

# The public sector pay system and public procurement in Germany

## National report

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## Executive Summary

The German public sector is relatively small compared to other OECD countries and the share of the state in GDP has been reduced. Because of the strong economic and employment performance in the last few years there have been no special adjustment programs for the German public sector in the crisis. Substantial adjustments, such as reductions in employee numbers, pay freezes or cuts and reductions in pension entitlements, have instead been taking place gradually over the past 20 years, with important cumulative effects. This report addresses the current outlook for public sector pay and procurement in Germany by presenting a broad overview of trends, as well as original empirical evidence from the local government sector consisting of case studies of three municipalities. The report addresses the following key questions.

- Can the German public sector sustain a tradition of strong internal labour markets with jobs for life?
- What are the trends in public sector pay compared to the private sector?
- What are the consequences of the radical reforms in 2005 of the system of collective bargaining on pay and other conditions of municipal employees?
- Is there variation in the organisation of in-house or private provision of municipal services?

### Steady decline in the size of the state

Most of the reductions in public sector employment occurred between 1991 and 2000 and tended to be experienced by non-civil servant employees rather than civil servants (*Beamte*). Their number decreased from 3.9 million in 1991 to 2.7 million in 2010 while there was only a slight reduction of the number of civil servants in the same period. As a result, the proportion of civil servants in total public sector employment increased substantially in recent years. The overwhelming part of staff reduction in the public sector is the result of outsourcing and privatisation.

### And changing composition

The German public sector is still an example of a strong internal labour market with life-long-employment. Today, however, there are an increasing number of peripheral employees with temporary contracts. The average skill level in the public sector is higher than in private industry because many highly and middle skilled activities like education, jurisdiction or tax offices are concentrated in the public sector.

In the last decade the number of women employed in the public sector remained nearly constant while men's employment diminished by approximately 9%. Consequently the share of women increased and, at 54%, is around eight percentage points higher than in total employment. Moreover, the share of highly skilled women in the public sector is 43%, fourteen percentage points higher than in private industry.

## Patterns of pay and the reform of collective bargaining

Wages in the public sector at the lower end of the wage scale are above those in the private sector and they are more compressed. In the last decade collectively agreed wages in the public sector have fallen behind the wage increases in most private industries.

Industry wide bargaining is still common in the German public sector. However, the interests of both sides became progressively more heterogeneous during the 1990s and early 2000s, which in turn led to a decentralisation and fragmentation of collective bargaining. The ‘turning point’ in public sector collective bargaining was the negotiation of new framework agreements, which began in 2003. The former highly standardised national agreements which covered the whole public sector were replaced by various collective agreements in 2005/2006. These new agreements reflect a completely new model for the public sector and include the following key features:

- a greater emphasis on performance rather than automatic seniority-related pay;
- the creation of a low-wage pay grade;
- dual level collective agreements – one for the *Länder* (TdL, 2006) and one for the municipalities and the federal state (TVöD, 2005);
- supplementary agreements for different occupational groups or sub-sectors, such as hospitals, care, and local transport; and
- a separate directive for the civil servants.

## Evidence from local government

The report presents original empirical data from case studies of three municipalities and interrogates the recent changes in pay, working conditions and procurement strategies in the current context of considerable budget constraints. Staff cuts have been substantial at local level, as they have at national and regional level, and have affected non-civil servants in particular. By outsourcing and awarding contracts to external providers, the core area of municipal administration has been continually squeezed. However, to date these measures have not led to an effective reduction in structural municipal debt.

The analysis focuses on two main issues: 1) What are the effects of the 2005 collective agreement (TVöD) on the pay levels and pay practices in municipalities? and 2) Is there evidence of different patterns among municipalities in how they organise public services? In particular, do they tend to keep as many services as possible in public control or is there a creeping erosion of public services as contracts are awarded to private providers and services are spun off as independent private-law entities?

### ➤ What effects of the new collective agreement on procurement?

In terms of the impacts of the new collective agreement since 2005, it is notable that there are limited possibilities at municipal level to improve employees’ working conditions and pay using the collective agreement instruments. By introducing a new base rate of pay at a lower level, the employers and trade unions intended to prevent the outsourcing or privatisation of simple services as far as possible. This can be interpreted as a reaction to the pressure on pub-

lic sector employment caused by privatisation and outsourcing. To date, the effectiveness of this measure has been fairly limited. Although some municipalities have brought (parts of) outsourced services back under public control and safeguarded public sector jobs, external contracts continue to dominate.

➤ **New practices of merit pay?**

Performance-related pay, which was included in the new collective agreement primarily at the request of the employers, has been introduced very cautiously. We found that it did not really produce the desired increase in motivation and performance among employees because of the limited financial resources available for performance-related bonuses.

Judging by our case studies, it is likely that even where municipalities have signed an agreement on performance-related pay and have involved the employee council in defining suitable criteria, the practices followed for awarding the bonus payments for a large number of employees are often unclear. According to the expert interviews the risk of unmerited bonuses being paid ‘routinely’ exists. In many cases, the budget available for performance-related bonuses is distributed evenly, which means it does not make a noticeable difference to individuals.

➤ **Convergence or divergence in procurement policy and practice?**

As regards municipalities’ procurement and outsourcing policy, based on our findings there is no evidence of a systematic and coordinated procurement policy. Even though fiscal policy considerations always play an important role, the factors which determine make-or-buy decisions in the municipalities vary widely, even across various departments within the same municipality.

What is missing is a systematic comparison that evaluates whether a particular service is really less expensive and above all better if it is contracted out to private providers. According to the managers interviewed there is no one best way. The pressure to make savings varied depending on the level of debt, the scope and cost of mandatory services and the economic strength of the municipalities.

➤ **A trend towards insourcing (re-municipalisation)?**

For a long time, the ‘private before public’ approach dominated as a way of achieving quick, short-term savings in the provision of municipal services. However, this approach is gradually being replaced by the view that municipal structures that resemble corporate groups are slowly depriving themselves of their political control. Moreover the recent financial crises have also undermined trust in the reliability of markets and the efficiency of private providers. Accordingly, there are signs of cautious moves towards the insourcing of services that had been previously outsourced.

However, against the background of the difficult budget situation in many municipalities, the decision to bring service areas back under municipal control is closely linked to a requirement for further efficiency gains, which translates as increased workloads for employees. The situation is aggravated by the fact that the number of newly recruited staff in recent years has been low, generating a top-heavy age composition. As a result of the increased workloads and the



higher average age, levels of sick leave (especially psychosomatic illnesses) have increased in recent years.

### **Lessons for research, policy and practice**

The growing indebtedness of the German public sector (especially at local level) over the last years and further cost cutting in order to produce balanced budgets (debt brake) conflict with the issues of service quality and improving working conditions. Our research evidence indicates that several points have to be considered in that regard:

1. An ageing labour force and minimal replacement of employees in the last years has led to work intensification and growing sickness rates. Therefore middle and long-term oriented human resource management and social dialogue concerning the quality of working conditions in the public sector seem to be necessary in order to improve the relative attractiveness of public service employment especially for higher skilled employees.
2. The rationality and the impacts of make- or buy decisions need to be explored more carefully and systematically. It has to be taken into account that municipalities may lose their capacity to influence and control delegated public services (quality-criteria) and a lack in competence may follow. The recent efforts to privatise certain services are particularly interesting in that regard. The same applies to an earlier involvement of staff councils according to the reformed LPVG NRW (law concerning rights of staff councils) and the impacts and effectiveness of the new attempts to establish minimum pay standards (via prevailing wage laws) in public procurement which should be monitored carefully.
3. The precarious financial situation of many municipalities raises the question whether the federal state level can commit the municipalities to provide more and more services without additional central funding (principle of connectivity). Indebted municipalities will never be able to balance their budgets unless the state pays a greater proportion towards their structural deficit. Possibly, increased and reformed taxation maybe necessary to achieve this.

## Introduction

Because of shrinking tax revenues, the privatisation of public companies and the outsourcing of activities the number of public sector employees decreased substantially since the early 1990's and wage negotiations in the public sector became increasingly difficult. This accelerated after 2000 due to substantial tax cuts. In this "decade of denationalisation" (Bofinger 2008) collective bargaining in the public sector became more and more fragmented. It seems that after a short rest period staff reductions will continue in the next years. In 2009 the so called "debt brake", which limits public debts was incorporated into the constitution. Future German governments will only be able to choose between tax increases or cuts of public expenses. The German "debt brake" seems likely to become the model for Europe in the next years which makes a careful analysis of its possible consequences even more important.

Germany has had a relatively smooth landing after the financial crisis. The fast recovery reduced pressures on the public sector. The stimulus packages were used mainly to fund public investments. This temporarily relieved the budgets of the highly indebted municipalities which are the main public investors in Germany. The tax revenues increased to a new record level in 2011 which allowed a substantial reduction in the deficit of the state budget balance. Substantial adjustments like the reduction of the number of employees, pay freezes or cuts and reduction of pension entitlements have, however, taken place gradually over the last 20 years with important cumulative effects.

Today, the German public sector is relatively small compared to other OECD countries and the share of the state in GDP has been reduced. Because of the good economic and employment performance in the last few years no special adjustment programs for the German public sector in the crisis have taken place and these could not be economically or politically justified. To understand adjustments in public sector employment our analysis has to cover a longer period starting in the nineties and looking forward to the impact of the debt brake and the future budget plans of the Ministry of Finance.

This report is organised in two parts: In part one we provide an overview of public sector pay and procurement structures in Germany. Section 1 includes key features of the public sector in Germany, particularly employment size and structure. Section 2 describes public sector industrial relations. Negotiations have become more and more decentralised since 2003. Since 2005 there is no longer a joined agreement than in the past (BAT). During 2005/2006 the social partners negotiated new collective agreements, which are now divided into two parts, the *Länder* (TV-L) on the one hand and the federal state and municipalities (TVöD) on the other hand. In section 3 we focus on public sector pay systems with a comparison of wage-setting relative to the private sector. We analyse pay differentials and wage inequalities by sector (public versus private), skill-level, gender and age. In section 4 we describe the German legislation of public procurement and prevailing wage laws for this.

In part two we analyse the employment situation and procurement practices at local level, based on literature research and case studies in three cities in North Rhine-Westphalia that are particularly affected by growing debt levels. As our analyses show, the municipalities' options are very limited when it comes to structural over-indebtedness. The selected examples

are used to illustrate the reasons for make-or-buy decisions in each case, how the procurement processes work and the impacts they have on the quality of public services and employment conditions. In some cases, attempts are being made to bring outsourced services back under municipal control (re-municipalisation).

Section 5 describes the design of the empirical research and the process used to select the municipalities included in the study. Section 6 illustrates the complexity of the range of public services provided by municipalities in Germany. Municipal self-government is enshrined in the German constitution and affords municipalities a high degree of autonomy. As our analyses show, within Germany's federal structure, the individual responsibility of the municipalities is increasingly coming up against costs caused by decisions taken at national level. As the municipalities usually do not receive any financial help with such costs, this has led to an increasingly problematic financial situation within the municipalities. Section 7 looks at how employment in municipalities has developed and the impacts of the 2005 collective bargaining reform (TVöD). This analysis illustrates that the municipalities have only limited leeway to determine employee pay levels and that even the employee representation bodies and trade unions have only a limited influence. Section 8 describes that municipalities have much more freedom when it comes to deciding how a service will be provided and through what type of legal entity. It is interesting to see the reasons presented for or against awarding external contracts or outsourcing of public services and the effect that make-or-buy decisions have had on employment. In some places, there have been efforts over the past few years to bring outsourced services back under municipal control (re-municipalisation). Section 9 analyses five municipal service areas to see to what extent they are provided by the municipalities themselves or contracted out to private service providers. It considers what impacts these decisions have on employees working conditions with a detailed look at cleaning services and waste recycling. Section ten summarises the key findings of our empirical analyses and formulate central challenges for the future shape of employment in municipalities.

## Part One: The German model of public sector pay and procurement

### 1. Public sector employment

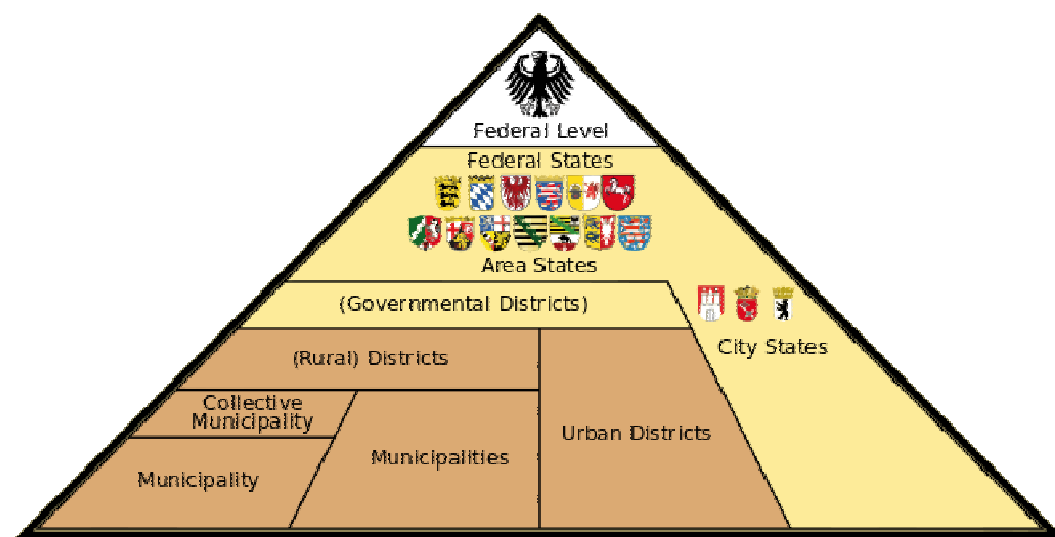
The public sector in Germany comprises the direct and the indirect public service. The direct public service includes the employees by the Federal State, the 16 *Länder*, the municipalities and joint authorities of municipalities (for waste disposal, water supply and so on).

