two). A pay arbitration decision provided for a three year pay deal in 2007-2010 and a new pay review body has been recommended for police officers (ongoing).

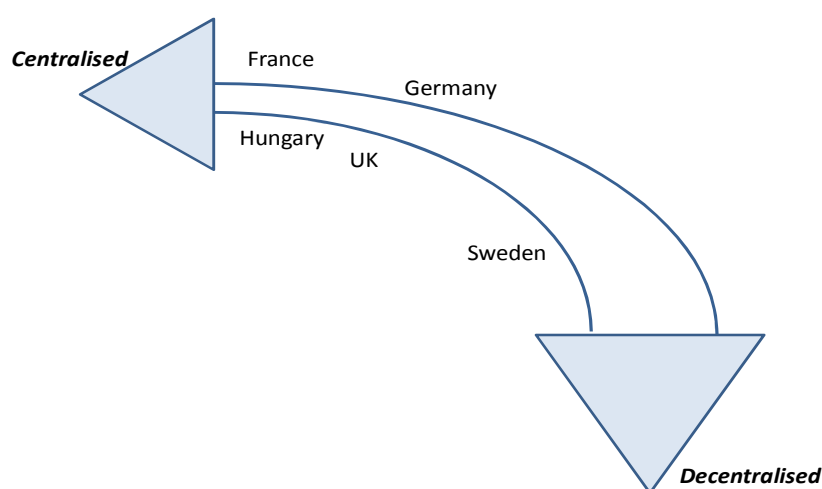
An alternative model for the collective expression of employees’ interests is represented by independent pay bodies or pay commissions. This is the most common form of pay determination in the UK public sector and applies to school teachers, the entire healthcare workforce, the armed forces, senior civil servants and the prison service. Each body operates at a national level, collects evidence from the government, employer bodies and trade unions and presents a recommendation to government. While each pay review body is independent from government, in 2010 the government obliged pay bodies to meet its two-year pay freeze (apart from those earning less than £21,000) as set out in its 2010 emergency Budget.¹² In response, relevant trade unions have complained about the threat to the independent status of pay review bodies.

¹² In its evidence to pay review bodies the government stated that ‘for those groups of workers paid above £21,000 the government will not submit evidence or seek recommendations on pay uplifts’ (eg. see Department for Education 2010: para. 2.10).

6.2. Centralised versus decentralised pay systems

During a period of pay restraint, the extent to which government pay policy impacts universally upon public sector workers depends to some extent on the level at which pay is set. There is widespread use of centralised, national level pay determination across OECD countries, more so than in the private sector, but this tends to be associated with variation in provisions that enable locally negotiated wage rates, pay supplements or the matching of jobs to pay. Each of our five countries display a form of national level architecture for pay setting with variation in the prominence of the local level in shaping the actual pay and conditions of public sector workers (figure 6.2, table 6.2).

Figure 6.2. A continuum of centralised and decentralised pay systems



Strongly centralised pay systems are evident in France and Hungary. In France, the public service pay grid (*grille de la Fonction Publique*) is fixed at a centralised, national level for all public sector employees, as is the value of the index point and internal labour market rules that influence careers and job assignments. Similarly, in Hungary, the system of job classification and pay for civil servants and for public service employees is set at national level, along with a range of other conditions including seniority allowances and other pay supplements. In both countries there is nevertheless scope for local differentiation.

The French public sector has a longstanding practice of employing *contractuels* (non-civil servants) that can be recruited and deployed at local level to meet particular service needs (defined in the national agreement). Accounting for around 15% of the public sector workforce, *contractuels* do not enjoy the same conditions or status as civil servants especially with respect to job security and pay progression. A more recent development is the introduction of a new unified pay premium in 2009, the *prime de fonction et de résultat* (PFR), which was designed to simplify the bonuses and premiums system and provide for the individualisation of a merit-related bonus (approximately 40% of the PFR premium). To date,

however, application of individual merit payments appears to be limited to senior managers (eg. in the public hospitals sector). A third example of decentralisation of pay fixing in France concerns local government (an issue we explore in detail in Part Four), where local managers have considerable discretion to fix pay bonuses and pay premiums within a nationally determined min-max pay range.

Divergence from the national wage grid in Hungary and from the implementation of nationally determined pay changes is relatively limited. Examples include national rules that enable payment of certain pay supplements to vary in line with the budget of the local institution. However, widespread budget restrictions in recent years mean that this source of local differentiation is limited.

Germany and the UK both share a seemingly resilient national architecture for wage setting in the public sector but with clear tendencies, or pressures, for greater decentralisation. In Germany there are national level agreements for civil servants and non-civil servants but coupled with a clear trend towards greater regional differentiation. Individual *Länder* can offer higher rates of pay to attract groups in high demand, such as specialist teachers, and there is considerable variation in the size of annual bonuses, as well as weekly working time limits, among the *Länder*. Also, a new form of merit payments in Germany was introduced in 2007 as part of the national agreement for federal and municipal government (TVöD). The initial 1% of the paybill set aside for performance payments represented the savings in labour costs owing to the abolition of holiday allowances and Christmas bonuses and their replacement with a smaller annual allowance.

The UK system of public sector pay determination takes place for the most part at national level, but there are significant elements of local wage setting, including the use of local pay supplements for recruitment and retention and local level assignment of jobs to a national payscale as in local government. Moreover, the UK government is strongly in favour of strengthening the role of the regional and local level and in 2011-12 requested the pay review bodies (which cover over half the public sector workforce) to assess the merits of local wage setting. One possible model is ‘zonal pay’, already applied to civil servants in the Ministry of Justice since 2007, which includes five regional bands to cover low cost areas as well as so-called ‘hotspots’.

Table 6.2. Levels at which pay determination takes place

	Level of pay determination?	Regional pay variations/ local pay determination?
France	Centralised, national level for all three parts of public sector (state civil service, local government and state hospital service); single pay grid covers all public service	2009 introduction of a new, unified pay premium (PFR, <i>prime de fonction et de performance</i>) that includes an individual performance bonus, but limited application to date; local level discretion in local government to fix pay bonuses and premiums within a nationally determined min-max range
Germany	Centralised, national level (<i>Beamte</i>) but steady shift to regional level; National collective agreement (non-civil servants) sets pay grid	Trend of differentiation among <i>Länder</i> in annual bonuses and working hours (non-civil servants) and in pay and employment conditions for <i>Beamte</i> . One of the 16 federal <i>Länder</i> (Hesse)

		quit the national agreement in the late 2000s 2007 introduction of system of merit payments to be implemented at local level
Hungary	Centralised, national level for civil servants and for public service employees; sets payscale (base salary), mandatory allowances and other pay supplements National level recommendation (state and local government owned companies) until 2010	National laws allow for local pay supplements in line with organisation's budget (public service employees and civil servants)
Sweden	Centralised, national level collective bargaining sets minimum pay increase and amounts of funds for distribution at local level but not rates of pay (although the provisions vary by agreement)	Rates of pay are set at a decentralised level – agencies and organisations are free to determine their own payscales through individualised and differentiated pay setting
UK	National level for pay review bodies and local government although a minority of local authorities fix pay at local level	Some regional variation in various national agreements for Scotland, Wales, Northern Ireland; local flexibility in local government to align national payscale with local job grades; some examples of 'zonal' pay in civil service pay agreements (eg Ministry of Justice since 2007)

Source: updated from Marsden (1994: Appendix) using the five national reports.

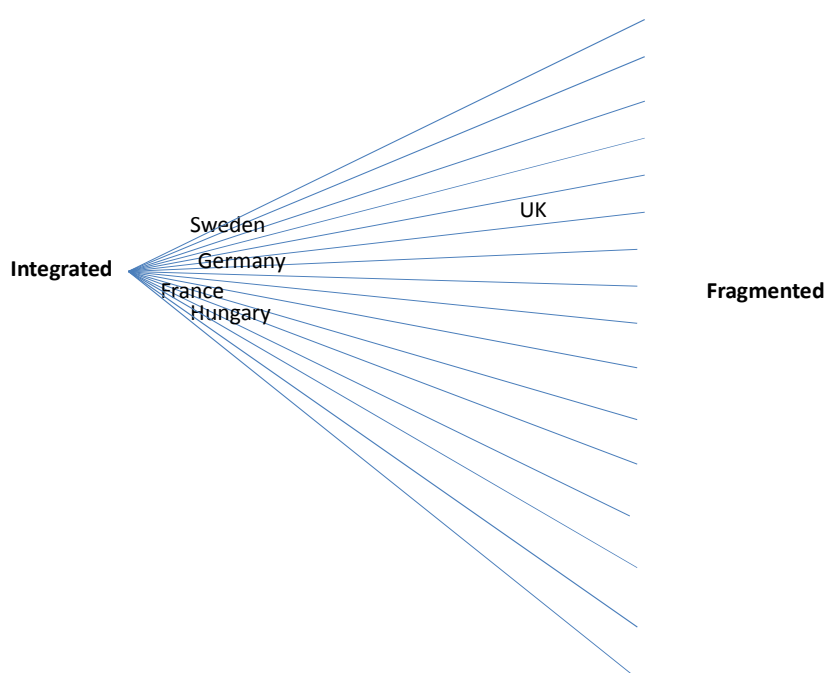
Among the five countries, Sweden stands out as the country where local pay determination is most strongly developed – a fact that is perhaps surprising given its reputation as a centralised, solidaristic model of employment relations. Moreover, decentralised, individualised pay determination in Sweden is not new. It can be traced back to the mid-1980s and the break-up of centralised pay agreements in both the public and private sectors; 1985 legislation responded to the steady erosion of the national, integrated payscales (although they survived formally until 1989) (Schager 1993: 115-116). There is a loose framework at national level. For most central, county and municipal government public sector workers, the national agreement includes a provision for the size of minimum increase in pay. But the actual rate of pay, the design of the payscale and the allocation of jobs to pay is entirely negotiated at the local level. Moreover, for a significant minority of public sector workers the national agreement does not even stipulate a minimum pay rise (either in terms of an increase in the overall paybill or a minimum pay rise for individuals). In 2011 this was the case for more than one in three central government workers and one in six municipal and county council workers; for example, the national pay agreement for police concludes details on working hours and other conditions but excludes pay issues (Anxo and Ericson 2012, national report).

6.3. Integrated versus fragmented pay systems

While the level at which pay determination takes place is one source of pay differentiation, a second important factor is the degree of unity or integration among public sector groups. A country may practice national level wage setting but have multiple agreements for different segments of the public sector workforce, resulting in a fragmentation of national terms and conditions. If we were to place the five countries on another continuum, this time between a highly integrated and a relatively fragmented system of public sector pay structures, then France would be located at the pole of relative integration, Sweden, Germany and Hungary not too far behind France and the UK at the opposite end of relative fragmentation (figure 6.3).

An important source of non-integration in France, Germany and Hungary involves the definition and coverage of civil service status. However, while civil servants account for around 85% of the public sector workforce in France, their share is around one third in Germany and just 15% in Hungary. This means that the French public sector pay system is relatively unified with all civil servants covered by the single *grille de la fonction publique*. Within the national grid, public sector employees are subdivided into one of three categories, and within each of these there are distinctive ‘corps’, each of which have separate internal labour market rules governing hiring, careers and pay bonuses (Audier et al. 2012, national report; Meurs 1993: 82). Moreover, centralised pay policy may not apply to the unified public sector workforce, with pay rises targeting the low paid for example in recent years.

Figure 6.3. A continuum of integrated and fragmented public sector pay systems



In Sweden, the strongly integrated system operates at three levels of collective bargaining but is framed within a national agreement that covers all activities at regional and local levels. Public sector pay in Germany was made more integrated with new framework agreements agreed in 2005 and 2006 that harmonised the former separate agreements for public sector non-manual employees and manual workers.¹³ A first agreement in 2005 covers federal and municipality government (*Tarifvertrag für den öffentlichen Dienst, TVöD*) and a second harmonised agreement in 2006 covers the workforce of the Länder government (*Tarifvertrag für den öffentlichen Dienst der Länder, TV-L*) (Brandt and Schulten 2007). The agreements harmonised standard working time, reduced and integrated the number of pay scales and removed marital status and number of children as factors determining pay. The agreements also introduced performance-related pay (see above) and set a new lower pay grade designed to be

¹³ These former agreements consisted of an agreement for non manual workers in the public sector (Bundes-Angestelltentarifvertrag, BAT), an agreement for manual workers in federal and state government (Manteltarifvertrag für Arbeiterinnen und Arbeiter des Bundes und der Länder (MTArb) and an agreement for manual workers in municipalities (Bundesmanteltarifvertrag für Arbeiter gemeindlicher Verwaltungen und Betriebe, BMT G II) (Brandt and Schulten 2007).

competitive with the private sector and to reduce outsourcing, an issue we explore further in Part IV (Bosch et al. 2012, national report). In Hungary, the largest category of non civil servant ‘public service employees’ are covered by a single integrated pay scale that is set out in the annual Act on the state budget (although rates have remained frozen since 2008); it specifies 14 grades and 10 categories that distinguish educational attainment. A second wage grid applies to civil servants and government officials (again set in the budget Act and again unchanged since 2008) and a third covers the armed forces and law enforcement workers (Berki et al. 2012, national report).

The UK is quite different to the other four countries since it has multiple agreements and forms of wage-setting for public sector workers and neither a model of a unified, integrated pay-scale or system of pay principles that unites the public sector nor a set of rules to coordinate the processes of bargaining and pay recommendations in different parts of the public sector (with the exception of temporary periods of wage restraint as is the case presently during the austerity crisis). There are separate, non-integrated agreements and forms of wage-setting (eg. through independent pay review bodies) for police, health service workers, school teachers, local government workers, central government workers, prison service, armed forces, and so on.

7. Procurement of public services and the interconnections with labour market rules

In certain circumstances, procurement of public services from the private and voluntary sectors can be a useful mechanism to promote innovation and enhanced productivity of organisations and workforces involved in arrangements of co-production. However, it is also a high risk strategy: many countries fail the OECD's conditions for transparency and disclosure of contracting; many contracts place at risk social criteria, including nation state's obligations towards the environment, vulnerable service user groups and citizens' access to universal services; and cost-led procurement strategies conflict with obligations (of nation states and employing organisations) relating to employment protections, pay and other employment conditions (Hermann and Verhoest 2012; Keune et al. 2008; McCrudden ; Mitchell 2009; Schulten 2012). These risks have fuelled a great deal of debate both at the European and national levels regarding the proper form of regulation of procurement in the growing markets for public services.

All five countries investigated in this report have experienced an increase in procurement, most pronounced in the UK. But the factors driving this common trend differ, including for example the expansion of private sector providers in a context of retrenchment of the public sector, the legal compulsion on public sector organisations to outsource a specific proportion of services, or explicit government policies to expand user choice through voucher systems. More importantly for the focus of this report on the interactions between procurement and pay and employment conditions, public sector policy (at centralised and local levels) faces different labour market incentives to outsource services, contingent upon the relative pay and employment conditions of public and private sector workers, government rules on hiring during austerity and union strategy and involvement in consultations and negotiations over procurement decisions. We analyse the details of procurement and its implications for pay and employment in local government in Part IV. Here we set out the policy background, country experiences and the interconnections with labour market institutions and public-private sector employment conditions.

7.1. Procurement trends and patterns

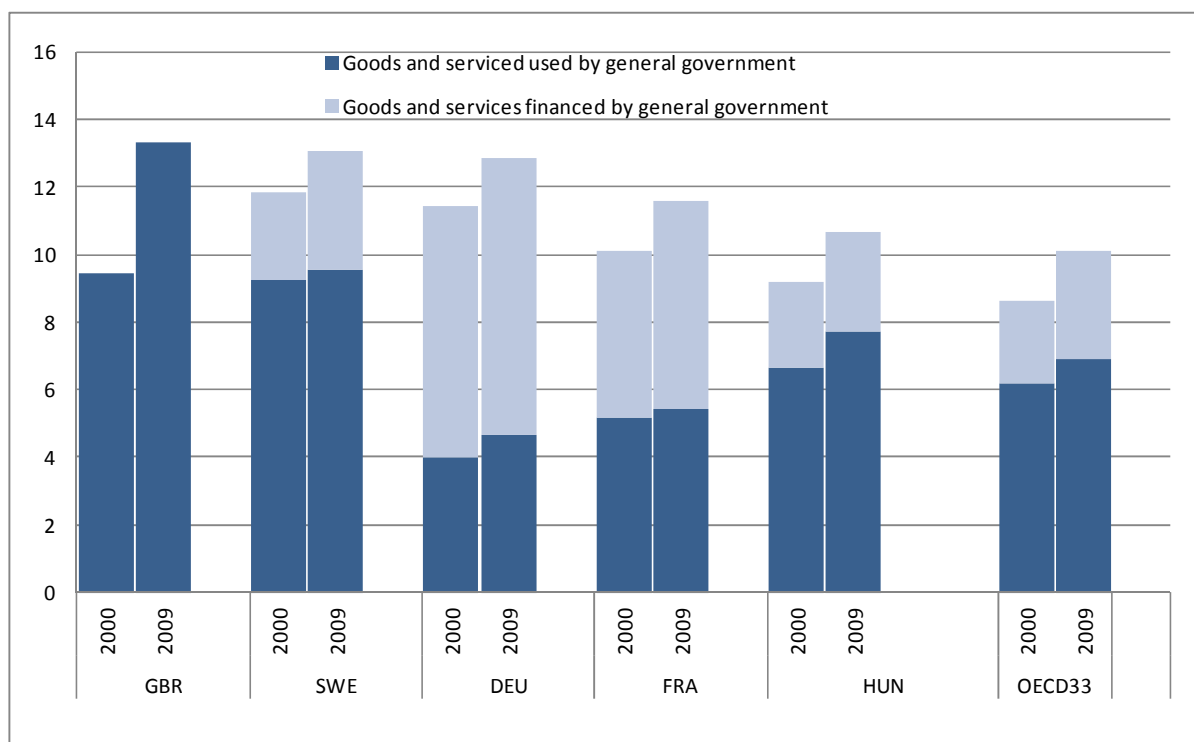
Government procurement of public services can be defined as the use of public finance to purchase services from the non-public sector (including private sector, non-profit, voluntary, mutuals and self-employed) for public consumption. Considering the procurement of goods and services, the OECD estimates it accounted for around 10% of GDP among all OECD member countries in 2009, up by around 1.5 percentage points since 2000.

There are various ways of classifying types of services procurement. Savas (2000) distinguishes between direct services procurement (public services that meet a collective need, such as street repairs, lighting, waste treatment or tree maintenance), internal support services (eg. catering, cleaning, estates or IT services) and services for individual users (such as domiciliary care, family counselling, or training for job-seekers). The data collected from National Accounts of governments by the OECD makes a two-way distinction between procurement of services for direct use by public sector organisations ('intermediate

consumption’) and procurement for direct consumption by users (which it calls ‘social transfers in kind via market producers’). Drawing on OECD data, we use these two categories of procurement spending in figure 7.1 to provide an indication of levels of spending in the five selected countries relative to the OECD average.