The indirect public service includes institutions under public law (*Einrichtungen in öffentlich-rechtlicher Rechtsform*) such as the central bank, the social insurances funds and the Federal Employment Agency (*Bundesagentur für Arbeit*) for instance. Some statistics also include the number of employees in enterprises under private law but under public control (*Einrichtungen in privater Rechtsform*) with more than 50% public share.

The public sector in Germany is decentralised. In 2009 the Federal State was spending only 19.2% of all public expenditures compared to an average of 45.8% in the OECD31 (OECD 2011b). Parts of the revenues of the Federal State are redistributed mainly to the social insurances and via the *Länder* to the municipalities. Most of the labour intensive services are assigned by the constitution to the *Länder* and municipalities which explains their high shares in public sector employment.

The German public sector has three main levels: the Federal Level (*Bund*), the 16 *Länder* (13 area and three city *Länder*) and the local level (municipalities) (Figure 1). The number of municipalities in the 16 *Länder* varies widely. In North Rhine-Westphalia there are 396, in Rhineland-Palatinate 2.306 municipalities (Statistisches Bundesamt 2012a). The number of municipalities depends on the regional structure (countryside with a lot of small towns or industrial areas with bigger cities). Since 2000 the number of municipalities shrunk from 13,580 to 11,300, which is a reduction of about 15 %. A lot of small municipalities have had to join to bigger units in order to fulfil their duties (Institut der deutschen Wirtschaft Köln 2011).

Figure 1: The German public sector and administrative divisions



Source: Administrative divisions in Germany. Pictured and translated rearrangement of a work by C. Löser for Wikipedia, March 6th 2006.

## 1.1 Level of employment

Between 1991 and 2010 the number of employees in the German public sector went down by more than 2.1 million (32%), from 6,737,800 to 4,586,100 (Table 1). In 2010, about one million employees were working in private companies under public control (2011: 1,080,900). Most of them belonged in the past to the public sector like the employees of the German Post, Telecom, Railways or hospitals. The shift from the direct to the indirect public service signifies restructuring of the public sector itself by concentrating many activities in institutions under public law.<sup>1</sup> The reduction in public sector employment took mainly place in the 1990s when many public utilities were privatised. Since the early 2000s the staff reduction slowed down but continued gradually by privatisations mainly in the health sector, recruitment bans and early retirement schemes in the direct public sector. A more detailed analysis of the impact of privatisation and outsourcing draws the conclusion that a staff reduction of about 11% since 1991 could be attributed to rationalisation strategies to make the public sector leaner (Vesper 2012: 13). Just before the financial crisis up to 2010 public sector employment started to grow slowly. In 2011, there were 4,602,900 employees in the public sector. The slight increase (+0.4%) took mainly place in schools and child care (Altis/Koufen 2011).

<sup>1</sup> In 2011, the official statistics changed their system of data presentation. They do not differentiate between direct and indirect public services any more. Employees in indirect public services are now added to the employees on Federal State level, *Länder* and municipalities (Statistisches Bundesamt 2012: 6f) Therefore it was not possible to add data for 2011 in Table 1 and 2.

Table 1: Development of public sector employment, 1991-2010, in 1,000

Year	Total	Direct public service					Indirect public service
		Total	Federal State	Länder	Municipalities	Other*	
1991	6737.8	6412.6	652.0	2572.0	1995.9	1192.8	325.1
2000	4908.9	4420.9	502.0	2273.3	1502.2	143.4	488.0
2005	4599.4	3947.1	481.4	2076.9	1277.8	111.0	652.4
2006	4576.0	3897.9	477.0	2054.5	1261.2	105.2	678.2
2007	4540.6	3761.2	474.2	1948.2	1235.1	103.6	779.4
2008	4505.1	3714.7	462.2	1929.1	1220.4	103.0	790.4
2009	4547.6	3719.8	460.4	1921.5	1235.3	102.5	827.8
2010	4586.1	3741.5	457.3	1940.7	1241.5	102.0	844.7
<b>Changes in %</b>							
1991-2000	- 27.7	- 31.4	- 23.0	- 11.6	- 24.7	- 88.0	+ 50.1
2000-2005	- 6.3	- 10.7	- 4.1	- 8.6	- 14.9	- 22.6	+ 33.7
2005-2010	- 0.3	- 5.2	- 5.0	- 6.6	- 2.8	- 8.1	+ 29.5

Post, railways, joint authorities. Since 1995 without post because of privatisation.

Source: Statistisches Bundesamt 2011a: 100; own calculations.

Table 2 details the changes in public sector employment differentiated by civil servants, non-civil servants, soldiers and full-time/part-time employee. Employment was reduced at all levels and in almost each employee category. Particularly pronounced were the reductions of the employment of non-civil servants, at Federal State level (- 49.2%), at the 16 *Länder* (- 54.2%) and the municipalities (- 37.8%). The sharp decrease of employment in the category „other” (post, railways, joint authorities) is mainly due to the privatisation of the *Deutsche Post* in 1995 which is since then not included in the statistics for the German public sector any more.

Jobs were mainly shifted into the indirect public service sector (social insurance agencies, Federal Employment Agency, German Federal Bank, bodies covered by German law and public-law institutions) where the number of both civil servants (+ 141.2%) and non-civil servants (+ 161.8%) increased significantly. Over the last 20 years total employment of civil servants decreased comparatively slightly (- 8.5%, particularly with regard to the privatisation of the post) whilst employment of non-civil servants (- 41.5%) and soldiers (- 27.8%) decreased substantially. Further reductions of employment in the Federal Armed Forces are already on the way. More and more part-time jobs (+124.1%) replaced full-time jobs (-35.6%) in the public sector.

Table 2: Changes in public sector employment at various levels and by employment status, 1991-2010, in 1,000

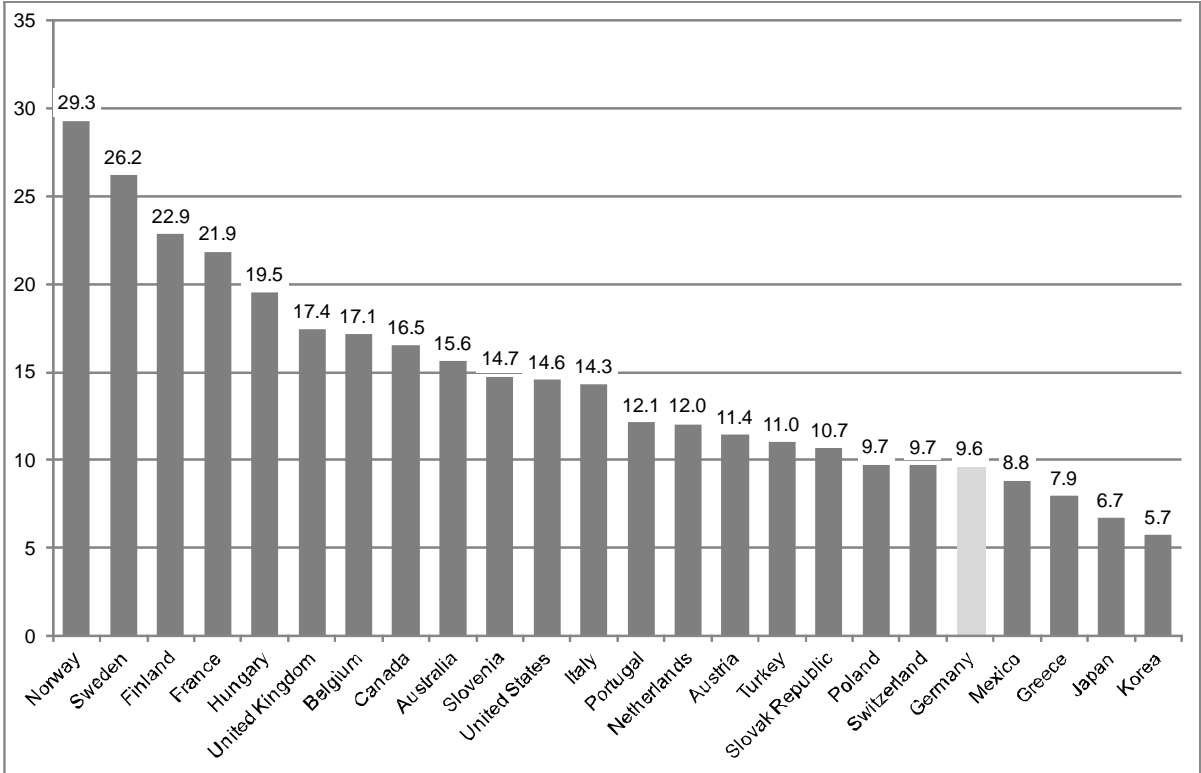
Year	1991	1995	2000	2005	2010	Changes 1991-2010	
						total	in %
<i>Employees in public sector</i>							
<b>Federal State</b>	<b>652.0</b>	<b>546.3</b>	<b>502.1</b>	<b>481.4</b>	<b>457.3</b>	<b>-194.7</b>	<b>-29.9</b>
Civil servants/ judges	115.3	134.1	132.6	130.6	129.6	+14.3	+12.4
Non-civil servants	279.4	217.9	182.9	165.7	142.0	-137.4	-49.2
soldiers	257.3	194.3	186.6	185.1	185.7	-71.6	-27.8
<b>Länder</b>	<b>2572.0</b>	<b>2453.4</b>	<b>2273.3</b>	<b>2076.9</b>	<b>1940.7</b>	<b>-631.3</b>	<b>-24.5</b>
Civil servants / judges	1072.4	1227.1	1252.5	1261.8	1253.5	+181.1	+16.9
Non-civil servants	1499.5	1226.4	1020.8	815.0	687.2	-812.3	-54.2
<b>Municipalities</b>	<b>1995.9</b>	<b>1735.6</b>	<b>1502.2</b>	<b>1277.8</b>	<b>1241.5</b>	<b>-754.4</b>	<b>-37.8</b>
Civil servants	168.0	176.2	176.1	180.3	182.1	+14.1	+8.4
Non-civil servants	1827.9	1559.4	1326.1	1097.4	1059.4	-768.5	-42.0
<b>Other*</b>	<b>1192.9</b>	<b>185.7</b>	<b>143.4</b>	<b>111.0</b>	<b>102.0</b>	<b>-1090.9</b>	<b>-91.4</b>
Civil servants	455.9	116.5	71.1	51.0	45.3	-410.6	-90.1
Non-civil servants	736.9	69.3	72.3	60.0	56.7	-680.2	-92.3
<b>Indirect public service</b>	<b>325.1</b>	<b>449.9</b>	<b>488.0</b>	<b>652.4</b>	<b>844.7</b>	<b>+519.6</b>	<b>+159.8</b>
Civil servants	31.8	47.3	52.3	67.9	76.7	+44.9	+141.2
Non-civil servants	293.4	402.6	435.7	584.5	768.0	+474.6	+161.8
<b>Total</b>	<b>6737.8</b>	<b>5371.0</b>	<b>4908.9</b>	<b>4599.4</b>	<b>4586.1</b>	<b>-2151.7</b>	<b>-31.9</b>
Civil servants	1843.5	1701.1	1684.6	1691.6	1687.1	-156.4	-8.5
Non-civil servants	4637.1	3475.5	3037.8	2722.7	2713.4	-1923.7	-41.5
soldiers	257.3	194.3	186.6	185.1	185.7	-71.6	-27.8
Full-time	5671.0	4303.0	3697.0	3237.7	3106.7	-2564.3	-45.2
Part-time	1066.8	1068.0	1211.8	1361.7	1479.4	+412.6	+38.7

\* Post, railways, joint authorities. Since 1995 without post because of privatisation.

Source: Statistisches Bundesamt 2011a and 2008, partially own calculations.

In terms of cross-country- comparisons, it is notable that the share of employment of the total labour force in the German public sector is below the levels of most other OECD countries (Figure 2).

Figure 2: Employment in general government and public corporations, 2008, in % of the total labour force



Source: OECD 2011a: 103.