The data suggest procurement spending, as a percentage of GDP, has increased in all five selected countries, most notably in the UK, and that all five remained above the OECD average in 2000 and 2009. Also, while Sweden and Hungary mostly procure goods and services for ‘intermediate consumption’, France and especially Germany are more likely to finance provision of services by private sector and voluntary sector providers for direct consumption by users.

Table 7.1. Expenditures on public procurement of goods and services (% of GDP), 2000-2009



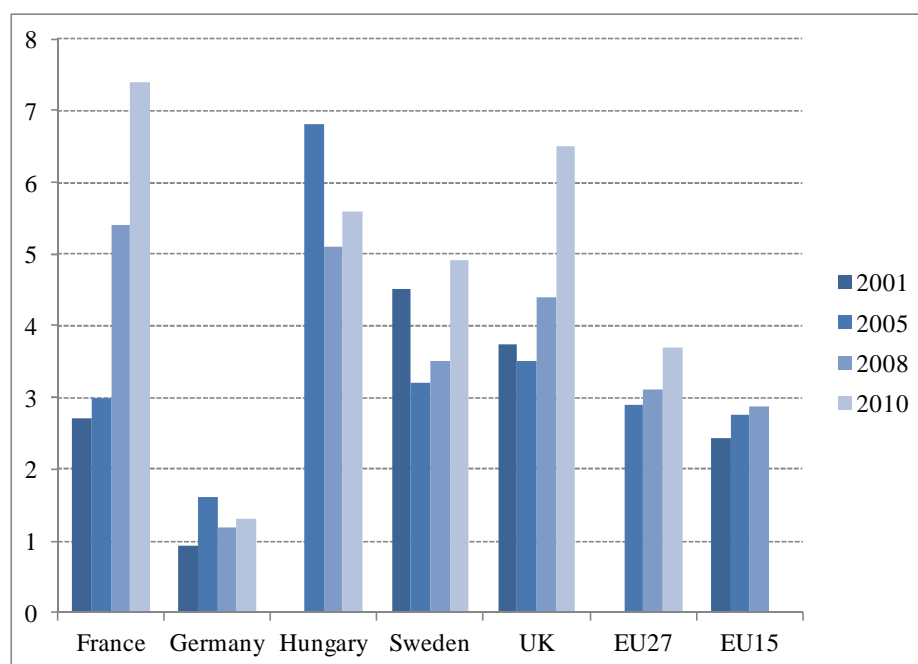
Source: own compilation of data from OECD Government at a Glance (2011), http://dx.doi.org/10.1787/gov_glance-2011-en (no breakdown of procurement data for the UK).

An alternative data source suggests some variation in this overall upwards trend. Records of procurement contracts advertised in the European Commission’s Official Journal suggest a rapid expansion in France and the UK over the last decade, a drop in Hungary, limited change from a low level in Germany and a decline and rise in Sweden (figure 7.2). The difference in trends is caused by the fact that these procurement data only record large procurement contracts that meet minimum cost thresholds.

The European Union has played a significant role in driving and in turn regulating the trend towards increasing liberalisation and marketisation of public services, especially since the adoption of the European Single Act in 1987 which paved the way for privatisation of many nationalised industries including telecommunications, railways, postal services and utilities. Different approaches are adopted towards different services activities. The European

Commission has promoted compulsory competitive tendering in the area of public transport, but has had to adapt to objections by some of Europe’s largest cities to allow municipalities to provide integrated municipal transport systems provided they meet certain criteria (Hermann and Verhoest 2012). How to address healthcare services has been a cause of much controversy – it was removed from early drafts of the European (Bolkestein) Service Directive but is nevertheless promoted in initiatives to liberalise cross-border healthcare and to promote public-private partnerships in the running of hospitals through the Open Method of Coordination (op. cit.).

Table 7.2. Public procurement advertised in the EU Official Journal (as % of GDP)



Source: Eurostat data, own compilation.

Ongoing debates about proper regulation of procurement involve a political contest between those arguing for more market liberalisation and entry of private, for-profit organisations into public services and on the other side those seeking to defend and improve employment conditions and quality of services. Differences in labour market rules shape this interaction – in particular, whether or not there is a national minimum wage, the interpretation and application of the Transfer of Undertakings Directive, the ability to extend collective bargaining agreements and rules governing the use of social clauses in procurement. We explore these issues in the following.

7.2. Interaction with different labour market rules

Various interlocking labour market institutions influence the form and practice of government procurement of public services. A first influencing factor is a **national statutory minimum wage** since this establishes a floor to wage competition. This is important for procurement of low-wage services given that labour costs often represent a key source of competitive advantage among bidding contractors. The problem, however, in the absence of effective pay policy within the organisation or absence of collective bargaining coverage, is that managers in

subcontractor organisations may set pay at the minimum wage level and rely on ‘hard’ forms of human resource management (threat of dismissal, weak pay incentives, surveillance technologies) to performance manage workers rather than job quality measures such as pay progression, training and job ladders. In countries with either a high statutory minimum wage (France) or very high shares of low paid workers in the public and private sectors (Hungary), the minimum wage acts to level the wage competition and reduces to some extent the variability of costs in procurement bids.

A second factor concerns **TUPE regulations**. The 1977 Transfer of Undertakings Directive provides a basis for employment protection for workers transferring with a service activity from one organisation to another. However, the Directive and associated ECJ rulings have been interpreted in different ways in the five countries investigated in this report, leading to significant differences in worker rights. Table 7.1 provides a summary of issues drawing on the comparative legal study by Harzten et al. (2008).

Four of the five countries provide some form of right for workers to refuse the transfer. In Hungary this only applies where there is a change in the legal status of the employer that is detrimental to the employees’ interests, as we find in many transfers between the public sector, publicly owned companies and the private sector as we explore further in Part IV, chapter 10. In Germany, employees are entitled to one month after they receive information about the transfer to lodge a written objection. In Hungary the time period is 15 days. France is the exception because the transfer is treated in legislation as a continuation of the employment relationship with or without employee consent because the employee can still exercise the freedom to resign. There are some peculiarities in France (as in Hungary) because of the importance of distinctive legal statuses. French public sector organisations are not obliged to offer civil service status to workers transferring from a private sector organisation and can instead propose a contract under public law (*contrat de droit public*). Also, workers in private sector firms providing outsourced services used to be covered by public law but this possibility was removed in 2004 (Audier et al. 2012, national report).

Table 7.1. The rights of workers in public services procurement transfers

	Employee right to refuse transfer?	Refusal considered as resignation?	Employment contract maintained with transferor?
France	No, except from private to public	Yes, except from private to public entity	No, except from private to public entity
Germany	Yes	No, legal right to redeployment/dismissal	Yes
Hungary	Yes where a transfer involves a change in legal status that worsens employment conditions (as in some public-public, public-private transfers)	Yes, no entitlement to standard redundancy payments	No
Sweden	Yes	No, legal right to redeployment/dismissal	Yes

UK	Yes	Yes, no entitlement to redundancy payments	No
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Source: adapted from text in Hartzen et al. (2008).

While the refusal to transfer is incorporated in UK legislation, Hartzen et al. argue that it has done so in a form that has ‘made sure to empty it of any legal consequence’ (2008: 9). The UK TUPE regulations allow for a transferee to object but he/she will be treated as having resigned rather than enjoying protection for wrongful dismissal or redundancy compensation. The exception is in cases where it can be shown that transfer would mean a significant deterioration in conditions. Stronger rights prevail in Germany and Sweden since the transferee enjoys continuity of employment contract with the transferor (eg. with the municipality that outsources services to a private sector company). In practice this means the transferor is obliged to seek redeployment opportunities within the organisation before considering redundancy (op. cit.; Anxo and Ericson 2012, national report)).

A third factor concerns the incorporation of a **social clause in procurement**, which obliges providers of outsourced public services to meet specified pay and/or employment conditions. The practice finds support in the 1949 ILO Convention 94 on labour clauses in public contracts where it recommends contracts include clauses that ensure workers’ conditions are ‘not less favourable’ than those undertaking similar work in the same sector or site of work. However, ECJ rulings have altered the balance. Procurement legislation is quite clear about the need to prohibit discrimination of bidders. Thus if a public authority includes conditions of working conditions for example in a tender they may fear that a bidder that did not win the competition files a lawsuit (Hermann et al. 2012). The 2008 Rüffert ECJ case reinforced this viewpoint by ruling that the German region of Lower Saxony acted unlawfully by adopting legal measures that required bidding firms to pay wages set in the collective agreement that was not declared legally binding.

Nevertheless, social clauses (also referred to as prevailing wages) are used in procurement in some member states (Schulten 2012). In Germany, 2010 and 2011 have witnessed a wave of regional governments (Länder) introducing social clauses (or prevailing wages) in procurement of public services, ranging from construction and public transport (initially) to security and cleaning services among other activities. Where the activity is covered by a binding sector collective agreement (under the Posted Workers Act) then the provider organisation must match the minimum wage set in the collective agreement. Where this is not the case the social clause specifies a minimum hourly wage designed to correspond to the lowest level of pay set in the public sector in the region; examples include a minimum rate of €7.50 in Berlin. In public transport, the social clauses require harmonisation with the full pay scale of the collective agreement, reflecting the special legal circumstances of this sector (Schulten 2012). There are differences across states also in its application to services provided directly by the Länder and/or by the municipality, as well as application of a defined threshold value and exercise of the right to cancel contracts where the social clause is contravened (op. cit.).

In the UK, there is a great deal of public attention currently to introducing social clauses in public services procurement as the result of a campaign for living wages. Unlike Germany,

progress is entirely voluntary and proceeds on a contract by contract basis. The initiative began in East London in 2001 with a hybrid community/ trade union organisation that focused on persuading public sector organisations (and banks) to introduce a ‘fair wage clause’ in their market tenders for contracting cleaning, security and catering services (Grimshaw 2004). There are at present no data on the share of procurement contracts that incorporate a living wage but it is likely to be very low. Among London municipalities, for example, only 5 out of 32 councils require all subcontractors to pay a living wage. It nevertheless has gained in popularity during 2012, has been championed by the Conservative Mayor of London (who has helped advertise its annual increase) and has also been adopted by several municipalities outside London (Grimshaw et al. 2012, national report). In 2012 the London living wage is £8.55 and the outside of London rate is £7.50.

Differences in industrial relations conditions between public and private sectors provide a fourth set of labour market conditions that shape the development of procurement policy and practice. Across Europe, with the exception of Belgium, union density is higher in the public sector than the private sector. The UK joins other countries, such as Ireland, Cyprus and several CEE countries (eg. Poland, Latvia, Estonia), which have a large gap in industrial relations conditions. By contrast, France, Germany and Sweden register a marginal gap in trade union density between public and private sectors (Glassner 2010: figure 7).

Competition between organisations with divergent industrial relations conditions can be limited or constrained in various ways (Schulten and Brandt 2012). In Sweden, competition is limited by broad and inclusive coverage of sectoral collective bargaining, as well as convergent trends in wage-setting, such that competitors follow similar conditions of pay and employment. The same model of sectoral collective bargaining is not so successful in Germany due to far lower coverage of collective bargaining, such that many competitor organisations are not signatories to the agreement. Nevertheless, new binding sector minimum wages may make pay differentials negligible among low paid workers in public and private sectors (eg. in care, laundries, etc).

The UK has a strongly divided industrial relations model with union densities in 2010 of 86% in the public sector and only 30% in the private sector reflecting a similar disparity in collective bargaining coverage. Cost incentives to procure low-wage activities are especially strong; pay data suggest a below-average incidence of low pay among all employees in the public sector (12%) and above-average in the private sector (32%). Nevertheless, the UK has witnessed two initiatives, inspired by trade union campaigns and community mobilisation, to address the problem of levelling down of employment standards through procurement. A first is the living wage campaign (addressed above) and a second is the short-lived ‘two-tier code’ that provided social partners a set of principles upon which to collectively agree the provision of public sector terms and conditions to employees in private sector subcontractor firms providing outsourced public services. In principle this meant all workers in subcontractor firms providing the outsourced services would enjoy the more favourable rates of pay, premiums for overtime and unsocial hours, working hours and holiday entitlements as public sector workers. Its application was nevertheless largely limited to the National Health Service where it was incorporated into many (although not all) outsourcing deals and raised the pay of many

workers employed by private sector firms (Grimshaw 2009). There are no accounts of its use in local government. It was short-lived because in 2010 the newly elected coalition government abolished it, although its use in health services outsourcing contracts will be sustained for the lifetime of the contract.

Part IV. Pay and procurement in local government: varieties of practices and consequences in five countries

8. Introduction to local government: services mix, employment trends and wage moderation

The focus of this research project on local government is motivated by the fact that while Europe experiences austerity and actions to cut government deficits, many of the actions and responses are at the level of local government. Local government organisations (hereafter referred to as municipalities) have to respond to central government budgeting and revenue decisions and, depending on the degree of financial autonomy, also have to make decisions about reforms to tax, spending and services provision. On the one hand, municipalities may be persuaded, or directed, through a combination of economic and political conditions, to cut services, reduce investments and employment and (where possible) raise taxes. On the other hand, different conditions may encourage municipalities to promote counter-cyclical policies in an effort to cushion the effects of economic recession by, for example, upgrading pay, protecting jobs and making better procurement deals. Indeed, a 2010 OECD working paper explicitly cautions against local government policy being designed in a way that puts at risk a country's stimulus plans:

‘Given sub-central governments’ weight in the economy, their decisions will have a great impact on the chances of success of any recovery plan. If sub-central governments reduce their spending in order to balance their budgets, this would necessarily hamper central governments’ efforts to stimulate the economy.’ (Blöchliger et al. 2010: 16-17).

In this introductory chapter, we provide a brief context of local government with a focus on services, financing and problems of indebtedness. The chapter also summarises the character of the case-study research that was undertaken by all five country teams and presented in detail in the five national reports. These case studies provide the core material for subsequent chapters in this part of the report.

8.1. Local government services, funding and indebtedness

Across the five countries, we find that local government spans a wide range of essential public services. Common to all five countries is the provision of core local services in the areas of care, welfare and education – including, for example, elderly care, childcare, youth services, disabled services, advisory centres, cemeteries, public safety, transfer payments (eg. housing benefits), schools and/or facilities services for schools (such as catering and property maintenance). A second core feature is a range of leisure services, such as swimming pools, parks and gardens, and cultural services, such as libraries, museums, exhibition centres and theatres. And a third feature of local government is infrastructural, security and local economic services, which typically include public transport, social housing, environmental services, cycle paths, roadworks, street lighting and street cleaning, car parks, police, fire and security services and the collection, recycling and disposal of waste.

Local government services that are specific to some, not all, countries include the provision - operating possibly in the form of municipality-owned, or public-private joint venture companies - of hospitals or medical centres (France, Germany, Hungary, Sweden), airports (Germany, UK), ports (Germany), public utility companies such as water and electricity (France, Germany, Hungary), savings banks (Germany) and health resorts (Germany).

While the range of local government services has some commonalities across the five countries there is strong differentiation in the level of centralisation of fiscal control and size of local government revenues relative to central government. OECD data provide an indication of these differences. For example, as a share of central government tax revenue, taxes collected at county and local government levels vary from 54% in Sweden and 40% in Germany to 11% in France and just 7% in Hungary and 5% in the UK (2010 data). Further evidence of the inter-country difference in dependence on central government is indicated by OECD data on the proportion of local government revenues derived from central government, which ranges from high in the UK (71%) and Hungary (59%), medium in France (41%) and low in Germany (18% of Länder and 35% of local government revenues) and Sweden (24%).¹⁴

The dependence on central government grants as opposed to local sources of revenue (through business tax, property tax, asset sales, etc) is likely to affect trends in municipality revenues, although the net effect is difficult to predict (see box 8.1). On the one hand, the potential to raise local tax revenues is mediated by the character of recession in the local economy. In Hungary, for example, while some municipalities removed tax-exempt status for private enterprises operating in the locality, others opted to ease taxes with the long-term aim of encouraging expansion and job generation (Berki et al. 2012, national report). In Germany, municipality schemes have sometimes had unintended adverse consequences; cost saving measures of reducing water temperature in swimming pools reduced visitors and revenues, charges to use public spaces hindered voluntary work schemes, and raised taxes on savings banks reduced their donations to local charities leading to compensatory funding from public funds (Bosch et al. 2012, national report).

On the other hand, cuts in central government grants may be felt more in low-income localities that are dependent on special grants designed to alleviate disadvantage. For example, in the UK, because a high proportion of central government grants is designed to reflect level of socio-economic need, low-income localities are more dependent on grants and therefore harder hit by spending cuts; in the richer areas central government funding accounts for just 25% of local government revenues but in the poorer areas it accounts for 72%). The result is that an area's level of income deprivation strongly correlates with the size of reduction in local government revenue – a correlation of -0.89 (Grimshaw et al. 2012, national report).

¹⁴ OECD data Tables 14 and 15, available at www.oecd.org/ctp/fiscalfederalismnetwork/oecdiscaldecentralisationdatabase.htm#SEC_B_3.

Box 8.1. Local government finance in five countries

In France, local government revenues have to date not experienced major reductions in expenditures, although municipalities nevertheless face challenges in meeting local needs. Municipalities depend on both central government grants that reflect socio-economic need and local business tax. Localities with high levels of income deprivation and rising populations face major challenges during the current period in meeting rising demands and costs for social allowances and services, new primary schools and medical services (which may be part-financed by the municipality).

Municipalities in Germany face three major financial challenges during the austerity crisis. First, central government can make mandatory changes to public services provided by municipalities and require them to shoulder the associated costs. Recent examples include housing benefits, integration allowances for the disabled and (before August 2013) fulfilling the legal entitlement to childcare. Second, tax relief laws passed by central government since 2008 have led to an estimated €4.8 billion loss of municipality revenues and have forced many municipalities to take out short-term loans and added to an overall debt of around €130 billion (end of 2011). As such, many municipalities are indebted and face continued high demands on social benefit payments, as well as deteriorating public infrastructure (especially schools and transport), the local business conditions and environmental development. Third, from 2020 the Länder governments will no longer be allowed to run a 'structural deficit'. There are complications in distinguishing what part of a debt is structural and what part is cyclical. Moreover, it reduces incentives of sub-national governments to invest for future returns and instead encourages privatisations and sale-and-lease back operations to shift spending into the future.