## 1.2 Composition of public sector employment

### Civil servants and non-civil servants

Civil servants in Germany do not work only in core government functions like ministries, public administration, army or police but also as teachers, employees in the social insurances and public enterprises. Most civil servants have life-long employment and cannot be dismissed.<sup>2</sup> Civil servants do not have a work contract but are nominated by the state. They are expected to be loyal to their employer and do not have the right to strike. Wages and other working conditions are unilateral determined by the state. In return the state is obliged to pay wages which guarantee an adequate living standard (principle of “alimentation”). This includes allowances for children and married partners but also compensation during sickness, accidents, disability and age. Civil servants do not have to pay contributions to social insurances but receive support directly from the state. If the state reduces wages or benefits the only possibility for civil servants is to go to court and claim that the principle of “alimentation” is violated. The Federal Court declared some cuts as unlawful. A recent decision (Feb-

<sup>2</sup> There also exists the status temporary civil servant (*Beamte auf Zeit*) for employees who are elected for a certain period like mayors and/or employees with temporary contracts (soldiers, junior professors etc.).



ruary 14, 2012) concerns the new wage scale for professors in tertiary education. Entry salaries were lowered by up to 25%. Seniority increases were abolished and replaced by performance bonuses. The Federal Court declared these entry wages as infringement of the alimentation principle because the cuts are not necessarily compensated by performance bonuses.

Most of the staff reductions since 1991 fell upon non-civil servant employees. Their number went down by more than 31% between 1991 and 2010 (cf. Table 2) which was mainly due to the privatisation of public utilities. At the same time, the number and share of civil servants (*Beamte*) increased from a quarter (26%) in 1991 up to 37% (cf. Table 3). This might be related to the fact that they are cheaper in the short run and working conditions like wage cuts and prolongation of working hours can be decided unilaterally. The state does not have to pay employers contributions to the social insurances (about 20% of the gross income). Costs were, however, shifted into the future since the pensions have to be paid later directly out of the yearly budgets and pension entitlements of civil servants are higher than of non-civil servants.

The majority of civil servants work in the *Länder* (55%) and a third at Federal State level (34%). At local level, only 14% of the employees are civil servants. Compared to 2000 the share of civil servants increased from 52% to 55% in the *Länder* and from 11% to 14% at local level, whereas the share in the federal state remained at a level of 35%.

Table 3: *Public sector employment, 2011*

	Civil servants		Non-civil servants		soldiers		total	
	1,000	%	1,000	%	1,000	%	1,000	%
Federal State	182.4	34	156.7	30	185.5	35	524.7	11
<i>Länder</i>	1293.7	55	1043.0	45	-	-	2337.0	51
Municipalities	186.2	14	1180.9	86	-	-	1367.2	30
Social insurances	35.6	9	338.4	91	-	-	374.1	8
Total	1697.9	37	2719.2	59	185.5	4	4602.9	100

Source: Statistisches Bundesamt 2012b.

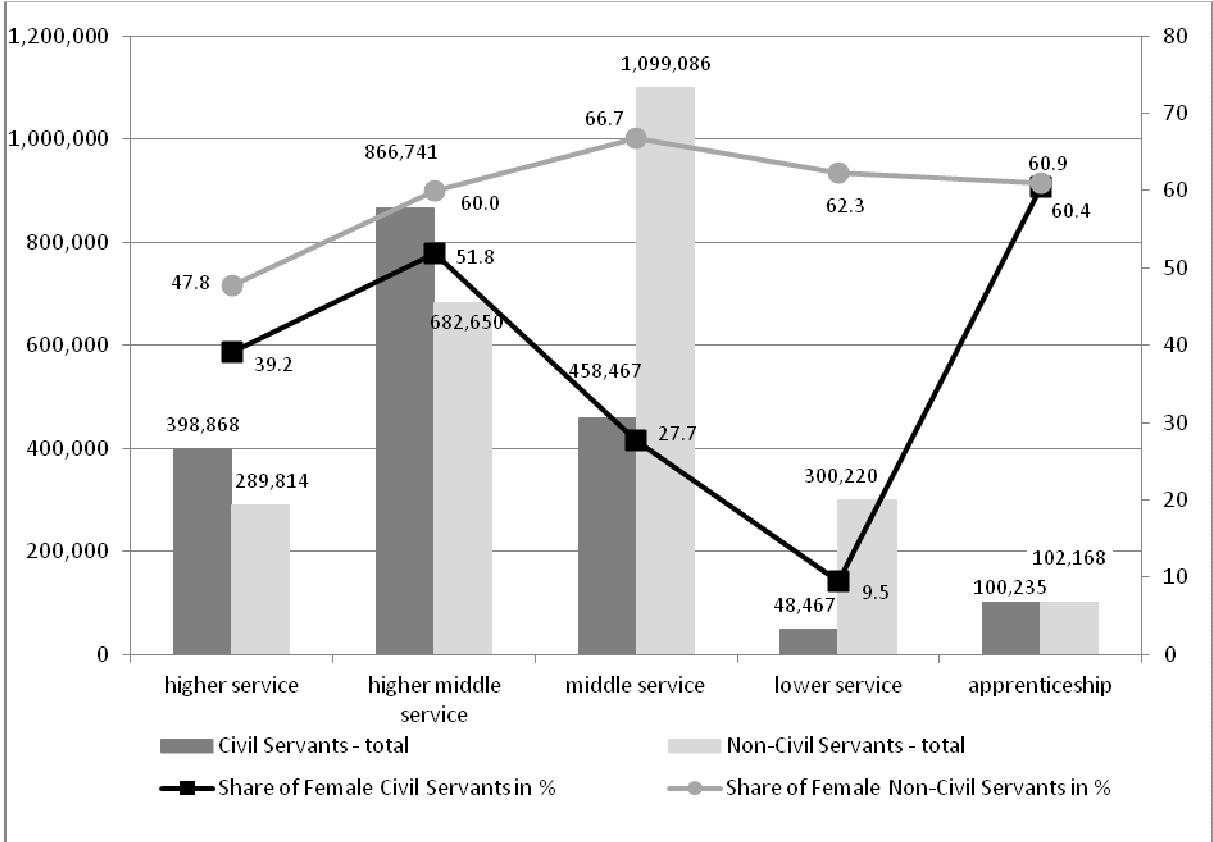
### ***Life-time and temporary employment: increasing dualisation***

The German public sector is still the very model of a strong internal labour market with life-long-employment. Today, however, there are an increasing number of peripheral employees with temporary contracts. The internal labour market has entry positions at four different skill and task levels with clearly defined career ladders for civil servants and non-civil servant employees. Access to the “higher service” (*höherer Dienst*) normally requires tertiary education; the “higher middle service” (*gehobener Dienst*) for graduates from special academies of the public service, the “middle service” (*mittlerer Dienst*) for graduates from vocational training and the “lower service” (*einfacher Dienst*) for the semi- or low-skilled. For many occupations like teachers, judges, but also at middle levels for inspectors or tax officers, a preparatory service (*Vorbereitungsdienst*) is prescribed which ends with an examination. Only those who pass the examination have access to life-time employment as a civil servant or a permanent

contract as a non-civil servant employee. Promotions used to depend mainly on seniority which was changed only recently (see section 3.2).

The average skill level in public sector is higher than in the private industry because many highly and middle skilled activities like education, jurisdiction or tax offices are concentrated in the public sector. This is also reflected in the composition of the workforce with some differences between civil servants and non-civil servants. In 2010 most of the civil servants were employed in the higher, the higher middle service and the middle service and only very few in the lower service (Figure 3).

Figure 3: Number of civil servants and non-civil servants by skill level and share of women, 2010



Source: Statistisches Bundesamt 2011a, own calculations.

Since 2002, when these detailed statistics were started, the skill composition has not changed much with only a slight increase of the higher service. The skill composition of the non-civil servants is somewhat different. The middle and lower service is much more densely populated with non-civil servants than with civil servants (Figure 3). Here one finds activities which often were outsourced which is much easier with employees without life-time employment.

Temporary contracts for the preparatory service (*Vorbereitungsdienst*) were common for civil servants. Since the mid 1980's the public sector has used extended possibilities for temporary contracts more intensively than the private sector. The share of temporary employees increased between 2002 and 2011 from 10% to 14.1% much faster than in the private sector and

lies now far above the average figures for all sectors which amounted to 8.9% in 2011 (Table 4).

*Table 4: Share and number of temporary employees in the public sector by sex and of total employment, 2002-2010*

Share (number)	2002	2005	2007	2009	2010	2011
of <b>women</b> in public sector on temporary contracts	9.2% (166,662)	9.6% (159,031)	11.2% (182,243)	13.0% (214,588)	14.0% (232,789)	13.5% (227,052)
of <b>men</b> in public sector on temporary contracts	11.3% (128,826)	11.0% (116,690)	12.2% (127,340)	14.7% (151,742)	16.0% (166,494)	16.1% (167,789)
of <b>all employees</b> in public sector on temporary contracts	10.0% (295,558)	10.1% (275,721)	11.6% (309,583)	13.6% (366,330)	14.7% (399,283)	14.1% (394,841)
<b>% of all employees in Germany</b> on temporary contracts*	6.6% (1,931,000)	8.3% (2,394,000)	8.8% (2,659,000)	8.6% (2,640,000)	8.9% (2,761,000)	8.9% (2,805,000)

15 – 65 years, without apprentices and students

Source: Statistisches Bundesamt 2003; 2006; 2008; 2010; 2011a; 2012b.

Temporary contracts are increasingly used to cover bottlenecks without increasing the permanent staff and endangering the goals of future staff reductions. The strict limitation of the number of core workers by public budgets which are based on a fixed job chart (*Stellenplan*) irrespective of working hours also requires a higher share of temporary contracts as compensation for the hours lost by voluntary part-time. Compared with the private sector a lower share of temporary workers in the public sector get a permanent contract (Ellguth/Kohaut 2011: 24f.). This explains why temporary contracts in the public sector are more often a trap than a bridge into permanent employment.

The share of voluntary termination is very low (0.4% in the public compared to 1.9% in the private sector). Labour turnover in the public sector is much lower than in the private industry (6.3% compared to 10.5% in the first half of 2008). The turnover in the public sector is highly concentrated on the employees with a temporary contract (Ellguth/Kohaut 2011: 22). The high employment protection of permanent employees and their low voluntary mobility explains why the burden of numerical flexibility has moved to temporary employees.

### ***Female employment***

In the last decade the number of women employed in the German public sector remained nearly constant while men's employment went down by about 9%. Consequently the share of women increased and is with 53.8% about 8 percentage points higher than in total employment (Table 5).

*Table 5: Key indicators of women's employment in the public service, 2002-2011, in % and numbers*

Share (number)	2002	2005	2007	2009	2010	2011
of women in total employment*	43.5% (15,924,000)	44.9% (16,431,000)	45.3% (17,273,000)	45.8% (17,690,000)	45.9% (17,890,000)	46.2% (18,085,000)
of women in public sector employment	51.4% (2,476,600)	52.0% (2,390,800)	52.5% (2,385,200)	53.4% (2,429,400)	53.8% (2,467,200)	54.2% (2,493,124)
Women in public sector employment as % of women in total employment*	15.6% (2,476,600)	14.6% (2,390,800)	13.8% (2,385,200)	13.7% (2,429,400)	13.8% (2,467,200)	13.8% (2,493,124)
Total public sector employment as % of total employment*	12.3% (4,809,090)	11.8% (4,599,425)	11.5% (4,540,600)	11.3% (4,547,586)	11.3% (4,586,100)	11.2% (4,602,939)

\* total employment including self-employment.

Source: Statistisches Bundesamt 2003; 2006; 2008; 2010; 2011a; 2011b (total employment), 2012b, own calculation.

The public sector offers especially jobs for highly skilled women. The share of highly skilled women in the public sector is at 43% and accordingly fourteen percentage points higher than in private industry. The share of women in management positions is also higher in the public sector than in the private industry (29% vs. 23%) (Table 6). In the top positions of the higher service (only civil servants) there are, however only 14.5% women, while in the entry positions of the higher service the share of women is 65.6% (Statistisches Bundesamt 2010: 35).

*Table 6: Share of women among employees in the public and private sector by skill level, 2009, in %*

Skill level	Public Sector	Private Sector
Management positions	29%	23%
Highly skilled	43%	29%
Middle skilled	56%	39%
Low skilled	58%	50%
Total	53%	46%

Source: Ellguth/Kohaut 2011: 25 and Statistisches Bundesamt 2010 (total female employment rates).