Revenue in Hungary includes per-capita central government grants, as well as local business tax, a portion of income tax, vehicle tax (and other ad hoc local taxes) and income from municipal-owned companies. Since the mid-1990s, and particularly during the current austerity crisis, central government grants to local government have been reduced. In response, municipalities have sought to exploit EU funds for local economic development projects. Municipalities have also sought to plug the gap in revenues through various 'financial innovations' such as issuing bonds denominated in foreign currencies, which has triggered financial collapse in some organisations. As the authors of the national report put it, 'There are substantial differences among local governments as to the level of their indebtedness; in some towns bankruptcy is an everyday threat' (Berki et al. 2012: 46).

Municipalities in Sweden mainly experienced a squeeze on revenues as a result of the recessionary impact on local business since fiscal policy during the crisis was expansionary. Reduced local tax revenues led to budget cuts and some reductions in local government employment, which was almost wholly achieved by cutting temporary employment contracts.

In the UK, surveys of implementation of spending cuts find that municipalities have to date tried to make disproportionate cuts to the smaller services functions (planning and development, culture, housing) in order to protect core welfare and social services. However, continued cuts in central government grants means the risk of significant cuts in spending on adult and children's services is high. Moreover, central government has imposed a two-year freeze on local property tax (2011-13) and replaced the lost funds by a temporary grant. This causes a problem, however, because it replaces a local revenue source by a central government source and makes municipalities even more vulnerable to future cuts.

Source: National reports; Anxo (2012); Bosch (2012).

8.2. Overview of case studies in five countries

All five country research teams conducted original research in municipalities with the primary objective of investigating the nature of austerity conditions and their implications for wage-setting and procurement practices. The research design was tailored both to the needs of comparative inter-country analysis (as presented in this report) and the distinctive conditions of each country setting. Each team used a qualitative methodology consisting of interviews with key actors and the collection of relevant documentation. In general, the data collection involved two stages, or levels, of interviews: first, the collection of national and regional data to explore the wider context of pay policies and procurement strategies in local government; and second, the investigation of responses at organisational level through multiple case studies. Most municipalities agreed to participate on condition of anonymity. Table 8.1 provides a summary.

The rationale for selection of municipalities varied by country. In France, the two municipalities provided contrasting population demographics, as well as contrasting approaches to procurement of public services. In Germany, the intention was to follow up the consequences of indebtedness for pay and procurement strategies by focusing on three municipalities within the region of North Rhine Westphalia which is the most populous German region and has the highest debt level. In Hungary, the aim was to contrast a small and relatively large municipality while also including a case that exemplified a new style of conservative reforms already established before the 2010 national elections. The two cases in Sweden were chosen to contrast approaches to procurement, while in the UK, the aim was to select cases that provided alternative settings of population sizes and standards of living, as well as alternative wage-setting strategies, including payment of a ‘living wage’, opting out of the national collective agreement and elimination of additional wage payments for unsocial and/or overtime premiums.

Table 8.1. A summary of case studies undertaken in the five countries

	Cases	Population	Municipality workforce*	Social, political and economic conditions
France	Municipality A	100,000	3,126	Outskirts of Paris; young population, high share of immigrants, high population growth; member of a ‘community of municipalities’ (Com A); high demand for social allowances & services; no budget restrictions
	Municipality B	60,000	1,535	Outskirts of large city, average population demographics; member of a ‘community of municipalities’ (Com B); budget restrictions anticipated in short term
Germany	<i>North Rhein Westphalia:</i>			
	Municipality A	<500,000	6,000	Social democrat mayor; large debt (approx €4,200 per inhabitant, 2009); special funding from Länder on condition of balancing budget (2011-16)
	Municipality B	>500,000	9,000	Social democrat mayor; large debt (€3,300 per inhabitant, 2009)

	Municipality C	≈50,000	400	Social democrat control; medium debt level (€1,700 per inhabitant, 2009)
Hungary	<i>Central/Southern Transdanubia:</i>			
	Small town A	11,458	700	Third largest employer in the local area; strong presence of catholic church in the area
	Large town B	156,000	≈3,000	Conservative led since 2009; policies at the vanguard of right-wing public policy reforms; heavily indebted (approx. €140 million)
Sweden	Municipality of Vaxjö	83,710	5,825**	Centre-right coalition control; budget surplus in last five years; strong population and regional growth
	City of Goteborg	520,374	31,145**	Left-Green coalition control; budget surplus during recent years.
UK	North West LA1	498,800	8,907	Labour controlled; large city, metropolitan borough council; high level of income deprivation
	North West LA2	308,800	1,859	Labour; medium-sized metropolitan borough council; high level of income deprivation
	North West LA3	327,300	12,281	Conservative; recently merged to form a unitary authority
	East LA1	125,700	1,010	Liberal Democratic/ Labour coalition; operates as a small district council with some core services provided by the umbrella county council
	South East LA1	1,427,400	12,652	Conservative; large county council provides some core services and coordinates provision of others by second tier of district councils
	South East LA2	239,700	3,888	Labour; medium-sized unitary authority.

Notes: *data are approximate and are not comparable since some are limited to local government administration (Germany), others include municipality-owned companies and/or schools; **permanent staff only.

9. Multiple models of local government pay determination: the shifting national and local terrains

This chapter first of all characterises the wage setting systems in local government and secondly explores the scope for discretion in wage determination at the local government level.

9.1. Diverse frameworks for pay determination

Table 9.1 applies to local government pay setting the framework developed in Part III chapter 6, by which pay setting is considered along three spectrums- from unilaterally determined to collectively determined, from centralised to decentralised and from integrated to fragmented. Pay determination for local government workers in France is integrated within the unified *grille de la fonction publique*, which distinguishes local government as one of three broad categories of the public services (see Part III). While relatively centralised, and governed by a strong role for government intervention in annual pay settlements, local municipalities nevertheless enjoy a degree of discretion in recruitment (including the authority to recruit civil servants on the lowest occupational grade without opening the post up to national competition) and in the fixing and allocation of pay premiums and bonuses, which can account for a significant share (15%-30%) of a local government worker's total pay.

In Germany, local government workers are covered by the national public service collective agreement for the federal state and municipalities (TVöD), which defines classification criteria as well as rates of pay. It is a strongly centralised framework for wage-setting and allows very limited local level autonomy to adjust rates of pay. According to Schmidt et al. (2011: 212) the practice of making payments above those specified in the national agreement is 'strictly against the rules of the federation of municipal employer associations (VKA)'; moreover, a series of legal court case decisions provide guidance on local practices of pay classification (cited and translated in Bosch et al. 2012, national report). However, the TVöD agreement in 2005 did include two new options for local pay flexibility: the use of a new low-wage pay grade (grade 1) and a performance-related pay bonus (see section 9.3 below).

Local government pay determination in Hungary follows the public sector model; pay scales are set by government in legislation following national level 'interest reconciliation', which involves three national employer associations and trade union confederations (Berkı et al. 2012, national report). Collective bargaining at local level – whether for municipality public service workers or for municipal-owned company workers – is in principle possible but in practice limited both because of limited managerial budget autonomy and limited transparency of information shared between municipality owners and their subsidiary companies. Positive evidence of local level bargaining seems to be limited to the large municipalities and large municipal-owned companies where stronger union organisation underpins processes of direct negotiations with local government chief officials. Only large municipalities have interest reconciliation forums that, while not legally constitutive of collective bargaining, tend to set the benchmarks for local wage agreements, especially for public sector employees. At the smaller of the two municipality case studies collective bargaining over pay is non-existent; moreover, the authors of the report find that the employees of the municipality and of the

municipal-owned companies ‘have no interest representation whatsoever and there is no collective wage bargaining that could influence employment conditions and remuneration practices’ (op. cit.: 45).

Table 9.1. Three core features of local government pay determination

	Unilateral government regulation versus collective bargaining?	Centralised vs decentralised?	Integrated vs fragmented?
France	Unilateral regulation prevails <i>The local government workforce has collective bargaining rights but agreements are not legally binding</i>	Moderate-strong centralised <i>For civil servants, discretion to fix pay bonuses & premiums within central guidelines</i>	Strongly integrated <i>One of three categories in the unified (centralised) grille de la fonction publique</i>
Germany	Polarised <i>Collective bargaining for non-Beamte and unilateral government for Beamte</i>	Strongly centralised <i>Only limited local discretion over pay</i>	Medium-high integration <i>Two agreements for non-Beamte (the majority) and one for Beamte</i>
Hungary	Unilateral regulation predominates <i>Pay scales set by legislation, following national level ‘interest reconciliation’ (different for employees of municipal-owned companies)</i>	Centralised <i>Local level collective bargaining possible (for public service employees not civil servants) but limited in practice to consultations to settle pay supplements. (Collective bargaining in municipal-owned companies)</i>	Medium integration <i>Different arrangements for civil servants, ‘public service employees’ and workers in municipal-owned companies</i>
Sweden	Collective bargaining	Decentralised within a central framework <i>Pay rates set locally but pay rises mostly constrained by sector guarantees</i>	Medium-high integration
UK	Collective bargaining <i>Although imposed pay freeze 2011-13</i>	Moderately centralised <i>Some councils exited from national agreement; all councils implement local job grading</i>	Medium-high integration <i>One national agreement for England, Wales and N.Ireland</i>

In Sweden, the system of pay determination in local government, in common with the more general pattern in the Swedish public sector, tends towards the decentralised end of the spectrum. For all local government workers, rates of pay and the matching of jobs to pay is negotiated at local level. There are nevertheless some constraints imposed by an over-arching framework of national-level collective agreements, which are relatively integrated. Most commonly, these centralised constraints take the form of either the imposition of a minimum rise in the overall pay bill to be distributed at local level, or the specification of a minimum pay rise guaranteed to individual employees. However, for a minority of workers (an estimated 17% in 2011) rates of pay and annual wage changes are wholly determined at the local level (Anxo and Ericson 2012, national report). A focus on specific local government activities

provided by local government employees reveals that collective agreements for local public transport, school catering and cleaning, waste services and elderly care all included a minimum increase in the overall pay bill and/or a guaranteed individual pay rise (op. cit.: table 15). The local union representatives at both case studies investigated were not opposed to individualised wage-setting, although in the case of homecare workers the evidence suggests they were less positive than representatives of more qualified occupations (such as nurses, for example) and favoured decentralised pay bargaining within the national constraint of an individual guaranteed pay rise (op. cit.). It is notable, however, that the criteria guiding the process of individualisation and differentiation of wages are negotiated jointly with unions.

Local government pay determination in the UK has a national structure but has not enjoyed a particularly stable recent history. In the late 1980s the local authorities' employer body consulted its members on the relative merits of national and local pay bargaining and in 1987 witnessed a national dispute among local government non-manual workers against employers' proposals to abolish all national grade and age points and the exit of several local authority councils from the national agreement. The first was Kent County Council ostensibly in response to tight local labour market pressures in the South East region that required the freedom to pay higher rates to recruit and retain. By the 1990s, research by the trade union NALGO (now part of Unison) found that around half of the terms and conditions set for non-manual and manual workers were described as 'national conditions modified by local variations' and only a quarter (non-manual) and a third (manual) could be described as 'national conditions unmodified' (Beaumont 1992: table 5.8). A 1997 'single status agreement' provided for the harmonisation of terms and conditions for the two bargaining groups of manual and non-manual workers, to be applied through local flexibility in job grading (using an agreed national job evaluation scheme) with a national pay scale, to ensure pay structures were 'equal pay proofed' and to encourage pay progression through 'contribution' rather than simply seniority (Perkins and White 2010: 249). The need to combat equal pay was an especially significant pressure for reform. However, three factors stalled progress in implementing harmonised conditions (Grimshaw et al. 2012, national report): i) local government did not benefit from additional central government funding to cover implementation costs (back-pay for those upgraded and pay protection for those not); ii) employers and unions were already embroiled in dealing with hundreds of equal pay legal claims, which to a great extent stalled progress with collective bargaining; and iii) 2002 witnessed a major strike in support of a 6% pay claim and halted progress further. In response the government established a special Pay Commission to evaluate pay conditions for local government workers and identify the obstacles to implementing single status. A timetable for implementation was set but by 2009 most local authorities had still not implemented agreements (Perkins and White 2010).

9.2. Local level discretion in wage setting

Discretion for adjusting pay at a local level varies among the five countries. As table 9.1 above shows, at one extreme Germany presents a strongly centralised model of pay determination with limited discretion over pay at the local level and at the other extreme Sweden has a relatively decentralised model of wage-setting. This chapter explores in more detail the

character of local level pay discretion, again drawing on the case-study findings presented in the five national reports.

Pay grade classification

The countries vary according to the degree to which pay grades for specified jobs are set at national or local level. In Germany and the UK, while the pay-scale for local government employees may be fixed at national level, local-level managers exercise discretion in the matching of jobs to pay rates. The risk is that in certain circumstances this may lead to a downgrading of jobs, especially in a context of austerity and the need for municipalities to balance budgets. In Germany, indebted municipalities are tending to avoid the classification of individuals in higher pay grades ‘as a matter of principle’ (Bosch et al. 2012: 16, national report). The German case-study data also suggest there is a new pattern of municipalities classifying jobs in lower pay grades. Works council and union representatives recounted evidence of a growing number of tasks in job descriptions being described as ‘simple’ despite their requiring particular skills, such as a foreign language or computer skills, for example (national report). In the UK local authorities are expected to construct their own system of pay bands or pay grades, using the national pay spine as the main reference for pay points, and to decide what principles ought to regulate pay progression. The national agreement leaves open the question of how many pay grades a council ought to apply, or even as to whether there ought to be a pay scale for each grade or a single fixed rate of pay (a ‘spot rate’). It supports relatively short pay scales since this is said to be more aligned with the goals of gender pay equity, and also recommends incremental progression based on a combination of seniority and ‘contribution-based pay progression’, including for example pay rises in reward for acquisition of skills or qualifications. Local discretion extends to the question as to whether or not councils ought to honour pay increments during the period of pay freeze, as well as whether or not they shift away from automatic seniority-related pay progression; among the six municipalities investigated, two applied a pay freeze on incremental progression, two honoured seniority-related rises (at least up to the maximum of the pay band) and two tied pay increments to satisfactory performance (Grimshaw et al. 2012, national report).

A related practice is that of temporary redeployment of individuals to higher level jobs without awarding the accompanying pay rise. Evidence of this practice was found in Germany where instead of a promotion to the new higher level rate of pay the individual was rewarded with a temporary pay supplement; this practice penalises the individual by not enabling him/her to accumulate a recognised number of years of seniority in the higher pay grade.

In Sweden, pay rates for jobs are entirely set at local level through local collective agreements between employer and trade unions, which, moreover, facilitate the individualisation of pay through regular ‘wage meetings’. The investigation of two case studies found that one deployed a job evaluation system in order to combat pay discrimination (by age, sex, ethnicity) while the other municipality did not.

Table 9.2. Case-study evidence of local level discretion to adjust pay within municipalities

	Pay grade classification?	Adjusting low pay?	Merit payments?	Premiums/supplements?
France	Yes	Yes <i>Indirectly via the distribution of uniform pay rises (cash sum not percentage) to all employees</i>	No <i>Reluctance to introduce merit pay as specified in national agreement</i>	Yes <i>Strong use to meet local goals of equity and recruitment</i>
Germany	Yes <i>Very limited and subject to regional audit</i>	Yes <i>Some discretion over which jobs fit pay grade 1 but highly conflictual and subject to audit inspection</i>	Yes <i>Since 2007; some evidence of fixed, automatic payments</i>	Yes <i>Eg. to reward job promotions instead of paying the higher pay rate</i>
Hungary	No	No	Yes <i>But limited in scope</i>	No
Sweden	Yes <i>Wholly implemented at local level</i>	No	No	Yes <i>Eg. Premiums for hard-to-recruit occupations</i>
UK	Yes			

Adjusting low pay

The classification of jobs into low pay grades and/or the adjustment of low rates of pay are important features of local level discretion in Germany and the UK and, to a lesser extent, in France.

In Germany, the introduction in 2005 of a new nationally defined pay-scale for the lowest paid in federal and municipal government has generated conflicts over how to value the skills required in many low-wage jobs, the range of jobs classified to the new low pay-scale and the procedures for making local-level adjustments. The national collective agreement (TVöD) provides a list of examples of jobs defined as involving ‘extremely simple activities’ (*einfachste Tätigkeiten*) that can be included in the newly created pay grade 1; examples include catering and cleaning staff, WC attendants and cloakroom attendants. In 2012 the new grade 1 pay-scale was set at €8.87-€9.90¹⁵, which represents a limited a range for pay progression of just 12%.

The explicit goal of the new pay-scale was to compete with lower rates in the private sector so as to reduce incentives to outsource. National data suggest the proportion of municipal employees assigned to pay grade 1 has increased – from 2006 it has increased fourfold to 1.3% by 2011; the figure rises to 2.7% among municipalities using this pay grade in North Rhine Westphalia (Bosch et al. 2012, national report). Nevertheless, the case-study data suggest this

¹⁵ These hourly rates are slightly lower in East Germany (€8.62 – €9.65) because weekly working time is set at 40 hours instead of 39 hours (the collective agreement specifies the monthly rate not the hourly rate).

new pay grade remains highly controversial and its use is variable. A survey of North Rhine Westphalia municipalities found only one third had employees on pay grade 1. One reason for the variability is that employee representatives dispute the definition of ‘extremely simple activities’ (e.g. with respect to the knowledge and use of kitchen-related appliances, teamwork and physical effort) and indeed the case-study data reveal examples of local reclassification of low-skill jobs into pay grade 2 in order to avoid the punitive low rates of pay. The case studies also suggest disputed interpretation over procedural issues. The national agreement provides for local differences in the span of jobs included in pay grade 1, but while unions argue this ought to be only undertaken through local agreement, employers believe they can exercise a unilateral prerogative (Bosch et al. 2012, national report). Local-level actions are nevertheless subject to considerable discipline from regular audits from the regional authority. Random visits include monitoring of the legality of pay grade classifications; as the authors of the national report put it, the visits have ‘the evident primary aim of checking whether employees have been put into higher grades than they should have been. It is remarkable that this is seen as a waste of public money’ (Bosch et al. 2012: 13, national report).

The two case studies in France suggest the position of the lowest paid workers in local government can in principle benefit in two ways. First, managers at one of the case studies were responsive to strike action caused by the implementation of a new structure of pay premiums and bonuses that offered limited improvement for level 1 workers already earning the maximum amount; a consolidated monthly bonus of €150 was uprated to €250 as a result. Second, because the different payments for bonuses and premiums increase each year by a fixed cash amount rather than a percentage the lowest paid benefit (revealed by data in one of the two case-study municipalities) (Audier et al. 2012, national report).

Finally, in the UK, local discretion to improve the pay of the lowest paid was one of the key findings of the UK case studies. Among the five case studies that provided reliable pay data, four implemented a local agreement between employers and unions to improve the lowest rates of pay, generally by eliminating (or disregarding) the lowest pay points on the national pay scale and recruiting employees onto higher rates of pay; the higher base rate ranged from 7%-14% above the national base rate. The managers provided a number of rationales for their support of these union initiatives against a backdrop of three years of frozen pay: first, higher pay contributed towards ameliorating poverty among the local population (both directly for the employee’s household and through local multiplier effects); secondly, it was shown to have reduced staff turnover and attracted better job candidates (involving detailed empirical research at one of the councils); and thirdly, it was perceived to be an important compensation for increased work effort following the significant downsizing (between 6% and 30% of the workforce over two years in these four affected councils). It is notable that the chosen higher rate of pay in two councils was the ‘living wage’ (outside London), which is endorsed by the trade union movement, as well as some high profile politicians (the leader of the Labour party and the (Conservative party) Mayor of London).

Merit payments

While both the French and the German national pay agreements have recently introduced a facility for merit payments for local government workers (see Part III, chapter 6), the case studies suggest limited enthusiasm at local level. In France, the director of one of the two case-study municipalities claimed ‘relating pay to performance is against our culture’. The municipality had implemented a practice of performance appraisal but it appears nine in ten of workers were awarded a standard grade and very few were penalised (Audier et al. 2012, national report). In Germany, at first sight there appears to be greater take-up of merit pay than there was under a previous national collective agreement. Payments in most municipalities differentiate according to individual performance, as agreed in a local agreement which incorporates works council views about performance criteria. However, a survey of NRW municipalities found one in four paid the performance as a fixed bonus to all employees (Schmidt et al. 2011, cited in Bosch et al. 2012, national report).

In the UK also, the 2004 national agreement encouraged municipalities to apply a combination of seniority and ‘contribution-based pay progression’. Among the six organisations investigated, one applied seniority-related progression only, three applied a hybrid of seniority and performance-related progression and two applied a wholly merit-related system. Among the latter two, one municipality recently restructured its pay bands (using the national scale of pay rates) and based progression up the ladder of increments within each band entirely upon passing an annual performance review, the terms of which were agreed with trade unions. The other municipality does not apply the national pay scale (it opted out of the national collective agreement some years ago) and in 2010 abandoned pay points altogether and instead sets defined minimum-maximum pay bands. Since 2010 it has appraised all staff on a four-step ranking and adjusted pay rises according to the budget available and the distribution of staff across rankings. In 2012 it awarded all staff a 1% pay rise (against a pay freeze nationally) and in addition awarded 1.4% to the 80% of staff who achieved their targets, 3% to the 18% who were above their targets and 5% to the 1% who were judged outstanding. Unlike seniority-related pay increments which are halted at the top of pay bands, until promotion to the next band, this council awarded staff at the top of their pay band (estimated at around one third of the council workforce) a non-consolidated pay rise in order that their basic pay remains within the maximum threshold.

While merit payments are possible in the Hungarian local government sector, their use is very limited. More than four out of five municipalities were found to use performance evaluations in a survey published in 2012 but only 17% of them tied performance to pay (Bordás 2012, cited in Berki et al. 2012, national report).

Union views towards merit payments tend to be negative. In Germany, works council representatives at the case study organisations argued they favoured individual over team performance, generated suspicion because information on how payments were distributed was unavailable, required robust measures of performance that were lacking and rewarded intensification of effort above levels of performance that were already high in a context of staff shortages. Overall the national report concludes on the basis of case-study evidence that even

where municipalities have signed a local agreement with the works council, the procedures for bonus payments are insufficiently transparent for employees.

Pay premiums and supplements

In the absence of flexibility to adapt rates of basic pay for public service workers, municipalities in France routinely adjust a range of pay premiums and bonuses to meet pressures facing their system of pay. At one of the two French case studies, managers fixed a new, simplified scale of pay supplements that consolidated the previous more complicated structure with the aim of improving transparency, encouraging more cross-occupational mobility and establishing a more competitive position for recruiting. The overall level of supplement is high: for a newly recruited employee on Level 1 the monthly supplement in 2012 amounts to €269, which is around 16% of the total monthly pay. For higher level jobs the share of supplementary pay in total pay can be as much as 50% (for particular categories of engineers in high demand) (Audier et al. 2012, national report).

In Sweden, municipal budgets are set annually and include not only a general budget for a percentage rise in the total pay bill but also a budget that facilitates the payment of specific wage premiums for occupational groups identified as hard to recruit. Examples in the two case studies include the groups of IT specialists and nurses receiving premiums both to attract recruits and to reduce staff turnover; national data show that average pay for nurses is higher in the private sector and significantly so (almost 15% more) at the top decile (Anxo and Ericson 2012, national report). However, union representatives claim that while entry pay levels are higher in the private sector, prospects for pay progression and intensity of workload (eg. number of patients per nurse) are worse (op. cit.).

In the UK, one of the most contentious set of reforms witnessed at local level concerns downgrading of premium pay for unsocial working hours and overtime hours. Conditions are set in the national agreement but contained within what is known as the Green Book Part Three, which can be modified by managers locally through agreement with unions. The UK report collected data for five municipalities and reveals downgrading to a greater or lesser extent in all cases. For example, three councils reduced overtime pay from time and a half (Monday through Friday) to time and a third for the first two hours of overtime in one municipality and to basic rate payment in two municipalities. Also, one council reduced weekend overtime to time and a half for all employees except the lowest paid who continued to receive the nationally agreed double time payment. Premiums for unsocial hours working were maintained at the national rate at only one of the municipalities investigated; two abolished the premium for weekend working, three reduced the night-work premium and one introduced a simplified structure that allocates individuals to a fixed pay premium according to frequency of unsocial hours working (ranging from a 7% to 20% premium). While all municipalities have been actively reducing these benefits, one took the extraordinary step of dismissing all the workforce and then immediately re-engaging everyone (subject to their agreement) on new contracts that removed pay premiums for Saturday and Sunday work, public holidays and overtime. The union organised a series of strikes during 2012 and has had some success in

winning one-off ad hoc payments to those workers most affected by the changes, including for example social care workers providing services to the elderly.

10. Multiple forms of procurement: organisational forms and employment segmentation

10.1. Local government and employment segmentation

Much of the dynamics of change within local government employment has to be understood through a perspective of different statuses and costs for different employment groups. In the search for lower costs, greater flexibility in service delivery and in the associated employment conditions of security or hours of work and to establish competitiveness with the private sector in the context of compulsory open tenders, local government employers have sought to find ways to take advantage of existing labour force divisions or to create new ones. The first set of divisions is between central and local public sector employment and in some cases there has been a reorganisation of divisions along this central/local divide (box 10.1). Although the central public service is often the most prestigious and in France there is a requirement that no-one in the local civil service can be paid more than someone at the top of the central civil service, nevertheless sometimes the local arrangements offer more flexibility with advantages to employees.

In some countries the key issue is the divide between civil servants and those on other employment statuses and this division runs through local government as well as other parts of the public sector. In general civil servants account for a smaller share of local government employees than in central government and this reflects lower status work plus employers seeking to reduce the number of civil servants in some countries, especially France. In Germany although similar arguments could be made that civil servants in the longer term are more expensive for employers, in practice cost factors have led to an increase in the number of civil servants relative to other staff as in the short term employers can evade paying the costs of pensions. These accrue at the point of retirement and this short term cost saving is likely to cause longer term budgetary problems (box 10.2).

Box. 10.1. Comparing conditions in local versus central civil service/public sector employment

In France a large number of public sector employees transferred from the central (CPS) to the local public service (LPS) in the mid 2000s, most of them elementary school teachers. Most voluntarily chose to transfer to LPS terms and conditions as these seemed more favourable, probably due to greater discretion at the local level in implementation of for example bonus schemes although within a framework where no LPS employee should be paid more than a CPS employee for a similar job. A very high share of LPS employees are in the lowest band C- 76% compared to 21% in CPS.

In the UK local government is covered by an entirely separate agreement to those for central government employees. It also set the lowest minimum rate of pay but there is considerable discretion in the wage setting systems, allowing for variations across municipalities. This variation is increasing in the current crisis as some municipalities seek pay cuts through redeployment to lower grades with pay protection for only months or dismiss and rehire all staff to abolish premium payments for unsocial hours (see chapter 9).

Source: National reports.

Box 10.2. Civil servants versus non civil servants and the importance of public versus private law

In France one of the motivations for the use of semi-public organisations established under private law is to have greater flexibility in employment and pay, including paying sometimes higher wages than the public service to attract and retain staff but also to vary working hours and other aspects of employment. In one of the case studies the share of non civil servants is 45% - considerably higher than for the public service as a whole -, and 80% of the non civil servants are on temporary contracts.

In Germany around 37% of public sector employees are found at the municipality level but only 14% are civil servants compared to 37% nationally. However this share has been increasing due to municipalities taking short term advantage of the lower costs in the form of non payment of pensions contributions but pensions will need to be funded at the point of retirement so this cost saving is storing up longer term costs.

In Hungary many municipalities set up municipal-owned enterprises and these employees are then treated as under the private Labour Code rather than the public sector law and associated wage grid. Management has more flexibility and is only required to observe the two statutory national minimum wages (one for standard jobs and another for skilled jobs) and not to pay wages according to the wage grid for public sector workers, but in many municipalities (including one case study investigated) almost all jobs are minimum wage jobs in both the public and the semi public or private sectors. Wage bargaining, however, is constrained by the fact that managers of these companies are still under the control of the municipality.

Source: National reports.

Another internal division is between those on temporary or fixed term contracts and those on permanent open ended contracts whether civil servants or non civil servants (box 10.3). Again municipalities tend to make high use of temporary contracts though this varies by country and over time. Temporary contract staff faced higher risks of job loss in all countries during the crisis but their use may also increase in the prolonged downturn and austerity cuts. A further example of flexible employment contracts is use of part-time versus full-time staff and in some countries this division takes on considerable importance at municipality level; for example in the UK local government employees are now predominantly part-time and female. In Hungary, part-time employment in contrast has been increasing among men, though its share is still much smaller than the European average.

Public sector reform and changes to public sector wage-setting and pay agreements may have the effect of either opening up or closing divides (see box 10.4). Examples of increasing divides apply to new agreements establishing a new lower grade of pay for staff in danger of outsourcing – as in Germany. Also in Germany, there are divides between staff hired under the old collective agreement and the new collective agreement. One way that divisions within and between the public sector have been narrowed is through the erosion of the public sector premium at the bottom of the labour market such that in France and Hungary many of the jobs in local government are paid at or close to the minimum wage (see chapter 5). This erosion tends to homogenise the position of those on different employment statuses with respect to

remuneration. This downwards homogenisation may also apply between skilled and less skilled to the extent that organisations fail to offer long term advancement and instead of upgrading staff use temporary appointments at higher grades to cover shortages in more skilled grades. Thus, in contrast to the picture of a very hierarchical job and pay structures, there are some examples of downwards homogenisation eroding differentials with the private sector and also eroding internal rewards for skill, experience or responsibilities.

Box 10.3. Use of flexible employment contracts: temporary and part-time

In one of the cases studies for France, 36 % of total staff and 80% of non civil servants were on temporary contracts. This share may be reduced by a new law of 2012 which should provide for more permanent contracts even if not for transfer to civil service status.

In Germany, part-time employment accounts for two fifths of total employment in municipalities, up from just over one fifth in 1991, and involving a rise of 23% in part-time employees while total employment fell by one third. However this growth of part-time work is not associated with a high comparative level of feminisation (at 57% well below the ratios in the UK, Sweden and Hungary) or even a continuing process of rising female shares as the female share declined slightly overall between 2002 and 2011, particularly among non civil servants (from 71% to 62%) while rising among civil servants (from 34% to 39%).

In the UK local government is now a predominantly part-time as well as a predominantly female workforce; part-time jobs accounted for 55% of all jobs in early 2012 and women account for three quarters of the total jobs.

Source: National reports.

Box 10.4. Employment segmentation and wage setting

In France there are internal differences between civil servants and non civil servants, with the former better paid and better protected and also between public sector and private sector employees; the main difference in the latter case is the seniority pay for public sector employees which raises costs particularly in the context of an ageing workforce. However, in some cases partial externalisation has been used to facilitate the award of higher pay in labour shortage areas. Moreover if private sector staff are re-internalised they face long term wage freezes as their experience in the private sector is not counted for seniority increments although a recent move now allows up to half of their service to be counted.

In Germany, employees in municipalities recruited after 2005 earn less than those recruited before. This is due to the switch from the former public service pay scale (BAT) to the new collective agreements for the *Länder* (TV-L) and for the federal state and municipalities (TVöD). This is partly because the holiday allowance and Christmas bonus have been replaced with a smaller annual bonus. Also since 2005 some employees in apparently simple jobs have been placed in a new lower pay grade where the minimum wage rate is close to the new industry sector minimum pay rate for industrial cleaning and there are more limited seniority increases (see chapter 9). There is also evidence of a failure to upgrade staff even when they are covering higher level jobs; in some cases this is part of a strategy of heavily indebted municipalities to reduce costs. This creates a divide between those who have been promoted into the appropriate grade and those who have not.

In Hungary the application of the public sector wage system tends to compress differentials between

regions. Privatisation leads to little change in wages in areas where there is high unemployment as all jobs tend to be minimum wage jobs but in one of the case studies employees in the privatised bus company were able to negotiate significantly higher wages, twice that of the employees of the private bus company in the other locality.

In Sweden there are relatively limited differentials between in-house and private sector staff on outsourcing contracts. In general initial pay levels may be slightly higher in the private sector although pay progression may be more limited and there is also evidence of increased work intensity due to tighter staffing schedule and ratios.

In the UK municipalities have scope to vary pay levels and systems under both collective agreements and the political reality of pay setting in municipalities under conditions of massive budget cuts. This scope is used in different directions; for example some municipalities are raising the lowest rate of pay in response to the living wage campaign and may therefore increase differentials vis à vis local rates; others have dismissed staff and rehired them in order to remove premium payments for unsocial hours (chapter 9), thereby moving the public sector pay systems towards those prevailing in deregulated private sector service markets.

Source: National reports.

While municipalities are able to find some ways to reinforce processes of either segmentation or downwards homogenisation in order to reduce costs, their room for manoeuvre is much enhanced by options for internal flexibility and externalisation, which allow for different organisational forms for the delivery of services to interact with different employment statuses. These opportunities to establish public enterprises or joint ventures where pay and conditions can vary from standard public sector conditions offer scope to reduce pay costs where public sector pay is high or to raise wages where public sector pay is low and proving a poor motivator for either effort or retention. These processes of externalisation also increase differentiation in workplaces through the protection of TUPE and the transfer of staff to new organisations on protected terms and conditions but where new hires are likely to be on lower conditions. The range of organisational forms and the potential for interactions with employment statuses is explored further below.

10.2. Local government procurement: organisational forms

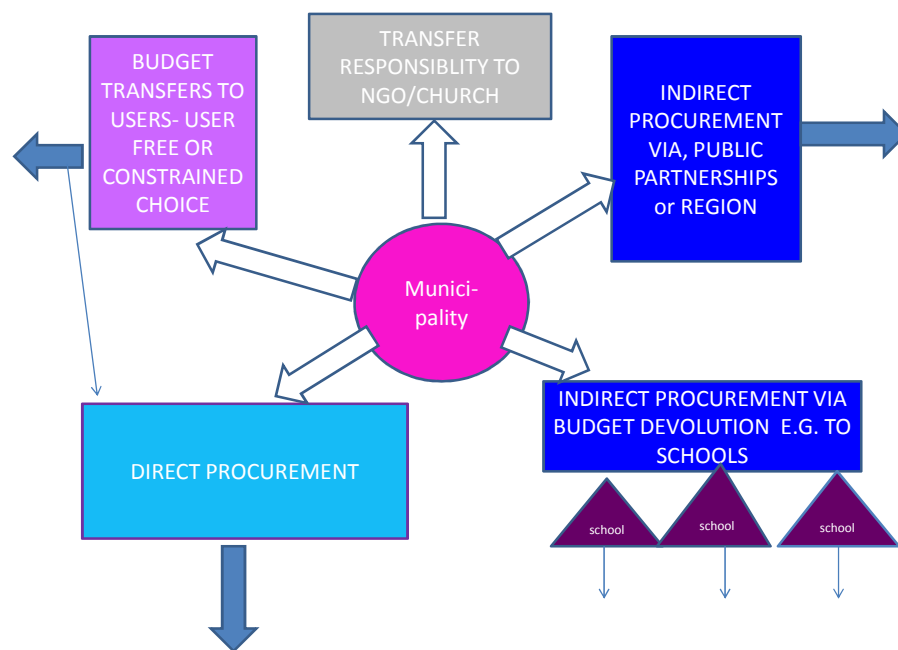
Mapping the involvement of municipalities in procurement is complicated by both the varying budgetary and commissioning arrangements not only among countries but also among municipalities in the same country and among activities within the same municipality. Of course the responsibilities and autonomy of municipalities with different scope for shaping budgets, services and procurement as discussed above. Here we focus on those responsibilities - budgets and services - that are found in the countries under consideration and within these varied remits we consider how procurement may be organised.

Direct versus indirect procurement

The first complication as figure 10.1 makes clear is that direct procurement in the sense of the individual municipality organising the tender and commissioning directly is only one of a range of options. Instead municipalities may decide to cooperate together to form joint

commissioning bodies (and this may also be with other public bodies - for example joint commissioning of social care in the UK involving the NHS and municipalities) or they may delegate responsibility to other government bodies for example at the regional levels.

Figure 10.1. Alternative forms of procurement



Another form of indirect procurement occurs when municipalities devolve parts of their budgets to other public sector units under their control, for example schools, who may then arrange their own procurement processes and outcomes, for example for school catering (box 10.5). In more extreme cases the municipality may divest themselves of responsibility for delivering services, either through optional but legal transfer of responsibilities for services to other organisations (for example in Hungary to churches) or through passing budgets directly to users who then choose the provider but in some cases users may be constrained to use providers approved by an municipality or other public body.

Box 10.5. Indirect outsourcing or transfer of responsibilities

Elderly care is one area where the decision on the form of provider may be devolved to the user even where the budget is provided by the municipality. This applies in the UK and increasingly also in Sweden where some municipalities have implemented the optional arrangements where users can choose providers. In the UK this policy holds for residential homes but is also being increasingly introduced for domiciliary care and users may then be able if they wish to bypass municipality commissioning and identification of preferred providers. In Germany elderly care has never been the responsibility of the municipalities except for a small number of cases where there is a funding need. Traditionally this was paid for by the family but now there is a compulsory insurance but the funds go direct to the family who then decide on their choice of provider.

In France provision of elderly care is still organised by the municipality but in one of the case studies there is some delegation of decision-making to a public establishment with budgetary autonomy set up by the municipality to organise elderly care and childcare. The organisation also has not for profit

organisations on its board and while it provides many services in house and employs civil servants it also outsources some to not for profit organisations and is considering externalisation of some elder care services. It has also re-municipalised some not for profit nurseries.