### ***Full-time and part-time work***

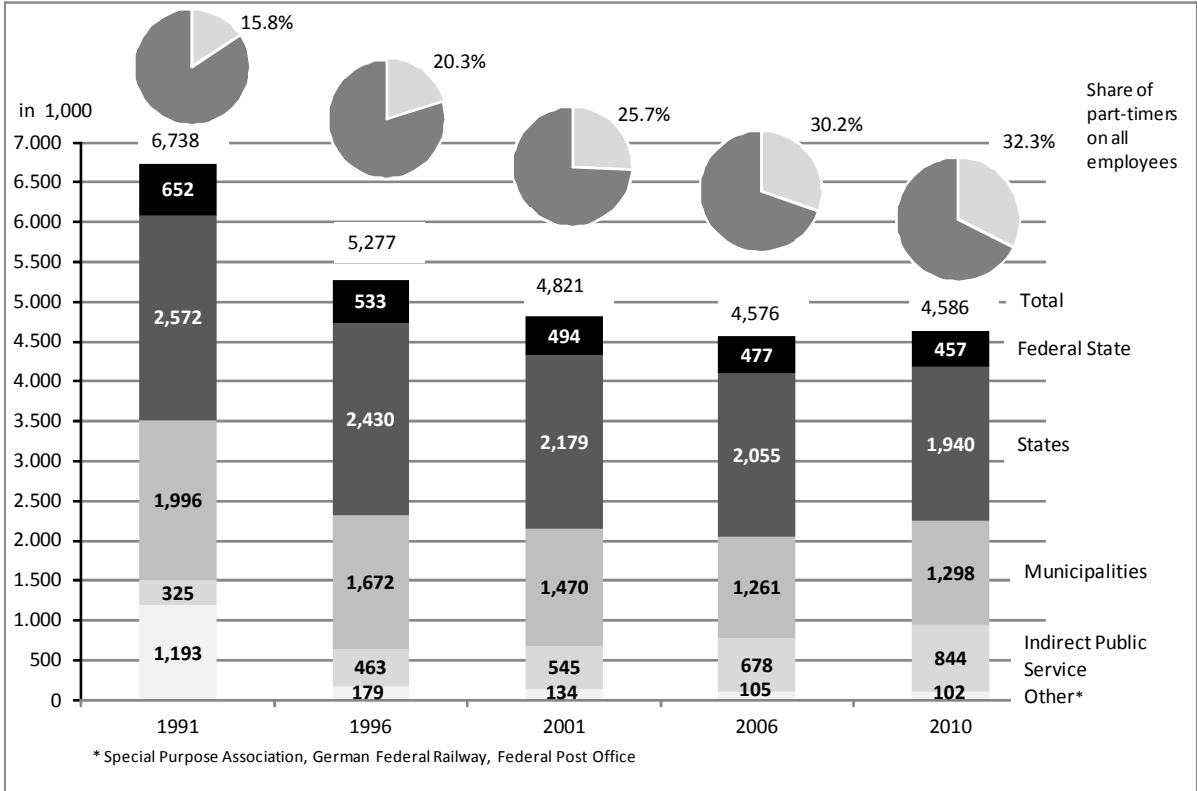
The number of full-time employees fell from 5.571 million in 1991 to 3.107 million in 2010 (-45.2%). At the same time the number of part-time employees increased from 1.066 million to 1.427 million which meant an increase by 38.7%. Accordingly the share of part-timers in total public sector employment rose from 15.8% to 32.3% (Figure 4).<sup>3</sup> More than 80% of the part-

<sup>3</sup> According to Czerwick (2011: 165f) the share of employees in part-time differ between the Federal State (11.5%), the *Länder* (30.7%), the municipalities (38.3%) and the indirect public service (33%; all in 2008). More

timers are women. The expansion of traditional part-time before retirement took place already in the 1970s and 1980s.

In accordance with the alimention principle<sup>4</sup>, civil servants generally are full-time employees. They have, however, the right to work part-time for family reasons as long as they have children under 18 or care responsibilities in the family. They can also ask for part-time work without such reasons. This claim has to be accepted unless the employer has good reasons for a refusal. All chosen part-time should be at least half of a normal full-time week. Since part-time is based on rights to work temporarily part-timers have options to return back to full-time work. It can be assumed that most of the 400,000 part-time working civil servants are doing this voluntarily. The non-civil servants have similar rights but they may also work part-time because they were recruited only for a part-time job. In the private sector only the right to work part-time for full-timers exists (national law), but with no right to return to full-time work.

Figure 4: Employees in public sector and proportion of part-time work, 1991-2010



Source: Bundeszentrale für politische Bildung 2007, data for 2010 added.

Because of the traditional German breadwinner system with half-day schools and a lack of public child care many women opted for part-time work. In 2011, 41% of the full-time and 81% of the part-time employees in the public service were women (Statistisches Bundesamt

than two thirds (71%) of part time employees were workers and non-civil servants, even if they are only 59% of all employees in public sector.

<sup>4</sup> The state is obliged to pay wages which guarantee an adequate living standard. The alimention principle includes allowances for children and married partners but also compensation during sickness, accidents, disability and age.

2012b). An analysis based on a panel of companies with employees which are subject to social insurance contributions (excluding public service companies with only civil servants) shows that the public sector has a higher share of part-timers (27%) than the private sector (22%).<sup>5</sup> Also the composition of part-timers differs. Most part-timers in the public sector (24% of the workforce) are insured and only 3% are working in marginal part-time, so-called mini-jobs, which are not subject to social insurance contributions (private industry 10% to 12%) (Ellguth/Kohaut 2011: 24). This reflects the impact of the regulations to demand substantial part-time with at least 50% of normal full-time hours.

Between 2002 and 2010, two thirds of the additional part-timers were older employees which opted for a part-time scheme prior to retirement. This scheme has been made attractive because the participants receive about 85% of their former net income but have to work only 50%. In practice, however, only a few participants are really working part-time. The others opted for a so called “block-model” with 100% working hours the first two and a half years and zero hours in the second half. Since these part-timers are mostly not replaced in their so-called passive phase and often even not after retirement this scheme has contributed to work intensification of the remaining employees and staff reduction. The scheme is now replaced by a less generous new scheme with a quota of maximum 2.5% of older part-timers in each organisation.

### 1.3 Pensions

The civil servant status is a lifetime status which does not end with the transition from work into retirement. The German civil servant law regards retirement only as the end of the active service with a continuing obligation of the state to guarantee an appropriate standard of living according to the above mentioned alimentation principle. The pension system for civil servants is a one-pillar system with a pension paid directly by the state out of the yearly budgets without any contributions from the civil servants.

The pension system for the non-civil servants is a two pillar system. They pay like all other employees contributions to the national pension system. The second pillar is an occupational pension system for the public sector. It was agreed in a national collective agreement and is quasi mandatory because of the near 100% coverage by this agreement. The contributions to this system amount to 7.86% of the monthly gross wage of which the employers pays 6.54%. The intention was to increase the pension level of the non-civil servants to the more generous pension level of the civil servants.

The pensions of public sector employees are generally higher than of employees in the private sector because the second pillar is not mandatory in the private sector and the pension levels of civil servants are substantially above the state pensions. Contrary to the pensions from the state system, however, civil servants have to tax their pension. In recent years the pension levels in the national pension system have been lowered because of the ageing of the population. The pensions of civil servants have been adapted to these decreases. Now early retirement is only possible with deductions. Between 2003 and 2009 the maximum pension level has been gradually reduced from 75% of the former gross income to 71.75%. Already in 1992

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<sup>5</sup> For women, in 2010 the part-time rate in the public sector (41.8%) was similar to the female part-time rate in the total economy (42%).

it was decided that the maximum level can be reached only after 40 years of service instead of 35 years before (Färber et al. 2011: 101ff). Because of these changes the actual pension levels decreased from 72.8% of the former gross income in 1994 to 69% in 2011. In sectors with more turnover and shorter service in the public sector like in the German Post it even declined from 72.1% to 65.6% (Statistisches Bundesamt 2011c: 81).

A comparison of the pension levels of former employees of the public and the private sector is difficult since no statistic captures the accumulated effects of the first and second pillar. Table 7 shows that the pensions of the civil servants are far above the state pensions. They have, however, to be taxed. It can be assumed that the average pensions of non-civil servants in the public sector are higher than in the private sector since the second pillar, the occupational pension, is mandatory while only 21% of the employees are covered. The traditional male breadwinner model with discontinuous work careers of women is reflected in lower pensions for women in all categories. In the private sector women are more often than men working in industries and companies with occupational pensions. Because of the mandatory second pillar they are much better off in the public sector.

*Table 7: Income sources and average pensions of the 65+ years old population, West Germany, 2007*

	Coverage in %			Gross pension per month in EUR		
	total	men	women	total	men	women
State pension	90	89	90	958	1,219	767
Occupational pension private sector	21	31	12	403	490	239
Occupational pension public sector	11	11	12	322	432	266
Civil servant pension	8	11	6	2,165	2,577	1,640

Source: [http://www.sozialpolitik-aktuell.de/tl\\_files/sozialpolitik-aktuell/\\_Politikfelder/Alter-Rente/Datensammlung/PDF-Dateien/abbVIII55a.pdf](http://www.sozialpolitik-aktuell.de/tl_files/sozialpolitik-aktuell/_Politikfelder/Alter-Rente/Datensammlung/PDF-Dateien/abbVIII55a.pdf).

## 2. Industrial relations and social partners

Industry wide collective bargaining is still common in the German public sector. The highly standardised national agreements which covered the whole public sector have been replaced by a multitude of collective agreements for non-civil servants (see section 2.3). The interests of the parties on both sides became more heterogeneous which led to a decentralization and fragmentation of collective bargaining. 93% of the employees in the direct public service are covered by a collective agreement compared to 57% in the private sector.<sup>6</sup> There are, however, still no white spots in the public sector without collective agreements as in the private sector. In addition no internal erosion can be observed as it has been the case in many private companies. Collective agreements are still generally well implemented. 93% of public sector employees are represented by a work council or its equivalent the employee council (*Personalarat*) compared to 40% in the private sector (Ellguth/Kohaut 2011: 16). The employee councils together with the unions control and enforce the collective agreements more effectively than in the private sector. The state is not any more the model employer guaranteeing better working conditions than private employers, but the state is still a model employer in the respect that it complies with the agreements which its representatives have signed.

### 2.1 Employers' organisations

The employers in the public sector are organised differently at local, *Länder* and Federal State level. At local level we find a strong employer umbrella organisation (*Vereinigung der Kommunalen Arbeitgeberverbände – VKA*), founded in 1949. Members are 16 municipal employer associations (*Kommunale Arbeitgeberverbände (KAV)*), counties, public saving banks and other regional public organisations (like *Deutscher Städtetag, Deutscher Städte- und Gemeindebund, Landkreistage*). The VKA has 8 committees for specific public activities like public banks, hospitals and care providers, harbours, airports, public utilities (*Versorgungsunternehmen*) and public transport. At national level, the VKA has the task to negotiate collective agreements. The VKA is providing many services for its members who are no specialists in collective bargaining.<sup>7</sup>

At the *Länder* level, the organisation is more loose. The 16 *Länder* have special departments with experts on collective bargaining and are less dependent on the expertise of an employer's organisation. They coordinate their collective bargaining in a working partnership (*Tarifgemeinschaft deutscher Länder, TdL*) with minimum staff. The *Länder* send their ministers of finance in the TdL. At national level there is no employer organisation. The minister of inner affairs and the minister of finance coordinate collective bargaining for the federal government. The constitution of the VKA and the TdL requires from all members not only to follow the collective agreements but also not to improve the agreed standards, which is usually allowed by employer organisations in the private sector.

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<sup>6</sup> The union density (the amount of union members under all employees) in the public sector is much higher than in private sector (more than 60%) (Keller 2010: 83).

<sup>7</sup> VKA support and encourage exchange of experiences amongst the members (KAV) and procures legal services. Direct participation of cities, municipalities, administrative districts and companies of municipalities take place in the VKA committees



For many decades the federal, *Länder* and local employers of the public sector formed a joint bargaining committee. The common goal was to negotiate a single collective agreement for the public service as a whole. At the end of 2003 the TdL left the joint bargaining committee. The 16 *Länder* wanted to negotiate separately working hours and annual bonuses. The *Länder* have the highest shares of wage costs in their budgets since they are responsible for highly paid public services like education or research. The share of compensation for employees in total expenditures amounted to 36.7% compared to 10.1% for the Federal State and 25.9% of the municipalities in 2006 (Keller 2010: 29).

## 2.2 Unions and employee representation

Compared to the private sector unions are quite fragmented in the public sector. In the German Trade Union Federation (DGB) three unions are representing employees of the public sector: ver.di<sup>8</sup> (2,071,990 members), the teachers union (GEW: 263,129 members) and the union of police (GDP: 171,709 members). In addition there is a strong union of civil servants (*Deutscher Beamtenbund*, DBB) with 1,265,720 members which organises non-civil servants too. In the past, the DGB unions negotiated jointly and cooperated with the DBB. Today DGB and DBB form a joint negotiating committee which, however, does not include all DBB unions. Train drivers, pilots, doctors, and air traffic controllers defected from joint bargaining and negotiate separately. They succeeded in the last years, in some cases after successful strikes, to improve wages of their occupational groups.

The German dual system of representation also exists in the public sector. Collective agreements are negotiated by unions and at the company level employee councils (*Personalvertretung*) represent all employees. They have strong rights of codetermination and the right to negotiate company agreements on fields which are not covered by a collective agreement. The employee councils differ from works councils in the private sector. The rights of information on economic issues are lower than in the private sector since – so the argument – this would interfere with the budget rights of the parliaments at the different *Länder* levels. The consultation and codetermination rights of the employee councils vary because all 16 *Länder* have their own employee council laws. The employee councils are strengthened by a high union density which is with 60% much higher than in private sector (Keller 2010: 83).

The position of the employee councils in regulating the internal labour markets is usually very strong since the workforce is protected against dismissals. There is no wage drift as in the private sector. Employers are obliged to pay according to the collective agreements otherwise they would violate budget laws and the constitution of the employer's organisation. The classification of employees is the main area of conflict and the conflicts often have been settled only after many court decisions. It is said that most of the job descriptions have been "*ausgeklagt*" ("out-complained"). At the company level there remains, however, still some interpretation leeway in the classification of employees. Strong employee representatives are using this leeway to support employees in their demands of promotion and are often successful. Also

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<sup>8</sup> In March 2001, five unions (DAG, DPG, HBV, IG Medien, ÖTV) merged to the multi-branch union ver.di, which represents employees in public and private sector. Ver.di is the second biggest union in Germany with 2,138.2 million members in 2009. Only 8% of the members are civil servants. Since 2001 membership is shrinking continuously (from 2,806,500 in 2001 down to 2,071,000 in 2011). In contrast membership in DBB increased from 997,700 in 1990 up to 1,265,720 in 2011 (Source: DGB and DBB).

employers may use this possibility to recruit specialists from the private sector which becomes increasingly difficult.

### 2.3 Decentralisation of collective bargaining

Public sector industrial relations still differ substantially from the private sector. Coverage is near to 100% and collective agreements are due to strong employees' councils and also the responsibility of the state to comply with its own regulations. The former homogeneous system with a joint national agreement for the core of the public sector which served as a pattern agreement for the indirect public sector and for the civil servants has been replaced by a more fragmented system of competing agreements since 2005/2006. The former homogeneous and cooperative federalism tends to be replaced by a new system of "competitive federalism". For the union the running costs of the system increased substantially. They had to create new structures of representation for the civil servants in all 16 *Länder* and to coordinate the now fragmented collective bargaining. The use of performance related pay will move more responsibility to the employee councils which are often not prepared for such tasks. They will require support from the unions which due to limited resources can only partly be given. Research on the use of opening clauses in other industries (engineering and chemical industry) showed that such decentralisation also offers chances for unions to increase participation of members, strengthen shop floor organisation and recruit new members (Lehndorff/Haipeter 2011).

Until 2003 unions and employers negotiated jointly at national level. The national pattern agreement covered all blue and white collar non civil servant employees at national, *Länder* and municipal level. Shortly after the national negotiations the pay and working hours of civil servants used to be adjusted to the level of the new agreement. The main results of the national agreements were also taken over by the social partners in the public companies (like post, railway etc.). Most charity organisations also followed the agreement.

Today collective bargaining in the public sector is more decentralised than in the past and there are slight differences in working hours and pay between the Federal State level and the municipalities on the one hand and the *Länder* on the other hand (and between civil servants and non-civil servants). The "turning point" in public sector collective bargaining was the negotiation on the new framework agreements which started in 2003 (cf. section 3.2 for more details).

### 2.4 Unilateral government regulation for civil servants

As a compensation for the lack of a right to strike and negotiate working conditions, there are longstanding institutionalised joint procedures with the unions representing civil servants (ver.di and DBB). The unions representing civil servants have to be consulted on all new laws concerning the status and the working conditions of civil servants. In addition top-level talks between the responsible Ministry of Interior and the unions have to be held twice a year (Keller 2010: 127).

In the past consultations mainly took place at national level since working conditions of civil servants were regulated by a national legislation. With the reform of the federal system in 2006, responsibility for the working conditions was devolved to the *Länder*. Since then, working conditions, which used to be highly standardised, have become increasingly differentiated.

The richer *Länder* in the South (Bavaria and Baden-Württemberg) are already offering higher wages to attract teachers and scarce specialists from other *Länder*. However the northern *Länder* now agreed to coordinate their civil servant policy to avoid wage increases as a result of mutual overbidding.

In the past improvements of the working conditions through new collective agreements were directly transferred to civil servants. This process of harmonising working conditions went in both directions. Civil servants were given similar rights for partial retirement or part-time work as non-civil servants and the unions achieved nearly the same job security for non-civil servants who cannot be dismissed after working 15 years in public sector. Since early 2000 this quasi-automatic connection between the working conditions of both status groups disintegrated. To save money employers increased wages of civil servants only after a time span. They also underlined their demands for concessions by unilateral decisions to increase working hours and reduce the Christmas bonus for civil servants.<sup>9</sup> Civil servants now have working hours between 40 (Berlin, Hamburg), 41 (Federal State, North Rhine-Westphalia), and 42 hours a week (Bavaria, Thuringia). The higher job security of civil servants is used as an argument to curtail their working conditions compared to non-civil servants.

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<sup>9</sup> In October 2011, the shortening of Christmas bonus for civil servants, judges and soldiers at federal state level was cancelled. They now get 60% of a monthly payment as an annual bonus instead of 30% before (cf. *Mitbestimmung* 11/2011: 8).

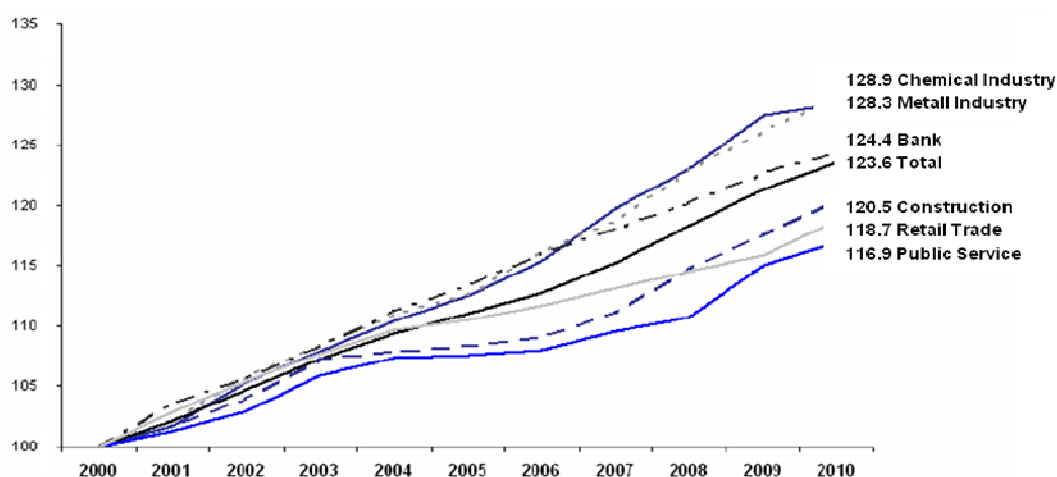
### 3. Pay system and pay differentials

As described in section 2, since 2005/2006 major changes have taken place in the public sector, where the social partners agreed a general reform in order to modernise public sector and public sector payment. They started to negotiate a new framework agreement in 2003 which reflects a complete new model for the public sector with more performance and less seniority pay but also with the introduction of a low-wage scale. Collective agreements are now on two levels: one for the *Länder* (TdL, 2006) and one for the municipalities and the Federal State (TVöD, 2005). Moreover there is a separate directive for the civil servants (*Beamtenrecht, Besoldungsregelungen*). As a result of this process, there are now more flexible collective agreements with more incentives, more specialisation for particular groups of employees and more and more independence from civil service law.

#### 3.1 Pay trends

In the last decade collectively agreed wages for non-civil servants in the public sector fell behind the wage increases in most private industries (Figure 5). Because of tax reforms, with substantial tax decreases, the pressures on wages were very high in the public service. Increases of hourly rates were partly compensated by a reduction in annual bonuses or an increase in working hours. A recent analysis of total labour costs per working hour which include yearly bonuses and employer's contributions confirm this picture. Total labour costs in the German public sector increased between 2000 and 2010 by only 1.1% per year compared to 1.7% in the German private sector and much higher rates in other EU-countries like 4.3% in UK and Belgium or 3.3% in the Netherlands (Niechoj et al. 2011: 7).

Figure 5: Development of collectively agreed wages by industries, West Germany, 2000-2010 (2000=100)



\* from 2005 Federal State and municipalities (TVöD)

Source: Bispinck / WSI-Tarifarchiv (2011): 13.

### 3.2 Recent reforms: From a single contract to a plurality of agreements

Collective bargaining in the German public sector is more decentralised than in the past. The “turning point” in public sector collective bargaining was the negotiation on the new framework agreements which started in 2003. The job descriptions in the old agreements dated back to the early 1960s and contained many jobs which did not exist any longer (like keypunching). There were still separate agreements for blue and white collar workers while in other industries these status differences had disappeared. The unions wanted to reduce discrimination by introducing a gender neutral system of job evaluation and to simplify the increasingly complex system with more than 17,000 job descriptions and to reduce the incentives for outsourcing. The employers’ goals were less clear, but their main priority was cost neutrality. Re-evaluation of traditional female jobs conflicted with the goal of cost neutrality. Lower wages for unskilled jobs, to avoid outsourcing, conflicted with the union goal of reducing gender discrimination. Higher wages for specialists to make the public sector more attractive conflicted with cost neutrality.

Because of the cost pressures after the tax cuts in early 2000 the negotiations were more stressed than before and did not end with a new single national agreement. The *Länder* refused to sign the new agreement because they wanted longer working hours and higher cuts of the annual bonus for the upper pay grades. The municipalities only continued negotiations under the “most-favoured treatment clause” that later agreed compromises in separate negotiations with the *Länder* would also apply to them. Ultimately two slightly different national framework agreements were signed firstly for 2005 by the Federal State and the municipalities in 2005, and secondly for the *Länder* (except Hesse which had its own agreement) in 2006. The following box presents key issues of the collective agreements in 2005/2006 whereas table 8 provides more details.

#### **The collective agreements 2005/2006**

The “century reform” (*Jahrhundertreform*) signifies a change in the basic assumptions on the functioning of the labour market in the future public sector:

Mobility between private and public companies would be encouraged by abolishing pay elements which only existed in the public sector like seniority pay increases and family allowances. Efficiency instead of tenure should be rewarded by experience, promotion and the extension of performance pay. Divisive status differences between blue and white collar workers should be reduced to improve cooperation and team work. Internal flexibility should be improved by working time flexibility and by temporary and probationary management positions. The attractiveness of the public service should be increased by raising entry wages and reducing promotions. A main driver for the reform was finally the intention to simplify a wage system which had become over the decades increasingly complex and bureaucratic. Losers under the new agreements were protected by an acquired rights clause (*Bestandschutz*). The most important changes were:

- abolition of the different status of blue and white collar workers;
- abolition of family allowances;
- joint wage grid with 15 pay grades with up to six experience promotions (instead of up to 12 seniority pay increases);
- lower entry wages for low skilled to avoid or reduce outsourcing;
- extension of performance pay;

- introduction of an annual bonus which replaces Christmas bonus and holiday allowance and is differentiated by pay grades.

Table 8: Comparison of the new and former collective bargaining legislation

	New collective bargaining legislation (TVöD 2005/TV-L 2006)	Old collective bargaining legislation (BAT)
Manual/white-collar relationship	Same legislation covers all (TVöD – Collective Agreement for Public-Sector Employees in federal state and municipalities) TVL for Public Sector Employees of the <i>Länder</i>	Separate collective bargaining arrangements for white-collar and manual workers (BAT-BAT-O or Collective Agreement for Federal Employees and MTArb/MTArb-O or Framework Collective Agreements for Manual Workers)
Working time in Eastern and Western Germany	TvÖD: 39 hours per week in West and 40 hours in East Germany TVL: between 38.7 and 40.1 hours in West and 40 hours in East Germany	Working time of 38.5 hours per week in West Germany and 40 hours per week in East Germany
Working time flexibility	Flexibility of working time: balancing period up to two weeks (working time ‘corridor’/bandwidth)	Narrower ‘corridor’ for balancing out overtime worked (max. one week)
Differentiation of pay rates	15 pay scales in one collective agreement, all employees moved to the new system (BAT/BAT-O and MTArb / MTArb-O completely superseded)	49 wage and salary scales in various collective agreements
Seniority principle	Increase in attractiveness through improved pay at the beginning of the working life	Age-related pay (up to 15 increments)
Performance-related pay	In future up to 8% of employer’s total wages bill as variable performance-related pay (starting in 2007 with 1%)	No variable performance-related components in pay
Promotion criteria	Promotion to a higher pay scale dependent solely on function (not after mere passage of time)	Promotion to higher wage and salary scales dependent on length of service and/or completion of probationary period (irrespective of performance)
Child/family supplement	Marital status and number of children no longer play any part in determining pay	Pay also dependent on marital status and number of children
Special payments	Introduction of a new annual special payment, paid on a sliding scale depending on pay grade <sup>10</sup>	Christmas bonus (82.14% of monthly pay West/61.6% East) Holiday allowance (EUR 255.65/332.34)
Classification	New regulations significantly reduce classification criteria following trial runs at the end of 2006	Opaque classification regulations: about 17,000 classification criteria
Low pay grades	New lower pay scales introduced in order to improve competitiveness	Outsourcing/privatisation of least complex activities
Filling of management positions	Introduction of 2 new instruments: fixed-term (up to 12 months) and probationary (up to 2 years) management positions	Management functions had to be assigned on a permanent basis

Source: Keller 2010: 101.

Behind these noble goals the results were much more modest. The social partners did not succeed in agreeing on new job descriptions. They decoupled these negotiations from the other

<sup>10</sup> Federal State and municipalities (TVöD): between 60% and 90% of monthly pay in West Germany and between 45% and 67.5% in East Germany; *Länder* (TvL): between 35% and 95% in West Germany and between 30% and 71.5% in East Germany.

parts of the collective agreements and extended the validity of the old job descriptions. It took until January 2012 before new job descriptions were negotiated which remained with 16,500 job descriptions as complex as before. Both sides obviously had underestimated the complexity of the public sector jobs.