School catering is an example of an area where it is often the responsibility of the individual school to decide to use municipal services or to outsource. This applies in Germany, the UK and Sweden but not in the case study municipalities in Hungary. Municipal-owned enterprises can also make independent decision whether or not to outsource; in one case study in Hungary cleaning was provided in house except in municipal-owned enterprises where most was outsourced. In France the decision to outsource school catering was taken at the municipality level in one of the case studies.

Where municipalities tend to be small there is more banding together of municipalities in regional associations to commission services or to concentrate services in one municipality to provide services directly for a number of municipalities, although in Germany this attracts VAT. These collaborative arrangements are found particularly in Hungary, Germany, and France.

In France there are 36,000 municipalities (the smallest unit below the 101 departments and 22 regions) and many communities of municipalities are formed (the two communities for the two case study municipalities consisted of 8 municipalities in one case and 27 in the other). The objective is to prevent outsourcing through mutualisation of activities where economies of scale are important but while in the case studies one of the communities kept waste collection public this was externalised in the other case to a private company. With respect to both transport and water in one case this was provided by a state-owned regional company and in the other outsourced by the community of municipalities to a private company (though under discussion for re-municipalisation).

In Hungary there are 2,300 local governments compared to just over 150 in England and Wales; each municipality has public liability, irrespective of population size or economic power for a wide range of assigned functions and to address this problem neighbouring municipalities have established district notary offices (where several local governments team up to employ a public notary) and formed ad hoc micro-regional associations to facilitate infrastructure development and maintenance. One example where this proved important was in elderly care for one of the case studies as this allowed more resources to be deployed and better use to be made of the municipalities' capacities including its buildings and communal kitchen. However, from 2013 there will be new micro-regional organisations controlled by central government to whom many of the public administration functions and indeed many municipality-employed staff will be transferred.

The UK central government in 2008 set up a Regional Improvement Efficiency Partnership to foster the development of shared services across LAs. There are also ongoing pilot projects in a selection of municipalities, which may lead to more experimentation in organisational forms, as well as a likely speeding up of privatisation of local government services. The pilots include i) more integrated procurement through 'Neighbourhood-level' and 'Whole-place' Community Budgets and ii) public services delivery through mutual, or cooperative, organisations. Also, the 2012 Localism Bill provides two new rights – 'a community right to challenge' and 'a community right to buy' - that provide new powers for local groups to express an interest in providing a service and to own local assets.

In Sweden although municipalities are relatively large, local transport can and often is delegated to regional transport authorities who decide whether to commission services from the public or private bus companies, with the latter dominating the market, especially four multinational companies. Another example of indirect procurement comes from the case study municipality which set up a limited company wholly owned by the municipality to undertake all procurement. Also in Sweden 84 out of the 290 municipalities have enacted the free choice option for elder care where the user can

choose their provider but from a list of approved providers selected according to a municipality driven commissioning process.

Hungary provides an example where a municipality's functional responsibilities can be transferred to new entities without the municipality retaining residual responsibility- as normally occurs in the outsourcing of public services. This applies to the transfer, for example, of elderly care and schools to churches. This change has been driven by central government policy of providing more support when the services are under the control of churches. The only responsibility for the municipality is to take back the service if the financial arrangements change.

Source: National reports.

Procurement and the variety of organisational forms

Both direct and indirect forms of procurement may be achieved through a variety of organisational forms. The motivation for choice of organisational form depends on both the service concerned and the specific environment and conditions in the particular country or LA. Most procurement involves a move away from direct public sector employment by the LA. However, there are some cases where civil servants may retain their status when transferred to work in a separate body and when working alongside private sector staff so the delinkage from public sector employment status is not clear cut (see box 10.6). It is certainly also the case that procurement does not necessarily mean the end of public sector ownership or control. In many cases municipalities set up or become engaged in public sector enterprises; these may be set up even under public law where this distinction between public and private sector law has meaning such that employees remain under the specific conditions for civil servants (see examples from France and Germany). However, more commonly in this context wholly-owned public enterprises are set up to circumvent constraints incurred through the special employment status of public sector workers or civil servants and the wholly-owned organisations may operate under private law or outside specific collective agreements.

These arrangements may be considered to be more examples of internal flexibilisation than outsourcing but as they are on one end of the spectrum of procurement outcomes they are included here. Furthermore, these public enterprises may only be partially publicly owned and may involve collaborations with other not for profit organisations and/or with private sector investors or organisations. Once established as a separate entity a public enterprise's borders may be more permeable than direct public sector employment, particularly when this involves a specific status for civil servants. Not only are there many permutations of joint public/not for profit and private sector joint ventures (box 10.7; see figure 10.2) but these configurations are found to change considerably over time with the degree of public ownership both decreasing or increasing within the same public enterprise. Moreover, outsourcing to a public enterprise may later lead to new tenders where the public enterprise competes and fails against bids from only not for profit or private organisations (box 10.8). Alternatively private or not for profit enterprise may also be taken back into public ownership.

Thus outsourcing must be regarded more as a continuum than a simple public/private choice. A key issue in procurement is the implications for displaced staff, whether they are required to be transferred to the new enterprises or have the right to remain in employment and whether if

they do remain they may be vulnerable to redundancy due to the full protection as envisaged by the Transfer of Undertaking Directive not being fully implemented (see chapter 11).

Box 10.6. Employment status and procurement forms

In France the employment status of employees in public enterprises is determined under private rather than public law and this provides opportunities for flexibility for both the employers and the employees. Private subcontractor employees may be able to bargain for higher wages than in the public sector, as occurred for example in the private bus company and the privatised water supply company in one of the case studies.

In Germany there are a range of institutional forms through which public services can be delivered. These include provision by the central administration, conversion of a municipality function or institution into a public law entity, or conversion into a private limited liability company under private law, or a jointly owned entity with the private or independent sector as well as outsourcing to a private or not for profit company. Within those counted as employed by municipalities only half work in central administration and 5% in separate municipal-owned enterprises established under public law while one third are in municipal-owned enterprises established under private law and 9 per cent are in private law entities outside of the municipality but still controlled by it. The share employed in private law entities has increased but data are not available due to changes in recording. This process of fragmentation has led to the term Konzern Stadt- implying that local government now just consists of a group of companies.

In Hungary employees in municipal-owned enterprises (irrespective of the size of the municipality's stake) are subject to the Labour Code and not covered by the specific civil service legal framework. However managers are not free to bargain over pay as they are still controlled by LAs. In practice most jobs inside and outside are minimum wage jobs so that bargaining over pay in these municipal companies is concerned primarily with possibilities of improving pay over the low levels set in the public sector. In local transport in one of the case studies, a wholly-owned municipal company sold minority shares to a private investor in 2008 and transferred management rights in order to access capital to renew the bus fleet. When this did not take place and the local government changed, a new company owned by the municipality was set up and the service re-municipalised although vehicle and maintenance remained externally provided as they had been since 1993.

In Sweden and the UK there is no legal difference in employment status between public and private sector employees. However, while in Sweden there are some rather minor differences related to coverage of collective agreement only, in the UK most private sector employees are not covered by any collective agreements and their employment conditions are only subject to statutory conditions including the minimum wage.

Source: National reports.

Box 10.7. Public sector enterprises and joint ventures

In France there are a wide range of different forms of public sector enterprises including a recent form (Sociétés Publiques Locales (SPL) from 2010) which is both fully publicly owned (by at least two public bodies) and can be used for outsourcing without the need for a tender, although the employees are treated as employed under private rather than public laws as is also the case with under the more popular and long existing public enterprise the Sociétés d'Economie Mixte (SEM) with both public and private shareholders. There are 43,600 public entities which belong to the local government, with

80 per cent having fewer than 20 employees.

German municipalities make extensive use of public enterprises and joint public/private enterprises as the vehicle through which services are provided and semi or full privatisation takes place. Changing the share ownership of these enterprises is also a main way of re-municipalisation although staff remain on employment contracts under private law but are covered by public sector collective agreements. One reason for setting up such enterprises even when remaining fully in public ownership is to allow municipalities to earn profits from activities; this was behind one case of a transfer from direct provision of waste services to provision through a publicly-owned private limited company.

In Hungary in 2011 55% of municipalities were found to have shares in business associations and in 28% of these the municipalities had controlling interests. Such associations were found in the case studies in sectors such as water, waste management, local transportation. In some cases where the municipality owned the majority of shares the management was still provided by the private sector partner.

In Sweden in one case study municipality a limited company has been set up wholly owned by the municipality to coordinate procurement of goods and services for all the city's administrative units.

Some of the case-study municipalities in the UK had set up joint ventures in order to increase control – for example in waste collection, parking services and street lighting. In one municipality transferred staff under TUPE to the joint venture also had their pensions protected which is not required under TUPE.

Source: National reports.

Box 10.8. Examples of not for profit involvement

In France non profit associations, as they are called, play a role in care and educational activities and are often heavily subsidised by the municipality either directly or through tax credits for users. They are represented on some boards of public entities as applied in one of the case study municipalities which had established a public enterprise to organise care activities.

Churches have a special status in Hungary where they can take on full responsibility from municipalities for the provision of public services. They are also free to set fees and in one case study the fees for elderly care services were significantly increased, relieving the municipality of the responsibility for implementing an unpopular measure.

In the UK pilots are under way to identify the type of government support needed to boost employee-led mutuals as part of the drive towards the big society where the state is only one actor in delivering community services. However there are no possible guarantees that employee-led mutuals would succeed in maintaining competitive contracts so that their growth may allow a subsequent phase of more privatisation. Furthermore one trade union official expressed the view that once externalised the municipality would 'squeeze the contracts until you burst', that is without regard to the contractor's mutual status.

Source: National reports.

Re-municipalisation and organisational form

The trend in procurement is not always towards outsourcing and privatisation but also away from privatisation to re-municipalisation and away from outsourcing to in-sourcing and reintegration. The motivations for changes are explored below. Here we consider only the various ways in which this can come about. First of all public sector enterprises or even units with directly employed staff may be successful at tenders or decisions may be made not to retender but to transfer to in house units or staff. Second wholly-independent organisations or joint ventures may be brought into public ownership. Outsourced activities may be transferred back into in-house activities or to publicly-owned enterprises. New public enterprises may be set up either by the municipality or in collaboration with other public bodies. Staff may be transferred back into public sector employment but in some countries they may still be employed under private rather than public law; in some cases reintegration would improve pay and conditions and in these contexts management may try to limit reintegration. In other cases this may involve either a downgrading of pay and conditions or a future freeze on conditions or lower flexibility from employees' perspectives in which case reintegration may be resisted by employees.

Box 10.9 Examples of re-municipalisation

In France in one of the case studies there has been a decision in principle to re-municipalise or re-internalise both local transport and possibly water from 2014 in the first case and 2017 in the second. How this is to be achieved is still under discussion. In the case of local transport, pay and conditions are better in the private company than in the public sector so that although unions and left wing councillors are in favour of re-internalisation some would prefer this to be done under a public enterprise owned by the municipality (a *Sociétés Publiques Locales*, SPL) in order to maintain pay and conditions while others would prefer a full internalisation. The integration may only apply to operatives such as conductors and not to other aspects of transport such as network and vehicle maintenance. In another case a proposal to re-internalise school catering was not pursued as employees were unwilling to be re-internalised due to the likelihood of wage freezes and other poorer working conditions.

In the German case studies some cleaning services were being re-municipalised as the cost differences between in-house and subcontracted cleaning had narrowed due to both the new minimum wage and the lower wage group in the collective agreement. In one municipality this was achieved by the municipality buying 100% of the shares of a public enterprises under private law which in the 1990s was predominantly owned by private shareholders. New employees are now classified in the new lowest pay grade of the collective agreement (see chapter 9). Some cleaning is still provided directly by the municipality. In another case the share of external cleaning was reduced from 70% to 50% under pressure from the trade union who demonstrated the absence of a cost incentive but cleaners are now employed on the new low pay grade. In the third case cleaning is 100% externalised and no re-municipalisation took place. Re-municipalisation is also common in waste disposal due in this case to recognition of opportunities for greater profitability through the expansion of recycling as a business activity. These concerns may be offsetting wage cost issues for although there is now a new legally binding minimum wage for this sector it is set well below both the wage negotiated in the collective agreement for private waste companies and the wages prevailing for public sector employees (€8.33 compared to €11-over €13) (chapter 10).

In one of the case studies in Hungary waste management was first of all organised in a municipal-

owned enterprise but when its solvency was in question this was part privatised with a French multinational company taking 49% of the shares. This company then became profitable and the municipality took it back into public ownerships selling land and reinvesting profits to buy back the shares. It also re-municipalised some other services such as parking fees to increase revenue and road maintenance and snow clearance to improve quality.

Source: National reports.

Figure 10.2. The range of possible organisational forms

		Public sector			Joint enterprises				Outsourcing	
		Public law	Public law	Private law	Public /Non-profit Public law	Public/ Non-profit Private law	Public/ Private	Public/ Private/ Non-profit	Non-profit	Private
Public sector	Public law									
Public enterprise	Public law									
	Private law									
Non-profit or churches	Private law									
Private sector	Private law									

10.3. Factors shaping the form and extent of externalisation and re-internalisation

The project’s focus on the interlinkages between pay issues and procurement means that the role of pay structure and levels in shaping procurement decisions is one of the key themes of this report. However, the motivation for both externalisation and re-internalisation are often other than those of pay, particularly in contexts where pay costs may be broadly equivalent between the two sectors or even lower in the public sector, certainly after adjusting for additional costs such as VAT and management time. Table 10.1 (drawn up on the basis of research on outsourcing by municipalities in Germany) certainly suggests that the motivations for and against make and buy cannot be reduced to wage cost differences. However, it is also notable that many of the factors inducing outsourcing are based on belief of access to greater efficiency and expertise, often apparently not backed up by any detailed investigation of

actually lower costs or greater efficiency; if that is not delivered in reality there may be decisions to re-internalise, provided essential skills have not been lost, or at least to increase the municipality's share of ownership of enterprises.

Table 10.1. Reasons for make and buy decisions

Reasons for awarding contracts (buy)	Reasons for providing services within the municipality (make)
Obtain overview of potential companies and ascertain the most cost-effective provider	Create jobs that are subject to social insurance contributions and collectively agreed pay conditions
When there is an investment backlog at municipal level: use of private firm with strong capital base	Strengthen local employment and apprenticeship positions (leading to better spending power locally)
High levels of efficiency expected in task fulfilment because of profit orientation and business approach	Contracts awarded to local companies as a way of promoting local trade and industry
Benefit from nationwide experience, expertise and knowhow of private providers	Flexible, fast responses to public requirements or new challenges
Fixed costs for the municipality during the term of the contract	Closer proximity to local residents
Private company bears the staff employment risk	Take non-commercial targets into account, such as environmental, consumer protection and social standards
Risk cost calculation and contract fulfilment are the responsibility of the private company	Direct control by the municipality – also contributes to the city's development
	In the case of a commercially successful activity: profits benefit the municipality and can be reinvested

Source: Adapted from Schäfer (2012: 78), cited in Bosch et al. (2012: table 16).

In the following analysis we outline the main forces that appear to be shaping procurement decisions. The analysis includes pay and employment protection (TUPE) issues but these are covered in greater depth in chapter 11. Eleven main sets of factors were found to exert influence in the various case studies of local authorities and specific services. These factors both promoted and constrained outsourcing as we discuss below.

i) Economies of scale

In many countries municipalities cooperate in the provision of services to realise economies of scale. This is important in the region studied in Germany due to shrinking populations but VAT rules increase the costs thereby inhibiting sensible realisation of economies of scale. In Hungary the small size of municipalities has led to the formation of micro-regional associations but these may provide services through either public or privatised arrangements. In France the formation of regional groups of municipalities is perceived more as a way to avoid than to promote privatisation by allowing for economies of scale within the public sector although some services are outsourced fully or partially.

ii) Access to investment funds or reduction in debt

Access to investment funds is another important motivation at the local state level, even if considered at a national level it may prove an expensive way of raising funding. In Germany one of the incentives to set up municipal companies is to sell assets to reduce debt levels. For example one major city has a less than 50% share in municipal companies including only 20% of the public utility company (including waste disposal and port operations) with 80% sold to a big energy provider; this strategy helps with fast debt reduction, but in the long term the city may lose out on important potential sources of income from profitable sectors.

Privatisations through the selling of shares was motivated in Hungary at transition by the need for capital as well as by the ideology of the market and the need for foreign expertise. In the UK, public-private finance initiatives have been used throughout the public sector including local government to reduce the level of visible public sector debt as well as to reduce the share of the workforce employed in the public sector.

In contrast in Sweden and France privatisation does not seem to be motivated by new needs for investment or to reduce debt as the municipalities have faced fewer budgetary problems compared to the other three countries.

iii) Regulations and responsibilities

The ways in which municipalities are regulated and in turn their legal responsibilities have important but varying effects. In Germany the autonomy of the municipalities to decide how to provide services has been a factor in both the decision to outsource and to re-internalise; these are made in relation to specific conditions and not under a specific mandate from central government. However, mandatory requirements on municipalities to provide services as a consequence of national government decisions puts pressure on the budgets and may thereby induce outsourcing although not necessarily in the service where the new pressures arise (e.g. Germany and childcare).

In Hungary municipalities remain responsible for services if they outsource except when they instead transfer responsibility to the church. This provides a major motivation for transfer as the need for cross subsidisation of services is removed along with responsibility for quality and adequacy.

In the UK municipalities have been given the responsibility of deciding how major cuts in budgets should be implemented but at the same time they retain responsibility for services, for example for care for the elderly. Nevertheless because of the budget cuts they are also reducing the value of outsourced contracts in order to reduce debt even though they are not fulfilling obligations with respect to quality of care.

iv) Incentives/disincentives from central government

Central government may incentivise or dis-incentivise outsourcing, either intentionally or unintentionally via unrelated regulations. In Germany VAT is payable when services are shared by LAs, to avoid favouring municipal service providers; this creates disincentives to joint municipal provision. In Hungary the central state provides more resource to services provided by the church and thus incentivises transfer.

In the UK under current and previous governments there are often requirements to include a private sector organisation if a municipality is bidding for additional resources; for example all new schools have to be academies outside of municipality control and often with private sector involvement. In France and Sweden no specific incentives are provided by central government to encourage outsourcing.

v) *Public employment conditions other than pay*

Avoidance of public sector employment norms and regulations may provide an important incentive for outsourcing or other ways of providing services. In France the key differences between private and public sector employment conditions are said to relate to seniority pay on the one hand and reduced work intensity on the other, with opportunities for short working days and low work pressures said to compensate in some areas for low pay in the public sector (for example waste management in one case study). Where low work intensity or inflexible working hours created problems for the quality of the service there have been some examples of externalisation, for example the swimming pool in one municipality where the civil servants were redeployed and new staff hired to improve the delivery of the service. Municipal-owned enterprises in Hungary are subject to the private labour code which is said to give employers more discretion than the public sector laws.