The negotiations with the *Länder* proved to be even more conflictual, since the employers demanded so-called ‘opening clauses’ with a view to introducing longer working hours. Due to the lengthy negotiations there was a transitional period when, for the first time since the World War II, no valid collective agreement was in force. This meant that existing employees were still protected by the old agreement since collective agreements in Germany remain in force until they are replaced by a new agreement. In the meantime, new employees had to work up to 42 hours per week and their Christmas bonus was substantially lowered. Strike action proved to be not very effective, since strikes by public employees, such as school or kindergarten teachers, have fewer direct effects on the economy than strikes by train drivers or refuse collectors.

The unions finally signed a new agreement in 2006. After the *Land* of Hesse left the employers’ organisation, they were afraid of further fragmentation and accepted a new collective agreement with opening clauses for working hours. The *Länder* used these opening clauses and extended working hours in West Germany from 38.5 hours to between 38.7 (Schleswig-Holstein) and 40.1 hours per week (Bavaria). In East Germany, all *Länder* have a weekly working time of 40 hours for non-civil servants. The annual bonus payments were substantially lower for the upper pay grades compared to the collective agreement for the Federal State and municipalities.

Many municipalities followed the *Länder* and used the ‘most-favoured treatment clause’. The increase in working hours was translated directly into staff reductions. The unions clearly lost the 38.5 hour week, which they had negotiated in 1990, and working hours are now nearly back to 40 hours. The federal government and the employer’s organisation of the municipalities (KAV) demanded under reference to the ‘most favoured treatment clause’ an increase of weekly working hours while the unions refused this prolongation of working hours. The administration court of Berlin rejected the claim of the employers saying that picking out single clauses from a generally different agreement is unlawful.

Both framework agreements were supplemented by specific agreements for different occupational groups or sub-sectors like hospitals, care, local traffic and so on. These specific agreements have generally priority to the general agreement. The specific agreement for doctors was negotiated after a long strike by a doctors union (*Marburger Bund*) which left the former joint negotiation committee and reached after a long strike higher wage increases for their constituency. Since hospitals are subject to strict cost controls, these wage concessions were partly paid by staff reductions in other occupational groups.

The implementation of the new collective agreements is still ongoing. Surprisingly, model calculations of the impact of the new framework agreement on lifetime income are not available. It seems that neither the unions nor the employers want the long-term effects on pay of different groups to be known, because this might cause all kind of conflicts. The increased possibilities for performance pay are not being fully used partly because the employee coun-



cils blocked them and partly because the employers have not yet developed reliable performance indicators or assessment systems.<sup>11</sup> A survey among employee councillors in North Rhine-Westphalia showed that in 32% of the municipalities the new low-wage group was used for new recruited employees. In most cases it was used for cleaning. Only about 9% of the interviewed employee councillors answered that the new wage group helped to avoid outsourcing or promoted insourcing (Schmidt et al. 2010: 254). Some of the employee councillors, however, were afraid of negative secondary effects caused by a general decrease in starting wages as previously well-rewarded activities were reclassified as “simple”.

Beside a slight reduction in the number of job descriptions (from 17,000 to 16,500) in January 2012 there were no substantial reforms since the “century reform” in public sector. As described, major changes were realised from 2005 onwards. This was less a result of the financial crisis, but more a result of German reunion and new controls in public management in order to save the budgets. In recent years wages in public sector grew very slightly. In the last negotiations the unions were able to negotiate a pay rise in order to balance higher living costs (Table 9).

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<sup>11</sup> At the level of the *Länder*, the performance-related pay was even abolished in the meantime.

Table 9: Results of collective wage agreements in the public sector compared to industrial economy, 1998-2014

Year	Wage Agreement Public Sector*		Wage Agreement Industrial Economy**	Increase Consumer price index***
1998	From 1 <sup>st</sup> Jan. +1.5%		2.0%	1.0%
1999	From 1 <sup>st</sup> April +3.1% (civil servants from 1 <sup>st</sup> June +2.9%, in the higher brackets from 1 <sup>st</sup> Jan. 2000) and single payment DM 300		3.1%	0.6%
2000	From 1 <sup>st</sup> Aug. +2.0% and single payment DM 400 (civil servants A1 – A11 single payments DM 100 Sept. – Dec. each month)		2.5%	1.4%
2001	From 1 <sup>st</sup> Sept. 2001 +2.4% (civil servants: from 1 <sup>st</sup> Jan. +1.8% and from 1 <sup>st</sup> Jan. 2002 +2.2%)		2.3%	1.9%
2002			3.2%	1.5%
2003	From 1 <sup>st</sup> Jan. +2.4%, in higher brackets from 1 <sup>st</sup> April (civil servants excl. B11 from 1 <sup>st</sup> April resp. 1 <sup>st</sup> July plus single payment of 7.5% max. EUR 185)		2.4%	1.0%
2004	From 1 <sup>st</sup> Jan. and 1 <sup>st</sup> May 1.0% at a time (civil servants excl. B11 from 1 <sup>st</sup> April and 1 <sup>st</sup> Aug. at a time) plus single payment EUR 50		1.9%	1.7%
	<b>TVöD</b>	<b>TV-L</b>		
2005	Three single payments of EUR 100 in April, July and October		1.9%	1.5%
2006	Two single payments of EUR 150 in April and July	Single payment of EUR 50-150 (depending on wage group) in July	2.1%	1.6%
2007	Two single payments of EUR 150 in April and July	Single payment of EUR 60-310 (depending on wage group) in Jan. Single payment of EUR 100-450 (depending on wage group) in Sep.	2.7%	2.3%
2008	From 1 <sup>st</sup> Jan. increase of standard wages by EUR 50 plus 3.1%	Same wage level in East and West Germany for the lower wage groups From 1 <sup>st</sup> Jan: +2.9% (West) From 1 <sup>st</sup> May: +2.9% (East)	2.7%	2.6%
2009	From 1 <sup>st</sup> Jan. +2.8% and single payment EUR 225 in January	Single payment EUR 40 (part-time pro rata) From 1 <sup>st</sup> March <sup>1</sup> + EUR 40 and +3%	2.7%	0.4%
2010	From 1 <sup>st</sup> Jan. +1.2%	Same wage level in East and West Germany for every wage group From 1 <sup>st</sup> March <sup>1</sup> +1.2%	1.8%	1.1%
2011	From 1 <sup>st</sup> Jan. 2011 +0.6% and from 1 <sup>st</sup> Aug. +0.5%	From 1 <sup>st</sup> April 2011 +1.5% and from 1 <sup>st</sup> Dec. +1.9% plus EUR 17	n.a.	n.a.
2012	In Jan. 2012 single payment of EUR 240	Single payment EUR 360 latest in 31 <sup>st</sup> May 2011 (part-time pro rata)	n.a.	n.a.
2012-2014	From 1 <sup>st</sup> March 2012 +3.5% From 1 <sup>st</sup> Jan. 2013 +1.4% From 1 <sup>st</sup> Aug. 2013 +1.4%			

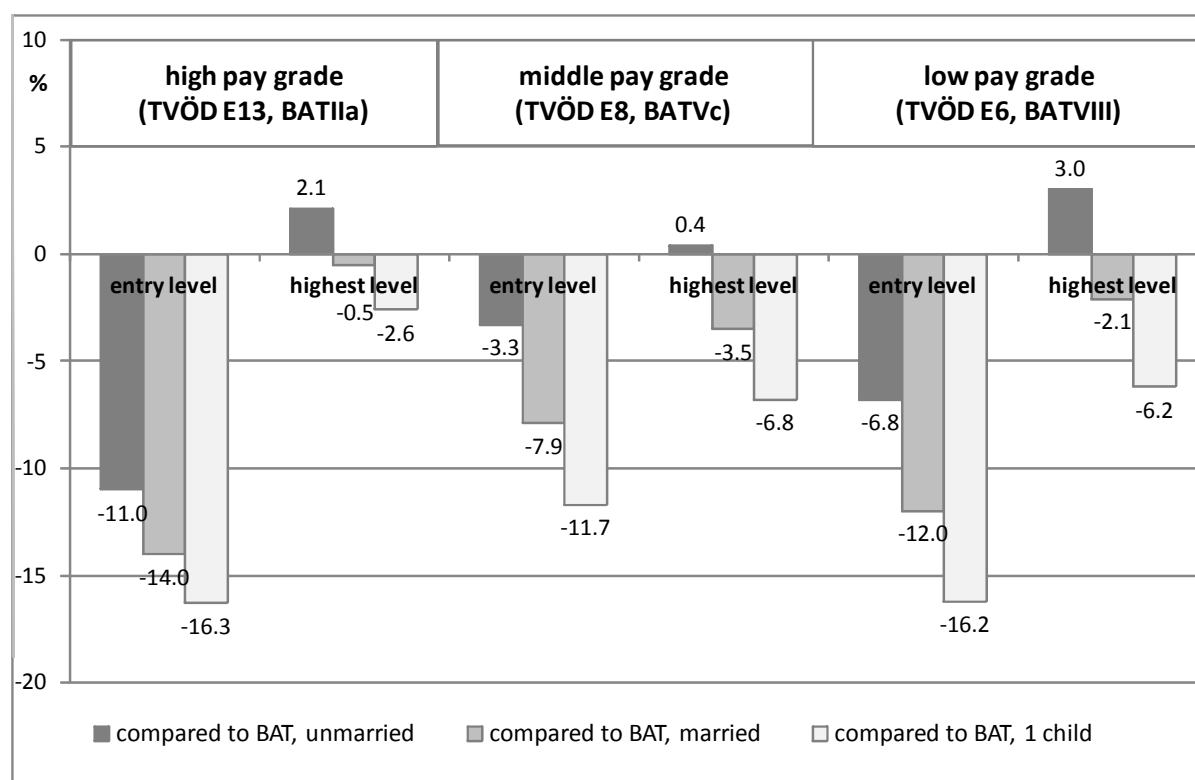
\* Until 2004 joined agreements for public sector. \*\* Federal Minister of Labour and Social Affairs. Results of Important Collective Agreements, 1993-2009. \*\*\* Statistisches Bundesamt, Fachserie 17, Reihe 7: Consumer Price Index – Germany.

Source: BMI 2011: 52; Informationsseiten für den Öffentlichen Dienst (<http://oeffentlicher-dienst.info>), ver.di 2006; TdL/ver.di 2009, TdL/ver.di 2011.

### 3.3 Comparison of earnings before and after new collective agreements

The former collective agreement in public sector (BAT until 2004) included seniority principles. Every second year employees earned a bit more just by getting older. Under the new collective agreements an upgrading of wages follows in up to six levels depending on job tenure and job experience. Former allowances for married employees and with children were abolished. Instead of the former christmas bonus and holiday payment there is now a lower allowance once a year. As a result every employee who started working under the new collective agreements earns less than employees who already started working under BAT. Figure 6 shows the differences in wages since the new collective agreements came into practice. As an example we selected three different wage levels: lower, middle and higher wage scales, each of them at the entry and the highest pay level. At the entry level all employees earn less than under conditions of the former agreement which is most pronounced for employees with children. Only at the highest pay grade employees without children earn now more than under the conditions of the BAT.

Figure 6: Comparison of the new collective agreement with the former, selected pay grades and employee groups, entry and highest level (in %)



Source: Informationsseiten für den Öffentlichen Dienst (<http://oeffentlicher-dienst.info>), own calculation.

### 3.4 Pay differentials in public – private sector

Average compensation costs in the German public sector are above those in the private sector. These compensation costs include not only monthly wages, but also annual bonuses and fringe benefits like additional age insurances. The picture is less clear when it comes to monthly wages. In 2008, the average monthly gross wage (full-time equivalents) in public sector amounted to EUR 2,692 compared to EUR 1,539 in the private sector (Ellguth/Kohaut 2011: 28). If one controls for size of the company, seniority, share of women, coverage by a

collective agreement, skill level etc. (nearest neighbour-matching) one finds slightly higher wages in the private sector. Obviously, there is a trade-off between job security and wages (Ellguth/Kohaut 2011: 28ff). Caution in the interpretation of this matching-comparison is advisable. Since nearly all employees in the public sector are covered by a collective agreement, decent pay is still a dominant criterion of public sector jobs.

Average wages in the public sector are slightly above wages in the private sector for full-time working women and slightly below for full-time males. Part-timers of both sexes are better paid in the public sector (Table 10). The main reason for the higher wages of part-timers is the low percentage of marginal part-timers (mini-jobbers) which often are not equally rewarded in the private sector as other part-timers (Voss/Weinkopf 2012). But wages in the public sector are more compressed than in the private sector. Especially women and the middle-skilled are the winners of this wage structure.