In Sweden pay levels are similar between in-house and contracted out staff but there is evidence of higher work intensity in private sub-contractors related to tighter staffing ratios and higher case loads. Opportunities to change work intensity may be a motivation for outsourcing. However, private companies have to provide a gender equality plan as well as declare they fully respect equal treatment law in one of the case-study municipalities. In the UK, local government employees have access to much better pensions than in the private sector and also to other more favourable conditions such as longer holidays and better sick pay and at least until recently a premium for working unsocial hours.

vi) *Staff transfer issues*

Requirements to transfer staff under TUPE and willingness of staff to be transferred will also impinge on outsourcing decisions. In France some cases were found where staff were happy to transfer as their conditions were protected and there were good chances of better conditions in the private sector. More problems seem to apply to transfer in the other direction due to inflexible rules on how to reintegrate staff where at most only half of their service in the private sector is recognised.

In Hungary staff are transferred under TUPE (and in the case of transfer from a public entity if they refuse they may be entitled to a lower severance payment) but new employers have discretion with respect to pay and conditions thereafter apart from observing minimum rates. Also, in the UK TUPE is widely applied but strategies are used to evade TUPE for some groups (see chapter 11).

Sweden and Germany had the strongest protections for TUPE. Both provide transferring workers the right to refuse transfer and both provide entitlement to redundancy compensation in case of dismissal.

vii) *Efficiency and control*

Efficiency factors are often cited for decisions to outsource while the desire for local control may lead to the opposite decision. Most claims for efficiency gains appear not to be tested against evidence in our case studies.

In Sweden the main motivation for outsourcing appears to be in opportunities to increase work intensity. However higher workloads and /or reduced quality of care due to lower staff to user ratios should not be considered a real efficiency gain unless there is evidence that previous staffing ratios were unrelated to needs or demand.

In the UK involvement of the private sector has been taken as synonymous with access to greater efficiency, although this notion has been questioned in light of several high profile cases of public services outsourcing firms failing to deliver to an acceptable standard.

viii) Political and ideological factors

Pressure either to outsource or to refrain from outsourcing clearly influenced the climate and the practice with regard to outsourcing in our case studies. In France the presumption is more in favour of public service than outsourcing. There is no pressure from the central state to outsource and there are political obstacles to outsourcing that is considered motivated by a desire to reduce costs (although such outsourcing is under discussion in the case studies for example in relation to childcare). The main focus for cost reduction is internal flexibilisation either through increased share of non civil servants or through establishing public enterprises where employees are under private law. The strong political commitment to public service lies behind the current plans for re-internalisation in one of the case studies.

In Germany some municipalities have adopted a private before public ideology and have outsourced services and sold off assets to a greater extent than elsewhere but without any real analysis of cost or efficiency repercussions. The importance of ideology or politics at the local level is underlined by the reaction of some municipalities post the financial crisis to reconsider the role of the private sector and to engage in re-municipalisation without any change in national level policy.

The initial privatisation was driven in Hungary by ideology plus the need for investment funds. The current government's preference for reducing the influence of foreign companies may lead to less externalisation although this outcome is unclear.

The decentralisation of the Swedish state and the greater autonomy granted to municipalities results in a wide range of outsourcing and procurement strategies as each municipality is free to chose their own way of providing services. In one recent case of a privatised cleaning service 60% of the evaluations of tenders for outsourcing were based on quality, with 40% based on price competition. The criteria are set by each municipality.

In the UK the requirement to put work out to tender and to accept the lowest price bid (with only minor adjustments for best value) has been dictated by central government ideology since the 1980s but actual implementation has in part depended upon political choice at local level. However the current phase of massive budget cuts to municipalities coupled with new powers to community groups is undermining the ability of municipalities to maintain a significant in house service provision.

ix) Business influence

The motivations for outsourcing are not always transparent and undue business influence and also corruption on both sides may be suspected. The privatisation in Hungarian municipalities was motivated by similar considerations as in central government, to access finance and expertise as well as to demonstrate a commitment to the market in the transition era. However, the process of privatisation was less subject to close scrutiny and there is widespread suspicion of corruption in the process. These problems of scandal are continuing under the new government's policy of retendering and awarding contracts to Hungarian over foreign companies as some have been awarded to supporters of the government or friends of politicians. In the Hungarian case studies there were suspicions of improper or non open relations associated with arrange of tenders and operations: in waste management in one case study the reasons for partial private sector ownership appeared to be primarily to keep the private sector company on side as the municipality hoped they would be a partner in other public/private projects where investment funds were needed, for example in building the local swimming pool in school catering in one of the Hungarian case studies a private company won a tender despite a declared aim to provide services in house and a requirement to provide food sourced 60% locally. The winner did not meet these specifications and an investigation into the tender process is taking place. In the case of the bus company where the new fleet of buses were not delivered there is again suspicion of corruption perhaps on both sides as the profit margin agreed in the contract appeared too high to allow for this new investment.

The UK government is explicitly seeking to open up the public sector, including local government, for further opportunities for the private sector; as a consequence municipalities are often required to privatise a service if applying for central government support for capital expenditure or other funding. This support for business can be taken as evidence of active and successful lobbying by the business community for these opportunities.

x) Trade union influence

Trade union organisation may provide a motivation for outsourcing. Likewise trade unions may put pressure on not to outsource or to re-municipalise. French trade unions are active in pushing for re-internalisation of activities and in preventing cost motivated outsourcing.

Although in Sweden pay levels tend to be similar between in-house and external staff the latter are found to have lower trade union membership density and to be somewhat less likely to be covered by collective bargaining, but given the high rate of coverage it is not clear if these lower ratios constitute a motivation for outsourcing. In the UK there are much large differences in union involvement and in collective bargaining coverage, providing a more explicit motivation to public sector employers for outsourcing.

xi) Pay levels and pay structures.

Public/ private pay differentials clearly impact on outsourcing decisions. In France, private sector companies are unlikely to pay lower and indeed may often pay higher wages than the public sector but they offer less in the way of seniority enhancements. In general pay is not a major motivator for outsourcing.

In the case-study region for Germany, North Rhine Westphalia, a prevailing wage law has been passed in 2012 which may reduce incentives for outsourcing, along with other minimum wage rates such as that for industrial cleaning (see chapter 11). In Hungary the low pay in municipalities reduces the role of cost factors in inducing outsourcing and externalisation. In Sweden, the small pay differentials which may be positive in favour of private companies do not provide a core motivation for outsourcing. In contrast in the UK both pay and pension provision differentials are large particularly for low skilled women's jobs such as care work.

The list of factors may be extended if we consider the reverse procurement decision, that is to return services in-house, or to re-municipalise the services and accompanying workforce. Four factors are particularly relevant.

i) Change to profitability/costs

Opportunities for profitability activities in recycling have underpinned moves to re-municipalise waste collection in some municipalities in Germany and in Hungary

ii) Control

In France the proposals for re-internalisation are linked to commitments to public service which include the notion of public control. In Germany the fragmentation of local government which has given rise to the term Konzern Stadt has also resulted in a high level of transaction costs and concerns over lack of control over these complex structures and service provision arrangements. Disillusionment with the quality and costs of privately provided services is also fuelling decisions to reverse privatisation together with greater concerns over quality and lower charges for residents.

iii) Fraud/failure to deliver on contract

In Hungary the re-municipalisation of the bus company was directly linked to a failure to deliver on investment in new buses which may have been linked to fraud or corruption.

iv) Trade union/ employee council pressure

In France much of the pressure for reversing privatisation is political reflecting both political and trade union commitments to public service. However, the low pay in the public sector leads to some unions stepping back from arguing for full integration and instead preferring public control but employment under private law.

In Germany the reform of the regional employee representative law may give greater powers to employee councils to intervene in outsourcing decisions; as these are often not based on a detailed business case and evidence, there may be more opportunity to halt or reverse privatisation.

In Hungary trade unions in the re-municipalised bus company were able to maintain their better employment conditions and even improve upon them due to high levels of union membership and willingness to take strike action. Thus changing pay costs was either not a motivation for or not an outcome of the change as the municipality gave up on plans to cut fringe benefits.

From these examples of re-municipalisation it is clear that outsourcing should not only be considered along a spectrum of forms and degrees of separation between the public and private

but also as a dynamic and potentially reversible process as both objective conditions change and the realities of outsourcing decisions become manifest, for example in poor service quality and control, high transactions costs or evident corruption.

11. The mutual interaction between pay and procurement: causes and consequences of local government procurement

11.1. The varying importance of pay in decisions to outsource and insource

Understanding pay patterns among workers in the public and private sectors is important for our consideration of the multiple factors influencing procurement decisions. However, direct comparison of pay for similar occupational groups across public and private sectors is only one part of the analysis. Pay prospects are influenced by coverage of collective bargaining, which may be uniform across public and private sectors or divided. Also, where services targeted for procurement involve low-wage workers it is likely that the level of the statutory minimum wage also plays a role in determining the public-private pay gap and this can change quickly with developments in minimum wage policy. We consider these inter-related issues in this chapter drawing on the case studies of municipalities in the five national reports.

Our preliminary analysis in chapter 3 considered the results of a sample of decomposition studies that compared public sector pay with private sector pay after controlling for individual worker differences in education, work experience, age, sex and occupation. Table 11.1 provides an overview of these summary results and suggests that a public sector pay premium at the median wage prevails for men and women in France and the UK and for women only in Germany, while the analyses suggest a public sector pay penalty in Hungary and Sweden (although in Hungary the trend has been very erratic over the last decade). Of particular interest, given our focus on the procurement of relatively low paid local government activities is evidence of pay gaps among the lower paid. Quantile regression studies suggest those countries with public sector pay premiums at the median experience even higher premiums among the lower paid, especially for women (although female part-timers in the UK are an exception to this pattern for whom the public sector premium increases with the level of pay). In Sweden the size of wage penalty among public sector workers is fairly consistent along the pay distribution while in Hungary, both sectors tend to pay the minimum wage at the bottom but there are large pay penalties for professional groups.

In undertaking our local government case studies one question we were interested in was the extent to which this portrayal of pay gaps reflected experiences of local government procurement. The five-country evidence is mixed (table 11.1).

In France, the case studies in fact paint a picture of better conditions among private contractors than in local government and some reluctance among employees to move back into local government despite some political initiatives within municipalities to insource services. Nevertheless the picture is complicated by the presence of varying public-private organisational forms and differences in public and private employment law (see chapter 10). An example of outsourced school catering records better pay prospects for the catering workers in a public-private organisation (with majority public ownership) than in the municipality, and thus limited support for proposals to re-internalise services. Also an example of in-house waste services finds low pay and a compressed seniority-related pay-scale, albeit with some trade-offs with working hours and work effort. Also, while one case study municipality had made the decision to re-internalise local transport services there is ongoing disagreement about the

organisational form in part because of the difficulty in ensuring the new public-private company would be able to maintain the relatively generous pay conditions set by the private company.

The situation in France is further complicated by apparent penalties associated with the re-municipalisation of services and workers. First, insourced workers lose private sector fringe benefits (such as healthcare and other benefits negotiated by the Works Council of the private sector company). Second, employees lose at least half their accumulated seniority entitlements, which results in their missing out on seniority-related pay rises until their experience in the local government organisation has caught up with their protected position in the pay scale (Audier et al. 2012, national report). This is a central reason why in many examples of proposed insourcing, employees (and unions) from the target private sector company are reluctant.

Table 11.1. Comparing decomposition results (chapter 3) with case-study evidence on the public sector pay premium

	Summary results of decomposition studies*		Local government case-study evidence**	
	<i>Public sector pay premium at the median wage?</i>	<i>Larger premium for the lower paid?</i>	<i>Private sector contractors offer lower pay?</i>	<i>Worse private sector pay a cause of union resistance to outsourcing?</i>
France	Yes	Yes (larger for women)	No	No (some examples of resistance to insourcing)
Germany	Yes for women only	Yes (large for women, small for men)	Yes (although the gap has reduced)	Yes
Hungary	No (penalty since 2007, but premium during 2002-6)	No (both sectors pay minimum wage but higher low pay incidence in public sector)	No	No
Sweden	No	No (similar sized penalty at all wage levels)	No	No
UK	Yes	Yes (larger for women)	Yes	Yes

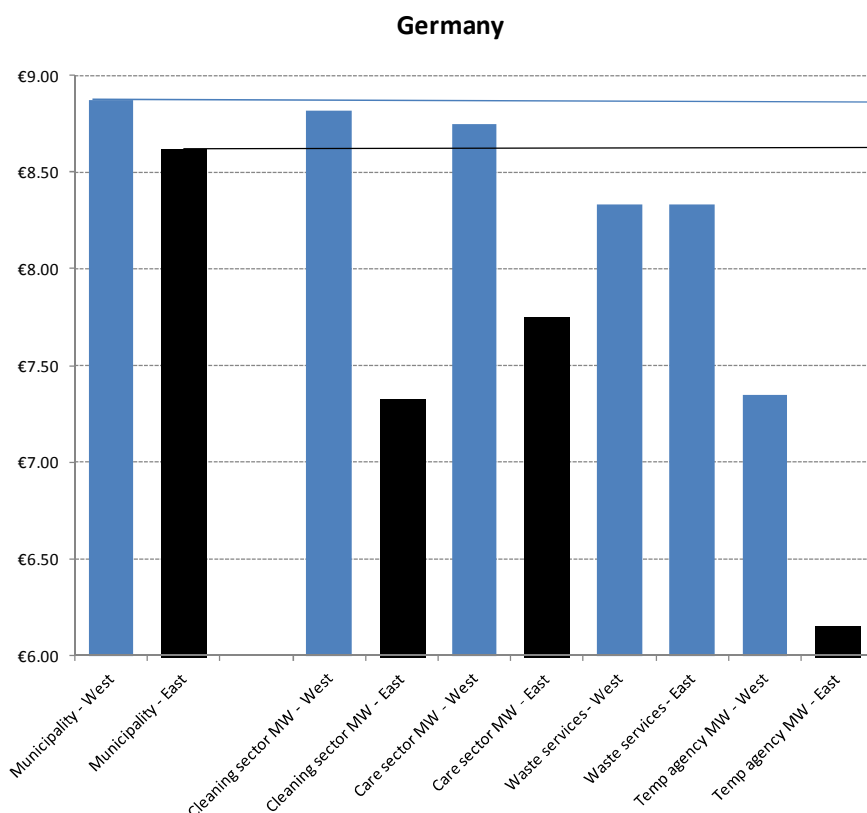
Source: *tables 3.2 and 3.4 (chapter 3); **National reports.

In Germany, the local government case studies generally accord with the general pattern of public-private sector pay differences with lower pay offered by private sector providers of local government services. However, the pattern is changing rapidly following the introduction of a new low pay grade in the collective agreement (hourly base rates of €8.87 and €8.62 for West and East Germany, 2012) with the explicit purpose of seeking to reduce incentives to outsource; although it is surprising that no evaluation analysis has been undertaken, neither in preparation for the introduction of this new low pay grade nor subsequently. When combined

with the introduction of a patchwork of sector minimum wages, these institutional changes have weakened the strength of pay differences as a driver for procurement decisions. Four sector minimum wages are especially relevant for our analysis – those set in the sectors of elderly care, commercial cleaning, waste services and temporary agencies.

The public-private gap in minimum pay is now very limited for cleaning and care services in West Germany, at just 5 cents and 12 cents per hour, respectively. However, the gap remains relatively wide for waste services in West Germany (a gap of 54c per hour) and for all three services in East Germany (figure 11.1).

Figure 11.1. Varying statutory and collectively agreed wage floors affecting public procurement in Germany, 2012



Source: pay data from Bosch et al. (2012, National report).

The negligible pay differential for provision of cleaning services is one reason why some municipalities have taken cleaning activities back in-house, although under alternative organisational forms (see chapter 10). For example, one German case-study municipality bought up 100% of the shares of the privately-owned contractor company and another case study municipality (under pressure from Ver.di) rebalanced the public-private provision of cleaning from 30%-70% to 50%-50%. Both case study municipalities recruited new cleaning staff onto grade 1 of the collective pay agreement. The picture for waste services provision is curious, since despite a very low sector minimum wage the evidence from collective agreements suggests workers earn considerably more than the minimum: municipal waste

service workers are usually employed on pay grade 3 (€10.80 up to €13.60, western Germany) and private sector workers in firms covered by the collective agreement for the private waste disposal sector are paid at least €11.00 per hour (western Germany). There is thus a close correspondence between base rates set in the public agreement and the private sector agreement, which to some extent closes down the cost incentives for procurement. However, what we do not know is what share of waste service workers in the private sector work in firms outside the sector collective agreement and what share are paid the statutory minimum wage of €8.33 for the sector. The case study data reveal that companies outside the collective agreement provide less generous bonuses, pensions and conditions of employment protection. A further dampening pressure on conditions (as well as possibly the low sector minimum wage) derives from the very low minimum for temporary agencies, which supply workers in this (and other) sectors (Weinkopf, personal communication).

The dual change in pay patterns, uplifted in the private sector and downgraded in local government may be the explanation for the finding of a recent survey of works councils representatives in North Rhine Westphalia that 91% claimed the new lower pay rate had not influenced either outsourcing or insourcing decisions (Schmidt et al. 2011, cited in Bosch et al. 2012, national report). Despite the reduced rate of pay for low-skill jobs such as cleaning and catering in municipalities, union and works council representatives interviewed for this research believed further efficiency increases would be needed to prevent further outsourcing or to provide an incentive for insourcing. In practice, this would mean cleaning larger areas in shorter periods of time –that is, work intensification and reduced pay (Bosch et al. 2012: 14, national report).

In Hungary, the pay gaps revealed by the local government case studies also accord with the general analyses of econometric decomposition studies. The financial precariousness of many municipalities has dampened local government pay during the austerity crisis and acts as an incentive for employees (and unions) to accept transfers to the private or third sector. For example, at the larger of the two case-study municipalities, elderly care workers accepted the outsourcing to a church organisation following a period of ‘grave financial problems’ within the municipality and the revoking of a raft of supplementary wage benefits (Berki et al. 2012, national report).

However, while basic pay may be higher in private sector contractors delivering local government services in Hungary, overall employment conditions are more vulnerable due to a switch in legal employment status from public to private sector. In practice, this means that coverage of the legal system of wage tariffs set out in the public sector pay arrangement is replaced by the thin protection associated with the Labour Code, limited to application of the two statutory national minimum wages (a standard and skilled minimum wage). The case-study evidence reveals that the dual statutory minimum wage structure sets a commonly used benchmark for wage-setting in the low-income localities. In the smaller of the two case-study municipalities the perception among interviewees was that ‘everyone is on the minimum wage’ regardless of whether they worked for the municipality, a municipal-owned company or a private sector or third sector (eg. church) subcontractor. This meant only one wage differential was significant – that distinguishing workers on the standard minimum wage from those

employed in jobs that fit with requirements for a skilled minimum wage (a differential of 22% in 2010).