*Table 10: Gross average earnings per hour, month, and year (EUR) of men and women in the private and public sector, full-time and part-time, 2010*

	paid weekly working hours		hourly wage		monthly wage		annual wage	
	<i>private</i>	<i>public</i>	<i>private</i>	<i>public</i>	<i>private</i>	<i>public</i>	<i>private</i>	<i>public</i>
<b>women</b>	38.2 (23.8)	39.3 (24.9)	17.90 (15.23)	18.13 (16.49)	2,973 (1,585)	3,097 (1,889)	35,673 (19,015)	36,679 (22,671)
<b>men</b>	38.6 (25.2)	40.0 (25.8)	22.54 (15.61)	21.41 (18.90)	3,780 (1,709)	3,725 (2,118)	45,358 (20,507)	44,702 (25,420)
<b>gender gaps</b>	0.4 (1.4)	0.7 (0.9)	20.6% (2.3%)	13.3% (12.8%)	22.5% (7.3%)	16.9% (10.8%)	21.4% (7.3%)	17.9% (9.4%)

only non-civil servants, non-market services (includes charity organisations)

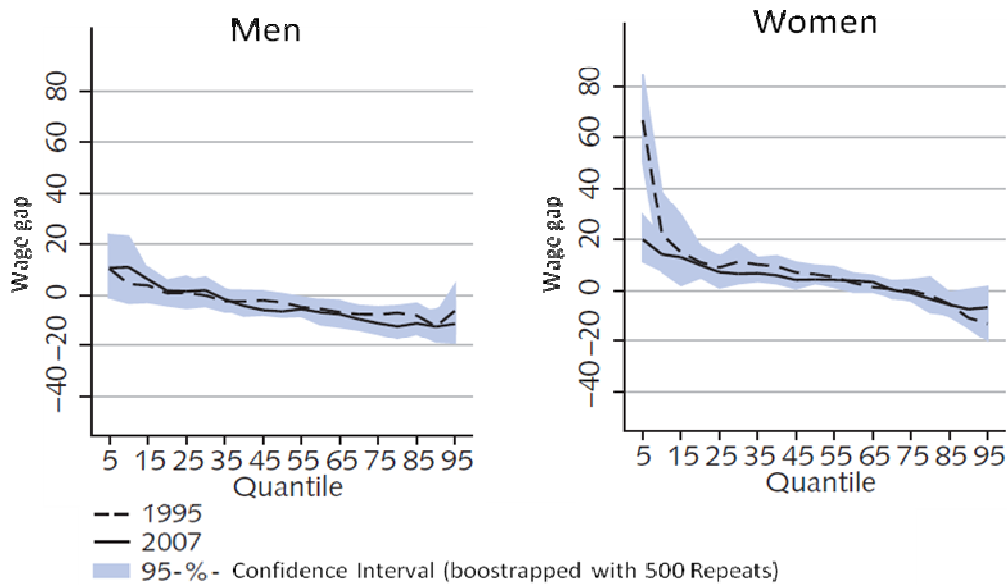
Source: Statistisches Bundesamt 2011d.

### 3.5 Gender specific differentials

A recent more detailed analysis of pay in the public and private sector based on the Socio-Economic Panel (GSOEP) compared the distribution of hourly gross and net wages of employees in the public and private sector in 1995 and 2007 (Tepe/Kroos 2010). Figure 7 and 8 show the wage differences between the public and private sector for men and women in East and West Germany by percentiles. In West Germany public sector wages in the lower percentiles for men are slightly and for women substantially above private sector wages. In the higher percentiles the difference narrows and eventually becomes negative.

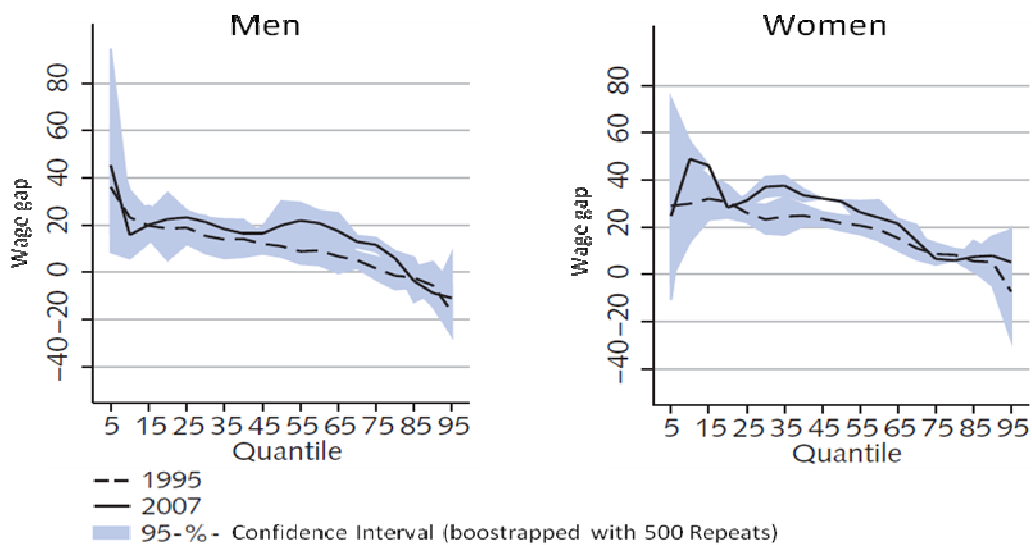
In East Germany in spite of lower collectively agreed public sector wages the positive wage gap for the lower percentiles is higher than in the West. In addition, the wage gap is also positive for the middle and higher incomes, only becoming negative for men in the very high percentiles. Because of the relative decline of private-sector wages in East-Germany, the positive wage gap increased for man and women up to the high percentiles.

Figure 7: Adjusted wage gap between public and private sector, West Germany, 1995 and 2007, in %



Source: Tepe/Kroos 2010: 5.

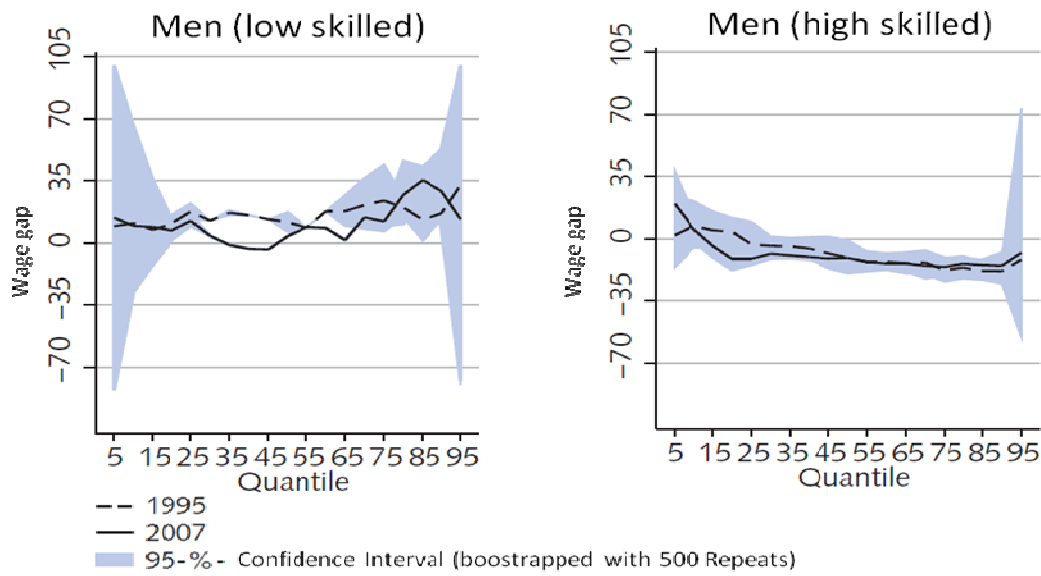
Figure 8: Adjusted wage gap between public and private sector, East Germany, 1995 and 2007, in %



Source: Tepe/Kroos 2010: 5.

For the low skilled, the wage gap to the private sector is positive for men and women. The highly skilled men, however, earn only more in the public sector in the low percentiles (Figure 9). For highly skilled women there was found a positive wage gap until the middle percentiles (Figure 10). These results support the view that wages in the public sector are more compressed than in the private sector which improves the wages of the low skilled and reduces the gender gap.

Figure 9: Adjusted wage gap between public and private sector, men by skill level, 1995 and 2007, in %



Source: Tepe/Kroos 2010: 7.

Figure 10: Adjusted wage gap between public and private sector, women by skill level, 1995 and 2007, in %



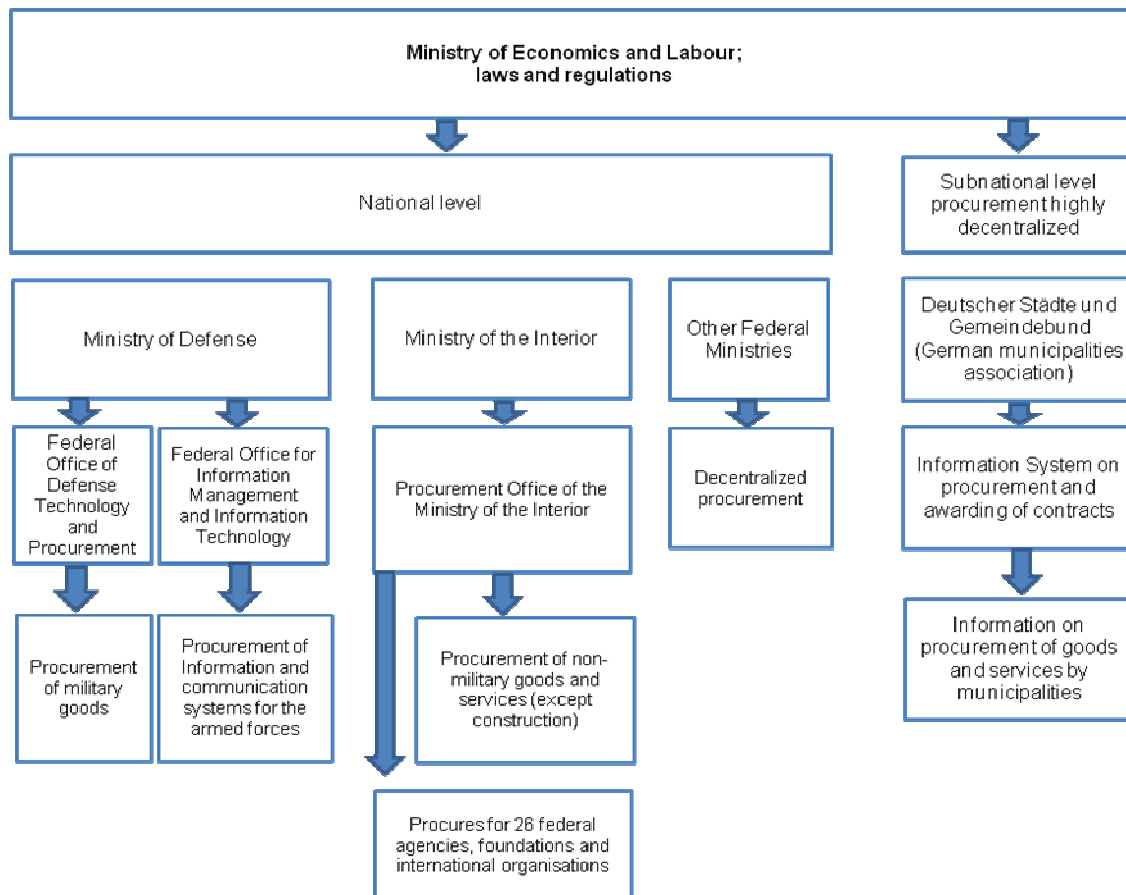
Source: Tepe/Kroos 2010: 7.

## 4. Public procurement

### 4.1 Legal basis of public procurement

An authority should be considered as being “public” if it directly or indirectly spends taxpayers’ money. Is this the case the public institution is therefore bound by public procurement law. The European Directives define contracting authorities as the state, regional, or local authorities, as well as (under certain additional conditions) legal bodies governed by public law. In addition, publicly or privately run utilities (water, energy, transport, and post, but not telecommunications) that have been granted an exclusive right to conduct their business are bound to procurement law. The same definition applies to German public procurement law.

Figure 11: Structure of the German public procurement system



Source: Edler et al. 2005: 121.

In principle, any contract (works, supply, or services contracts) awarded by a public authority to a third party falls within the scope of European public procurement law provided that its estimated value exceeds the European thresholds (Table 11).

Table 11: *Thresholds for public procurement (European Law), 2012*

EC	Work contracts	Supply contracts	Services contracts
Public bodies	EUR 5,000,000	EUR 130,000 or 200,000 (depending on public body)	
Entities operating in water, energy, transport, or postal services sectors		EUR 400,000	

Source: Own compilation.

Below these thresholds, German public procurement law applies with the consequence that contracts only have to be advertised nationally and different legal remedies apply.

### ***Implementation of the EU procurement law in Germany***

“If a threshold criterion is met, the national legislation in Germany is restricted to effectively implement all applicable EU law, e.g. the directive on legal means. This is being done mostly by §§’s of the German Law against Restraints on Competition (GWB). Yet by far the value of most of the public contracts in Germany are below the relevant threshold. In the field of construction, around 98% of all public contracts do not fall within the scope of the directive 2004/18/EC and are therefore subject to national legislation.