Unlike France or Sweden, further protection through collective bargaining coverage for outsourced workers in Hungary is limited. There are nevertheless exceptions. For example, in one of the case studies bus drivers were covered by the Labour Code, as employees of a municipal-owned bus company, but also enjoyed the protection of a company collective agreement that sets basic pay with a small seniority supplement (less than 1% of hourly pay for each year's service, but nevertheless considered a significant union achievement), along with various pay supplements including a bonus based on tickets sold, an annual wage premium (of approximately HUF200,000, equivalent to around €700) and overtime pay (based on a 300-hour quota per employee). Also, in the above mentioned case of the transfer of elderly care services to a church organisation, the church organisation agreed to retain the previously negotiated system of bonuses and other benefits (including re-introducing some wage supplements that had been cancelled by the municipality because of financial difficulties) (Berki et al. 2012, national report).

Sweden's relatively inclusive system of industrial relations means that pay differences do not appear to be a strong driver of outsourcing and insourcing decisions in local government. High collective bargaining coverage, strong union membership and a convergence of trends in wage-setting in both public and private sectors ('negotiated decentralisation', see chapter 6) mean that outsourcing and insourcing decisions are not motivated by differences in pay and industrial relations (Anxo and Ericson 2012, national report). Across the mix of in-house and outsourced local government services explored in two case-study municipalities, public and private sector collective agreements exist for all five areas of investigated services (public transport, school catering, cleaning, waste services and elderly care) and the sector agreement for school catering and cleaning is in fact integrated for public and private sector organisations. Moreover, the minimum annual wage rises in 2012 were very similar across the public and private sector agreements. For example, the public sector agreement for elderly care specified a wage guarantee of SEK607 per employee and the private sector agreement specified SEK 655 (op. cit.: table 15).

In the UK, the divided industrial relations model between strong collective bargaining coverage for public sector workers and weak coverage for private sector workers means that workers in private sector contractors delivering elderly care, cleaning and school catering services are paid at, or only slightly above, the statutory national minimum wage. At first sight the national collective agreement for local government would appear to set a wage that is increasingly competitive with private sector companies – the collectively agreed base rate has been frozen at £6.30 during 2009-2012 while the national minimum wage has increased from £5.80 to £6.19 over this period; the gap in minimum rates has thus shrunk from 9% to 2%.

However, the case studies of six UK municipalities reveal evidence of local interventions to improve pay for the lowest paid in five of six cases. These interventions respond to varying combinations of political, managerial and union interests to address problems of poverty among the local population (particularly by introducing a 'living wage'), to improve staff

retention (followed up by detailed evaluations of its impact), to compensate for work intensification and as an incentive to transfer to a new simplified pay banding structure. It is notable that they conflict with the highly ideological central government policy which has called for a revision of public sector pay to become ‘more market facing’, implying a reduction in pay among low paid public sector workers. Therefore, the local government evidence suggests wages for the lowest paid is pushing in two directions – towards a reducing public sector premium as a result of a failure of the national agreement to win pay rises and yet a widening gap with the private sector following local level collective agreements. The overall effect on the role of pay differences in influencing procurement would thus appear to be neutral.

11.2. Specific protections in procurement: TUPE and social clauses

While pay and the dual wage-setting institutions of collective bargaining and statutory minimum wages can exert a strong influence on procurement decisions, other institutions and practices provide for the harmonisation and protection of workers’ conditions in the specific circumstances of procurement of public services – namely, TUPE (the Transfer of Undertakings Protection of Employment) and social clauses in procurement. We assess evidence of their influence on procurement again drawing on the local government case studies for the five countries.

Protection of terms and conditions for workers transferring from one provider organisation to another as contracts for local government services change hands varies across countries. The case-study findings illuminate these differences (see table 11.2). Two countries find evidence of managers and unions referring to a specific minimum time period for the protection of transferred employment conditions, including mention of a 12-month rule in Sweden and 15 months in France. A further difference is the capability of transferring employees to exercise the right to remain with the municipality (as in one example of transferring cleaners at one of the Swedish municipalities), albeit typically facing the options of redeployment or early retirement since the job has been outsourced.

In France, in one case of school catering public sector employees were transferred to a joint venture public enterprise and had their employment and pay protected. When this organisation lost the contract they were further transferred to a private company with continuing protection and guarantees that they would not be moved to another part of the company. Evidence from another case study shows that the application of employment protection legislation sometimes has to be fought for. When the contract for local transport (buses and trams) passed to a new private sector company, the transferring workforce was aware that the company had a prior reputation of seeking to avoid its responsibility to honour protected terms and conditions and in defence mounted a successful strike to win protection for the entire six-year period of the contract, far more than the stipulated 15 months (Audier et al. 2012, national report).

In Hungary public sector employees may turn down the offer of a job in a privatised concern but if they do so will receive a lower severance payment than they would otherwise be entitled to. Other employees have no option but to accept the transfer. After transfer, the new management has more scope for changing pay and conditions but in one case-study example of

transferred employees to the church the new employer has agreed to maintain the same conditions for now (although largely this involves maintaining minimum wage conditions). In the case of staff transferred to the church, the data suggest they were willing to transfer as they had worries that the municipality would become insolvent and not pay their wages.

Table 11.2. Case-study evidence of practical application of TUPE in local government outsourcing and insourcing

	Application of TUPE in practice	Formal (legal) or informal use of a minimum period of post-transfer protection?	Other issues?
France	New employer must maintain terms and conditions of employment as specified both in the collective agreement and in customary practices; protection against dismissal at point of transfer	Yes - 15 months	Insourcing means workers lose half their accumulated length of service and therefore typically experience frozen pay for several years; also, no automatic entitlement to civil service status
Germany	New employer must maintain terms and conditions of employment as specified in the collective agreement; protection against dismissal at point of transfer	Yes – 12 months	Transferees have the right to refuse transfer within a period of one month. The employee remains employed with the transferor, who needs a justified reason for dismissal
Hungary	New employer must maintain terms and conditions of employment as specified in the wage tariff system; protection against dismissal at point of transfer	No	Transferees can exercise the right to refuse transfer from municipality but receive a lower value severance payment
Sweden	New employer must maintain terms and conditions of employment as specified in the collective agreement; protection against dismissal at point of transfer	Yes – 12 months	Transferees can exercise the right to remain with the municipality (redeployment and early retirement options)
UK	New employer must maintain terms and conditions of employment as specified in the collective agreement; protection against dismissal at point of transfer	No	Strong use of ‘fragmentation of services’ by municipality employers to evade TUPE

Source: Five national reports.

Municipalities in the UK were taking steps to evade the application of TUPE regulations particularly in areas where there was a wide gap in pay and conditions between in-house and private sector staff. Strategies used included the reorganisation or ‘fragmentation’ (as referred to in the legal cases) of the services outsourced to reduce the possibility of identifying specific staff with the outsourced service. Recent legal cases have decided that TUPE does not apply to the outsourcing of public services that are newly split up by geographical area in a tender exercise.

As we outlined in Part III of this report, the practice of including a social clause in the procurement of public services – such as prescribing a minimum rate of pay, a full pay-scale, promotion of gender equality or the hiring of people with disabilities – is a controversial topic. Among our five countries, Germany appears to be the country where the forms of institutional experimentation appear to be greatest, although other countries, including Sweden and the UK, also provide interesting examples. The issue is less relevant in France, arguably, since extension of collective agreements provides a ‘functional equivalent’ (Schulten 2012). The case studies also reveal variation in roles and forms of social dialogue in procurement practices, an issue we explore further in chapter 12.

In Germany, there are varying practices across the different regions and within regions over time. In North Rhine Westphalia, where the case studies were undertaken, the introduction of a pay clause in procurement legislation was first introduced in 2002 during a period when around half of German regions introduced similar legislation, largely with respect to public construction and public transport although with widening coverage of services activities (Schulten 2012). It was then abolished in 2006 following a change in political control (from Red-Green to CDU/FDP) and in response to the results of an evaluation that were used by the new government to argue that the prevailing wage law had not been effective at meeting its objectives. The 2008 Ruffert judgement (see Part III, chapter 7) against the pay clause in Lower Saxony procurement law led to revisions and abolitions of pay clauses. Subsequently, during 2010 and 2011 a new wave of regions passed legislation on pay clauses, including its re-introduction in North Rhine Westphalia (op. cit.). The main issues of the new prevailing wage law are that private providers which carry out public orders need to follow the collectively agreed pay rates for their sector if they are extended by AEntG. Providers from other sectors have to pay at least €8.62 per hour to the employees involved in carrying out the public order (not to all employees). This refers solely to the lowest hourly pay rate, not to the full pay-scale and not to other working conditions. The overall very complex law also refers to some other more general issues such as compliance with ILO-norms (e.g. avoidance of child labour), gender equality and environmental protection.

In Sweden, one of the two case studies illustrates use of social clauses in the tenders for cleaning services. All private sector subcontractors with more than 25 employees are required to provide a gender equality plan and to respect principles of equal treatment, including a formal declaration that the employer fully respects the Swedish law on discrimination (Anxo and Ericson 2012, national report).

12. The role, resilience and effectiveness of social dialogue in local government

The European Commission defines social dialogue as encompassing both the bipartite and the tripartite processes between social partners and between social partners and government (whether national governments or, at European level, the European Commission).¹⁶ While the aim of these processes is to reach agreements between the social actors, the term ‘social dialogue’ also refers to the complex set of relationship, consultation, and exchange between them. Embracing this definition in analysing research data across the national cases considered means paying attention to different sets of relationship and procedures: the collective bargaining process, as well as other forms of pursuing agreements between employers and trade unions; the formal and informal processes of consultation and information exchange between social partners; the evolution of particular institutional configurations and legal frameworks that influence the negotiation processes; and the direct role of (national and local) governments as public sector employer. These factors differ across the five national cases and are strongly contingent on national embedded traditions, institutional arrangements and legal frameworks. The five countries considered for the research include systems characterized by a resilient tradition of social dialogue (Germany and Sweden), countries with a preponderant role of the state (France and Hungary) and a country with a hybrid mix of regulatory mechanisms and procedures (the UK).

National configurations and processes establish the boundaries within which local actors may exercise social dialogue at the level of the municipality. Although the role of national government has been more proactive during the austerity crisis in most of the national cases considered it does not always correspond to changes in the direction of a more centralised system of setting pay and working conditions. The five countries considered differ with respect to the level of autonomy given to local level municipality social partners and to the regulatory instruments they can use to influence local pay determination. However research findings show that local level social dialogue is present to a greater or lesser extent in all case studies, whether as negotiations between local government employers and workers’ representatives or as formal/informal consultations between local actors.

12.1. Social dialogue in local pay determination: negotiation versus consultation in municipalities

Among the five countries, Sweden and the UK provide the strongest opportunities for local level engagement and negotiations between unions and employers in local government. In both countries, local government employees are covered by a national collective agreement that provides scope for further negotiations at the local level. In Sweden, negotiations on wage increases are carried out locally but subject to the constraint imposed in the national agreement of a minimum increase in the overall pay bill and/or a guaranteed individual pay rise (see chapter 9). In the UK, local managers and union representatives have wide discretion to change

¹⁶ It is important to note that the European social partners adopt a narrower notion of social dialogue, considering it only their bipartite, autonomous work. They prefer to use the notion of tripartite concertation if public authorities get involved.

conditions of employment including pay (through job grading decisions), sickness scheme, overtime pay and unsocial hours premiums.

In the other countries, there are no negotiations on basic pay at local level since this is entirely regulated either by a national collective agreement (Germany) or by national level legislation (France and Hungary). However, in both France and Germany national level provisions have recently introduced the possibility for local actors to carry out negotiations on integrative elements of pay. In France local level negotiations focus on bonus and premiums as well as on compensation for civil servants, while in Germany negotiations are in principle undertaken with respect to performance-related pay. The possibility of engaging in local bargaining suggests a shift towards greater flexibility and potentially enhances the role of social dialogue at decentralised levels. In Germany, this flexibility goes hand in hand with the introduction of more responsibilities for the employees' councils that are in charge of negotiating matters not covered by the national collective agreement.

Hungary is the country where social dialogue at local level is weakest. Decentralised collective agreements, in fact, are possible for public service employees, as well as for municipal-owned companies that follow the same rules and procedures of the private sector. However, even here meaningful collective bargaining is rare due to limited management autonomy; unions are rarely able to achieve more than the mandatory minimum. Furthermore, reforms have further limited collective bargaining in publicly-owned companies with the consequence that wages in state and local government employers may not deviate from the statutory amount that is defined by law. Also the new Labour Code (2012) has reduced trade unions' influence at the workplace since it has granted works councils the possibility to conclude collective agreements (although not on pay) if no union is present. Despite these obstacles, the case-study research highlights that in one of the two towns investigated, negotiations did occur in public utility companies where trade unions had a strong presence. In the other municipality where union strength was lower, no collective bargaining took place and neither was there evidence of social dialogue among civil servants although the law makes it possible.

The presence of established rules and mechanisms also influences the extent to which local actors engage in consultation processes. In some countries, 'institutionalised' channels of consultation exist - as in Germany where, besides co-determination rights, works councils have the right to establish a business committee to discuss matters such as the commercial and financial situation, planned investments, partnerships with private entities, rationalisation plans, the introduction of new working and management methods. In France, unions also participate in consultative committees that play a key role in fixing rules governing employees' careers. Such consultation mechanisms may have an impact on workers' pay depending on the trade union bargaining power within the specific local authority. Consultation and negotiation between municipality employers and unions is also a relatively widespread practice in the UK, and indeed local level bargaining is required in order to implement the single status (harmonisation) agreement that was negotiated at national level. Nevertheless, the case studies revealed instances of a failure, or avoidance, of social dialogue at local level, including two cases where managers imposed mass dismissal and re-engagement of their workforces.

Hence, while in Sweden and Germany, social dialogue has been favoured by the presence of a rooted tradition and institutionalised procedures, in the UK, France and especially Hungary, the occurrence of social dialogue – in the form of consultations and negotiations - has been far more dependent on the relative strength (and effective strategy) of the trade unions.

Table 12.1. Local level social dialogue in local government

	UK	Germany	Sweden	Hungary	France
Negotiation versus consultation in pay determination	Negotiations on pay and grading, sickness scheme, overtime, unsocial hours premiums, among others Consultation through informal procedures	Negotiations on performance-related pay Co-determination rights and membership of business committees	Negotiations on pay increases (subject to national guarantees)	Negotiations only possible in the local government owned companies and for public service employees	Negotiations on bonus and premiums, on the number of employees eligible for promotions Consultation on rules governing employees' careers
Strength of social dialogue at local level	From weak to strong, depending on union strength and employer orientation	Strong, depending on institutionalised procedure	Strong, depending on institutionalised procedure	Weak, due to high centralization and limited autonomy of some actors	From weak to strong, depending on union strength and employer orientation
Examples of fair and unfair outcomes	Improved pay for lowest paid workers/ flexible redeployment policies; unable to prevent reduced pay premiums, downsizing and collective dismissals/re-engagement	Limited, unable to prevent downgrading of pay in low skill jobs	Effective local pay bargaining and job stability	Limited, some positive pay bargaining and job protection	Improved bonuses and supplements that especially benefit lowest paid
Effectiveness of union engagement in procurement	Low Consulted over transfer process, but unable to win application of TUPE, or insert pay as a social clause. Some positive outcomes over redeployment within municipalities	Low Seek to limit outsourcing but limited evidence to date ; continued process of levelling down in many services	High Argue for same terms and conditions for transferred employees, limiting outsourcing	Low Unions not a major actor influencing the form or frequency of procurement	Medium Mixed aims depending on the particular case of public-private differences in pay and conditions and the municipality budget conditions.

12.2. The strength of social dialogue and delivery of 'fair outcomes'

The case-study findings suggest that the presence of institutional configurations facilitating social dialogue is not a sufficient condition for the delivery of 'fair' outcomes, which we define in terms of a balance between job stability, sustained levels of real wage income and exercise of worker voice. There are two inter-related issues.

First, strong national institutional arrangements may deliver an unfair settlement – such as the new low pay job grade in Germany or the failure of the UK’s national agreement to grant the £250 low pay supplement that was awarded to all other public sector groups of workers. In Germany, unions at national level agreed a reduced pay grade for jobs requiring low skill despite their apparent concern for decent pay in the public services. They did so mainly with the aim of retaining employment within municipalities since lower pay, in principle, reduces the risk of outsourcing low-skilled activities. However, the case studies suggest it has not significantly diminished the pace of outsourcing, such that the net result is continued job instability combined with reduced real wage income for workers in low-skill jobs.

Also, while the case-study data are relatively sketchy, the implementation of performance related pay as provided for in national framework agreements does not appear to have achieved its expected outcomes both in terms of the positive prospects for local social dialogue and the managerial goals of increased motivation. For example in the German municipalities, in most cases, employee councils are critical of the lack of transparency in the distribution of bonuses, the risks for pay equity and the intensification of work at a time when workloads are already high due to staff shortages. Moreover, in practice, the budget available for performance-related bonuses is typically distributed evenly, thereby making limited difference to individuals’ total pay.

Second, the delivery of ‘fair outcomes’ is contingent upon union strength and strategies pursued by unions and employers within the specific local context. The evidence for Hungary is illustrative. Social dialogue between local level actors in one of the municipalities investigated was able to preserve employees’ pay during the crisis and in the face of austerity budget measures; workers in the public utility companies of Town B benefited from stronger unions that managed to preserve the level of pay and non-wage elements of compensation.

Much depends on what may be called the ‘political proximity’ of relationship between local employers and trade unions. Where this is present, social dialogue may be more able to achieve a better balance between local authority policies aimed at guaranteeing budgetary stability at the local level and conditions of employment of the local workforce. In both France and the UK, for example, social partners paid particular attention to the lowest paid employees as a result of municipality employers’ sensitivity towards the socio-economic conditions of the local workforce and trade union strength and concerted pay equity strategy. In one of the two French municipalities, the employer and unions agreed a reform to harmonize and simplify the system of bonuses and premiums with the aim of promoting transparency and equity. In this case, social dialogue occurred within a committee composed by the political members of the municipality, human resource managers and employees’ representatives. As a result of the negotiations, the total annual wage bill for the lowest paid increased by around 12%.

The UK data also highlight the occurrence of greater political proximity between unions and local employers, resulting in the uprating of low rates of pay in four out of five municipalities, despite stringent cuts to local authorities’ budgets by central government and a freezing of pay imposed in the national pay agreement. Employers’ reasons chimed with those presented by unions – a need to address local poverty, the need to set a standard for other local employers and the need to compensate for the greater workload following downsizing. In two

municipalities, social dialogue resulted in an agreement to pay the living wage to the lowest paid (some 6 or 7 pay points higher than the national base rate of pay). At one of these municipalities the data revealed the dedication of partners to social dialogue to make this happen – it required several rounds of negotiations to win the collaboration of school governing bodies (since schools have autonomy over their budgets), as well as successive negotiations with the changing political constituency of the municipality as it changed political leadership following a local election.

12.3. Unions' engagement in procurement decisions

The strategies pursued by trade unions have been especially relevant in shaping municipalities' decisions on procurement. Although unions generally express a preference for in-house provision of local government services, their actions at local level are variable, depending on the circumstances.

In Germany, trade unions opposed the outsourcing of municipality work because it was expected to lead to a generalised worsening of working conditions. Unions called for more transparent cost-benefit analyses, training of union representatives in the economic issues and better focused codetermination through provision of timely information on procurement decisions. The above mentioned business committees, which include employee council members, allow employee councils to stay informed at the planning phase about investments, planned procurement contracts and outsourcing and help them to be involved in the decision-making process. Furthermore, according to a recent law only companies that comply with current collective agreements or respect a set minimum wage are entitled to receive public contracts. In one municipality, unions were able to influence managers in such a way as to limit outsourcing and even to re-municipalise some activities, despite local politicians' calls for a further increase of external contracting. This outcome was achieved by demonstrating that in-house service was cheaper (partly through the use of the new low pay grade). The paradox is that the pay and conditions of newly recruited workers to the municipality has worsened. In another municipality, by contrast, no efforts have been made to bring cleaning services back in-house, despite the same application of the low pay grade.

In the other countries, union strategy has focused to a greater extent on the conditions of pay and employment protection of transferred employees rather than on the procurement decision itself. Trade unions' engagement in social dialogue within local authorities has been able either to maintain equal working conditions for transferred employees (Sweden and Hungary) or to negotiate some improvements with respect to what is stated in the contract of transfer (the UK). In Sweden, the high coverage of collective agreements, combined with increased tendency to local wage formation, has entailed some convergence of wage formation in public and private workplaces. In Hungary, the limited examples of social dialogue nevertheless suggest that collective agreements can protect pay and working conditions for transferred employees - including the retention of seniority pay, overtime premiums and other working-time conditions. At one municipality, unions negotiated with a church organisation to retain the same terms and conditions of pay and employment in its new collective agreement and also agreed the reintroduction of particular benefits that had been cancelled by the municipality. Unions and

works councils also consulted with municipalities over redundancies, something that was contrary to the general practice.

In the UK, unions have been strong advocates of TUPE and have also campaigned in favour of further protection for new joiners to contractor companies. The Code of Practice on Workforce Matters in Local Authority Service Contracts (abolished by the government in 2011) was issued in 2003 in response to trade union campaigns over evidence of two tiers of employment conditions in private sector firms providing outsourced local government services. The code established that TUPE ought to be applied unless exceptional reasons made it impossible and that service providers ought to offer employment to new recruits on terms and conditions that were 'no less favourable' than those of transferred employees. In practice, the operationalisation of the code, which was not legally binding, required its incorporation into local collective agreements between subcontractor and union (and local government agreement in its role as purchaser). However, local authorities have scarcely applied the code; neither have they sought to apply it indirectly by writing a social clause into procurement contracts.

The UK case studies of local government reveal few instances of social dialogue that has effectively ensured improved (or sustained) pay and conditions for transferring workers. In one unusual case, the union maintained the quality of pensions (not covered by TUPE) for staff transferring to a public-private joint venture for waste collection services. More generally, however, unions have been unable to prevent the evasion of TUPE rules by employer practices of fragmenting services for contracting (see chapter 11).

France is a contrasting case. Here, unions appear to have adopted a pragmatic approach towards procurement. At one municipality the employer was keen to re-municipalise some of the outsourced services. However, better collective agreements in the private sector contractor companies had over time resulted in more generous pay and employment conditions. Therefore, unions have to date been reluctant to push for re-internalisation (eg. in local transport, water supply and waste water), since transferring workers risk losing important fringe benefits. Furthermore, unions fear that the worsening budgetary situation of municipalities would not support future improvements of pay and conditions. These particular circumstances explain why unions in one case study supported a private company over the city council's Société d'Economie Mixte in provision of school catering since pay for the private company employees was about 10% higher than the wage of equivalent employees in the municipality; the private company also committed itself to maintain all the current employment and pay conditions and to avoid transferring employees to another unit of the company outside the municipality. Unions were also consulted on a decision to reintegrate local transport, but again opposed the proposal since they feared a process of progressive harmonization with the much less favourable employment and pay conditions of the local authority employees.

12.4. Social dialogue under austerity

Social dialogue is a vital institutional tool to manage economic decisions and especially so during periods of restructuring and austerity. During the 1990s, many European countries negotiated tripartite 'social pacts' in response to a recognised need to adjust wage expectations in the new context of European monetary integration, leading to several studies arguing for the economic and political benefits of negotiated wage restraint in a context of strict monetary

policies (eg. Hassel 2006). In exchange for wage restraint, trade unions were able to secure the maintenance of employment levels and economic investments. It would appear that these lessons have been to some extent forgotten during the present ongoing period of austerity. While at first the 2008 financial crisis led to an acceleration of social dialogue, the actual outcomes in terms of agreements have been scarce and only realised after the use of conflict on the side of trade unions (Rychly 2009). Furthermore, where tripartite agreements have been signed, they have often had a quite limited scope (Hyman 2010). Also bipartite social dialogue is facing a period of increasing difficulties with an escalation of industrial conflicts in many European countries and a much reduced ability of unions to protect public sector employees from job cuts and pay cuts.

At the country level, industrial relations has shifted to the centre as national governments have imposed unilateral pay reforms and placed significant constraints on local level social dialogue, even when, as in the case of the UK, the government espouses a new doctrine of 'localism'. Nevertheless, our case studies of municipalities suggest there are spaces for social dialogue, which may be interpreted as local forms of 'legitimation' (after O'Conner 1973) as local actors seek to modify the unfair consequences of austerity imposed on public sector workers to pay for a bailout of failing banks. The analysis of data for the five countries shows that institutional arrangements as well as legal, cultural and political conditions, are still very relevant in influencing the processes of social dialogue at local level as well as the extent to which social partners have been able to achieve formal agreements and fair outcomes.

Overall, the analysis of case-study data suggests that the role of social actors acquires a stronger relevance in achieving fair outcomes under certain conditions – presence of formal local negotiation, trade union strength, orientation of the municipality employer and 'political proximity' of unions and employer. The simultaneous presence of these factors has resulted in several examples of local level social dialogue that is based on a genuine concern for pay and employment conditions, which explains some of the unconventional strategies of actors involved.

13. Conclusions: Lessons for policy and practice

The public sector is at the eye of the current fiscal storm in Europe. The current crisis is exacerbating longer term pressures to reform public sector pay and employment practices and to redefine boundaries between public and private sector employment through more extensive use of public procurement rather than direct delivery. This investigation of public sector pay and procurement in five EU member states is therefore timely as it provides much needed detailed evidence on actual pay and procurement strategies and practices to inform the continuing debate on the role of the public sector in both the labour market and the fiscal crisis.

One of the most important findings from this study is the extent of diversity across Europe among public sectors in respect of pay and procurement practices, such that there cannot be any general notion that the current debt crisis could or should be solved through squeezing public sector privileges through reforms to pay or promotion of outsourcing. It is far from the case that public sector employees are universally well paid or that outsourcing would necessarily reduce costs to the public purse. Where costs advantages appear high, these may reflect opportunities for low pay in the private sector rather than excessive pay in the public sector. These differences between member states in public sector pay and procurement are in addition to large member state differences in the current availability of vital public services and pressures on their delivery. Both these factors suggest that any public sector reforms must take into account the actual situation within a particular country and not become a general mantra for fiscal consolidation.

A second major finding is that social dialogue arrangements are proving to be relatively weak in the face of major budget cuts and a determination of the state to enforce changes to wage systems. This means that public sector employees are particularly at risk from unilateral changes to their pay and employment contract either made by employers acting on behalf of the state or by direct state interventions designed to meet fiscal targets. These changes are often not informed by any assessment that current actual levels of pay and conditions are too high and may bypass explicit commitments to social dialogue in the form of either collective bargaining or consultations.

Public sector employees face particular problems with the state's exercise of its powerful role as an employer when either they have very specific skills that are not usually demanded in the private sector (for example in health or education) or when this power is exercised, as now, at a time of general turndown in the economy. Social dialogue has only tended to remain strong, for example in Sweden, where there is less pressure on public sector budgets than in the other countries considered here. However, Sweden also demonstrates the importance of strong social dialogue backed by regulations for pay transparency in shaping pay outcomes rather than the method of pay setting per se. Thus the move to individualised pay in Sweden has not resulted in widening wage inequality as might be expected where social dialogue or transparency regulations are weaker. However, even in the context of extreme budget cuts and bypassing of normal consultations and bargaining, public sector managers were found to be aware of the need to find ways to engage the remaining staff in the delivery of vital public services often with lower staffing ratios; our study of municipalities found examples of various strategies

being used to modify major cutbacks in pay or employment including some local pay arrangements or even the use of outsourcing to facilitate higher pay.

A third major finding is that the public sector is primarily an area of women's employment and that cuts to pay and conditions are likely to increase the gender pay gap and stall any progress towards gender equality. There is a wide variety of pay systems and pay levels in the public sector in Europe. Not all public sector employees are well paid, some are relatively low paid and may even face a pay penalty for working in the public sector, particularly the higher skilled. Women tend to have a higher premium for working in the public sector than men but this premium disappears if women's public sector pay is for example compared to men's pay in the private sector; in short the premium reflects women's poor position in the private sector, which is likely to reflect gender pay discrimination as most studies in most countries still find evidence of unexplained gender pay differences particularly within the private sector where gender pay gaps tend to be larger.

While the lower skilled and women in particular benefit from the public sector setting higher or at least equal minimum pay standards to the private sector, higher skilled professionals may be at risk of lower or negative premiums. This particularly applies to professionals in eastern European countries, including Hungary, where very low pay for the feminised professions in education and health is evident. Whether or not the public sector can be considered to be offering fair pay or to be under or overpaying its employees depends both on the specific institutional and labour market context and must take into account the extent of pay inequalities within the labour market as a whole.

Another issue affecting equalities within the public sector and between the public and private sector is the increasing use of non standard employment contracts within the public sector, a practice which tends also to be increasing the female share of employment. This applies particularly where the growth is in part-time work but also where it is employment on a temporary contract basis and/or on a non civil service basis to evade employment restrictions and/or to enable payment at lower rates. The significance of this internal flexibilisation of employment and employment status varies between member states and the legal and institutional context in which the public sector operates. However, not only is this an important phenomenon driving internal differentiation in the public sector but it is also part of the spectrum of strategies available to public sector managers from delivery based on direct internal standard employment at one end to delivery through fully outsourced activities at the other, and is thus an important part of the pay and procurement interactions with which this study was concerned.

The final major finding of the study is in fact the revealed complexity of procurement decisions by municipalities in the five country cases. This suggests that the issues are much more complex than simply a dichotomous make or buy choice between outsourcing or retaining services in-house. There are many opportunities inbetween for varieties of public/private partnerships, joint enterprises or even for wholly-owned public enterprises set up on a different legal basis than the direct public service which offer various advantages in the form of pay or employment opportunities or opportunities for private investment or management.

Not only are there these intermediate options between a pure make or buy solution but also the decisions may and are being reversed so that the movement is not all in one direction in at least some member states. Where there are distinct wage cost advantages the pressures tend to be stronger but the more important factor is the general political climate at both local and central levels shaping outsourcing pressures. Where there is no ideological commitment to outsourcing it may still take place but more for efficiency, flexibility or investment reasons - although even here the benefits are not fully subject to scrutiny and there is limited evidence that detailed or strong business cases are developed prior to decisions to outsource or that social dialogue institutions are involved in assessing and scrutinising decisions.

Insourcing may also take place against a range of conditions – for example where wage cost advantages narrow or disappear, where there are problems of service delivery, where expected additional benefits of the contract fail to materialise, where the economic case for outsourcing changes, or where the political climate changes. Our data show that outsourcing may be used both to raise pay where public sector pay is restrictive and to reduce pay.

We also found major variations across the five countries with respect to three constraints on outsourcing. First of all Sweden and Germany are making much more extensive use of social clauses with many Länder in Germany developing prevailing wage laws since 2010. The extension of collective agreements provides a functional equivalent in France but in the UK and Hungary the use of such clauses is questioned as not compatible with EU law. The second type of constraint relates to the application of the TUPE regulations; there are considerable differences between countries with again Sweden and Germany providing the strongest rights for staff under pressure to transfer, while municipalities in the UK are taking action to evade TUPE transfers. Finally in some countries - notably France and Germany - there is an emerging willingness to reinternalise services when outsourcing failed to deliver or there are now opportunities for profitable operations within the public sector. The willingness to reinternalise could be considered the most effective form of monitoring of external providers. All these three examples suggest the need for consideration of more extensive and innovative policies to ensure that procurement works in the interests of the wider society including users, employees and taxpayers.

Policy lessons

From these key findings we can identify some lessons for policy which are particularly needed in these turbulent times when the public sector has become a political football at the international and national level. Indeed the first and most important general lesson is to avoid generalisations and to recognise the diversity of conditions in the public sector and within groups within the public sector. The second and vital lesson is that the public sector is not only part of public accounts but also a vital deliverer of public services and consideration needs to be given to the terms and conditions on which staff are employed to deliver such services and not simply to budget targets. The third general lesson is that outsourcing does not always save costs and that there needs to be better scrutiny and monitoring of outsourcing decisions, including the real likelihood of reinternalisation if providers fail to deliver or circumstances change. Beyond these three general implications for the findings there are some more specific issues that need to inform public sector reforms and shape public policy.

The first is to recognise that not all public sectors pay positive pay premiums and even if they appear to do so not all public sector workers necessarily benefit. Furthermore higher pay may be justifiable when it reflects higher skilled work in the public sector on average compared to the private sector or when it offsets wage discrimination in the private sector against some groups such as women. At a minimum this must mean undertaking a proper assessment before pay changes which takes into account skills, responsibilities and compares pay levels to a gender neutral definition of fair pay for particular job grades (comparable male pay in the private sector or an average of female and male pay in the private sector).

Public sector workers are traditionally viewed as protected but at a time when governments are implementing fiscal consolidation programmes they may be particularly vulnerable to monopsonistic employer power. Social dialogue may only act as a counterbalance in the good times and may not be able to modify the power of governments to prioritise fiscal concerns over the needs of service users and the rights of the employees. Consideration needs to be given to reinforcing rights to social dialogue by regulations enforceable through the courts.

Better scrutiny of outsourcing decisions needs to be introduced involving social dialogue systems to ensure a proper business case exists. Even more importantly there needs to be more effective monitoring of the actual delivery after outsourcing and this should be under the auspices of social dialogue as some services may need to be re-internalised and outsourcing should not be considered a one way process. One way of preventing outsourcing to external organisations without the capacity to deliver services of an appropriate quality would be to allow for stronger social clauses within tenders, including requirements for quality human resource practices. The right to do this under EU law needs clarifying - and if necessary changes to EU competition law passed to allow, for example, calls for tenders to insist on appropriate pay and grading, training and staffing levels as a minimum condition in tenders.

Public sector pay and procurement needs to be considered within the wider context of appropriate pay systems and minimum employment standards. Attention thus needs to be paid to minimum wage levels prevailing in the private sector to ensure these provide reasonable levels of remuneration and to ensure that outsourcing is not encouraged simply in response to cyclical adjustments in minimum wage rates. It is notable that the public sector in Sweden is not regarded as an area of highly privileged terms and conditions in part because decent minimum standards across a wide range of employment dimensions are also set and observed in the private sector. In these difficult times for Europe and when there are pressures on employment standards in the private sector it is important to ensure that fiscal consolidation pressures do not lead to a downwards vicious spiral with the public sector being increasingly asked to match declining employment standards in a hard pressed and increasingly deregulated private sector.

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Appendix table A1. Evidence of public-private sector adjusted pay gaps from econometric decomposition analyses

Data		France	Germany	Hungary	Sweden	UK
Brindusa et al. (2011)	ECHP 1994-2001, 12 countries (see table 6)	+15% PS premium (F), +17% (M)	+8% PS premium (F), -9% (M)	--	--	+9% PS premium (F), 0 (M)
Lucifora & Meurs (2006)	National surveys 1998 (decomposition includes regional controls) (table 2, figure 3)	+6% PS premium at median +10% D1 declining to +3% D9 (F) +10% D1 declining to -4% D9 (M)	--	--	--	+7% at median +18% D1 declining to 0% D9 (F) +7% D1 declining to -1% D9 (M)
Hámori and Köllő (2012)	National wage survey data 1986, 1989, 1992-2010	--	--	-5% PS penalty (2010); significant swings over time from premium of >+10% in 2004-6 and penalty of -15-20% in late 1990s Among low educated, 42% low pay incidence in PS and 38% in private sector	--	--
Dickson et al. (2010)	ECHP 1994-2001, 5 countries	+4% PS premium (raw gap +13%); +14% PS premium for low-educated workers; small PS premium initially falls with experience to zero at 13 years then rises (U-shaped)	-12% PS penalty (raw gap +5%); small premium for workers with 16-34 years experience (inverted U-shape premium)	--	--	--
Giardano et al. (2011)	EU-SILC 2004-7, 10 countries	+7% PS premium (F), +4% premium (M); +15% D1 declining to zero (not significant) D9 (F) +10% declining to -7% D9 (M) +7% high educated F, +8%	+19% PS premium (F), 3% premium (M); +45% D1 declining to -5% D9 (F) +22% D1 declining to -19% D9 (M) +26% low ed F, +19%	--	--	--

		low educated M	medium and high ed F		
Tepe et al. (2012?)	Luxembourg Income Study 1994-6, 2004-5	Significant PS premium (F), small significant penalty (M); Moderate decline in PS premium to zero at P75 to penalty D9 (F); No significant gap except penalty at D9	Significant PS premium (F), no significant gap (M); Strong decline in PS premium from D1 to zero D9 (F) Strong decline in PS premium at D1 to zero at D5 to penalty D9 (M)	--	No significant PS premium (M, F); Similar PS penalty at all wage points (F, M)
Ponthieux & Meurs (2005)	ECHP 2000, 10 countries	(raw gap 26% F) (raw gap 13% M)	(raw gap +21% F) (raw gap +12% M)		(raw gap +18% F) (raw gap +2% M)

Notes: PS = public sector.