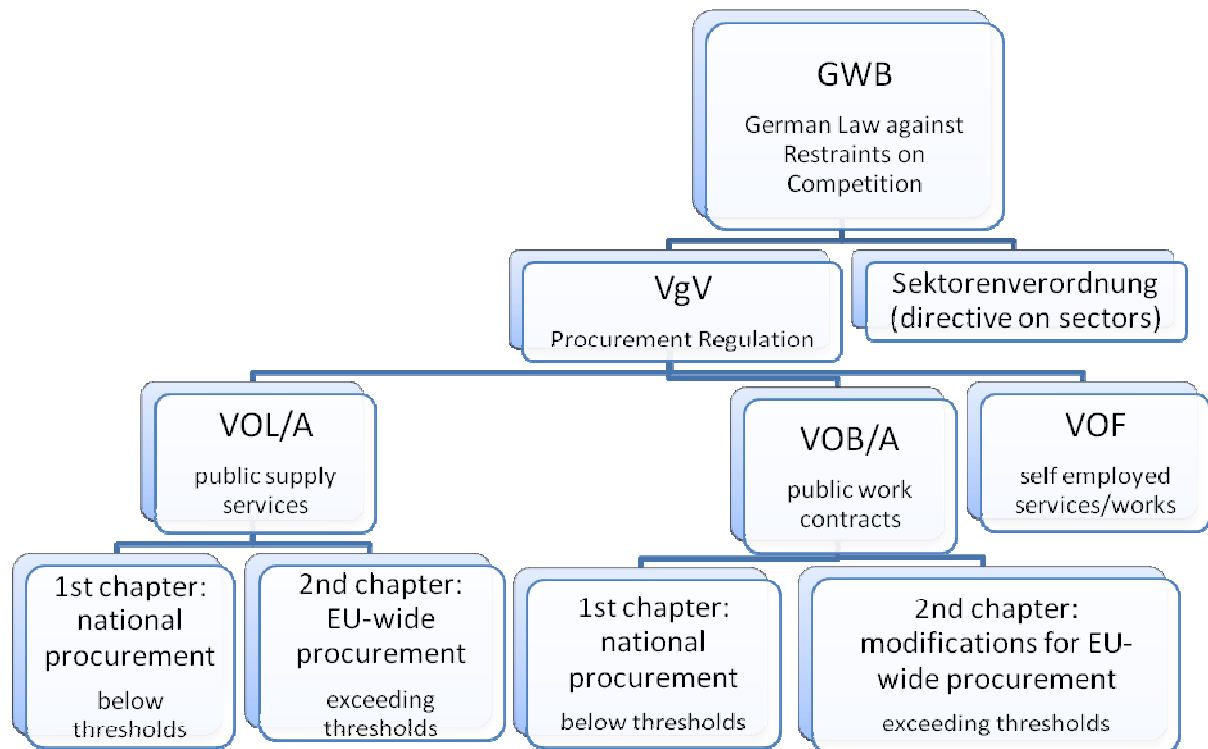
“Accordingly, procurement law in Germany is segmented into two parts:

- On the one hand there is a system of judicial remedies applicable for public contracts of and above the thresholds.
- For all other public contracts there is a far weaker system for protection of the bidders, restricted to claims for compensation of damages if a legal provision was not met in the procedure and – if regarded – the public contract would have been awarded to the claimant.

Consequently, issues of and above the thresholds constitute the largest part of legal practice in Germany. The law is thereby spread into a rather confusing system of different acts, set together in a ‘cascade’-like system’.” (Willenbruch/Aydintan 2010: 2) (Figure 12).



Figure 12: Process of public procurement – “cascade”-system

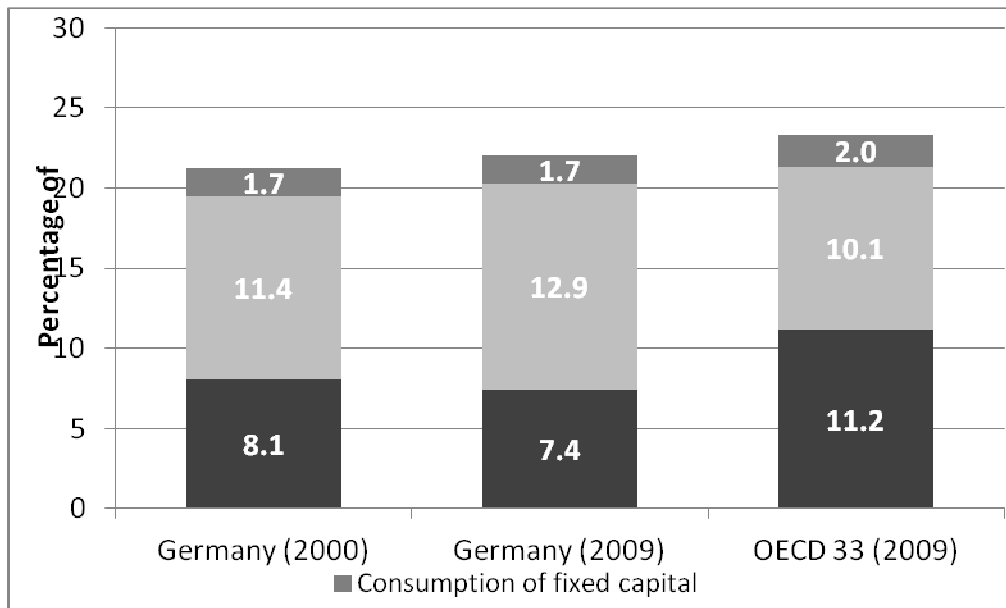


Source: Willenbruch/Aydintan 2010: 3, own illustration.

## 4.2 Praxis of public procurement and prevailing laws in Germany

The overwhelming part of staff reduction in public sector is the result of outsourcing and privatisation which had a stronger impact on the German public sector than on the average in the OECD. Compared to other OECD countries the private sector is involved to a larger extent in producing public services and goods. The share of the private sector grew between 2000 and 2009 which is mainly related to payments provided for health services. Since gross and net investments declined it is not surprising that also costs for fixed capital are below OECD33 average. The value of services and goods bought by the German government amounted in 2009 to 12.9% of GDP compared to 11.4% in 2000. This is 2.8 percentage points above the OECD33 average (10.1% in 2009) (Figure 13).

Figure 13: Cost of government-produced and government-funded goods and services, 2000 and 2009, in % of GDP



Source: OECD 2011b: 1.

Public procurement offers the state not only efficient allocation of its resources but also the realisation of other important goals like promotion of innovations, reducing CO2 emissions, equal treatment of men and women or safeguarding compliance with local labour standards which is required in the ILO convention No. 94.<sup>12</sup> Germany has not ratified this convention. Also European regulations allow to extend the selection criteria and to include environmental and social criteria (Europäische Union 2004: 134). The German Federal Constitutional Court confirmed the rights of the state to introduce prevailing wage laws and underlined the legitimacy of the goals to stabilise the system of social security and of collective bargaining (Schulten/Pawicki 2008: 186).

In the past including such protection clauses in public procurement laws was not seen as necessary. Until the mid 1990s the state used to be a model employer not only for its own employees but also by paying outsourced services according to collectively agreed standards. In the last two decades the state became increasingly a major driver in the expansion of a low wage sector by outsourcing, privatisation and as a contracting authority. Moreover 30,000 or more procurement bodies in the German public service in practice awarded contracts only the

<sup>12</sup> Article 2 of the ILO convention 94 requires: “1. Contracts to which this Convention applies shall include clauses ensuring to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favorable than those established for work of the same character in the trade or industry concerned in the district where the work is carried on (a) by collective agreement or other recognized machinery of negotiation between organisations of employers and workers representative respectively of substantial proportions of the employers and workers in the trade or industry concerned; or (b) by arbitration award; or (c) by national laws or regulations” (<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C094>).

basis of the lowest price even though the procurement laws leave it to the procurement body to mix price and quality criteria in order to determine the most advantageous offer.

Berlin was the first state which introduced a prevailing wage. The draft of the red-green government for a federal prevailing was not enacted since it did not pass the second chamber (*Bundesrat*) with its conservative majority. Therefore some of the 16 *Länder* introduced state laws and most others followed or plan to follow (Figure 14). In some *Länder* such as North Rhine-Westphalia, the prevailing wage law of the red-green government was repealed by a conservative government and introduced again after the last elections. In 2008 the prevailing wage law of Lower Saxony was declared as unlawful by the European Court of Justice.<sup>13</sup> Afterwards some *Länder* laws were discontinued (for example Hesse) and other reformulated. The *Länder* laws differ but some developments are moving in the same direction. The first laws include only the construction industry, next local transportation, security service and cleaning were included and now in Bremen (city-state) all services. In Berlin (city-state as well) all public contracts are included. Also the area of application within the public service differs. Some *Länder* include the municipalities others only the respective state. Some *Länder* include all public contracts, others only from a defined threshold value (between EUR 10,000 and 50,000). The details also differ. Some states exclude companies which violate the law from participation in tendering for up to three years. Some allow cancellation of the contract without notice. The general contractor is always responsible for the compliance with the law. In three *Länder* the public procurement body has to agree to the selection of subcontractors. Hamburg has set up its own control authority.

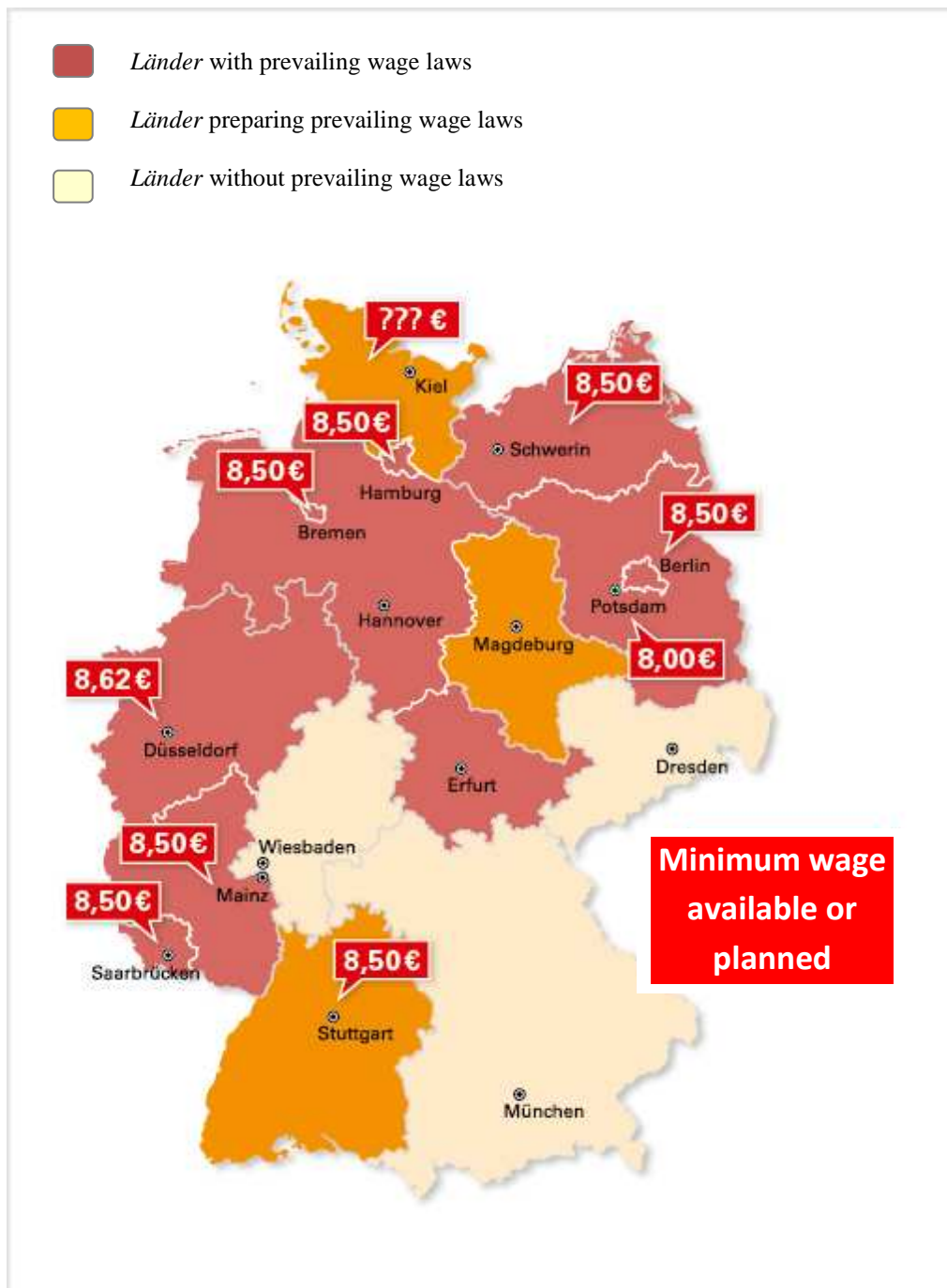
The first generation of prevailing laws only asked for the compliance with local standards. Since Germany does not have a national minimum wage and these standard are often very low the last generation of the laws combined the prevailing wage laws with minimum wages for public procurement. The level of the minimum wage more or less corresponds to the lowest wage level in the public service in the respective state (Schulten/Pawicki: 189). The argument was that the state should not underbid itself.

Not much is known about the implementation and the impact of the prevailing wage laws. The two former evaluation studies in Hamburg and in North Rhine-Westphalia were based on expert interviews and company surveys (Stefaniak/Vollmer 2005; Hamburger Senat 2007). They both show that more than 80% of companies (84% in North Rhine-Westphalia and 97% in Hamburg) support the law and that companies do not report cost increases. (90%) The companies in Hamburg supported the controls of the state. In North Rhine-Westphalia the lack of controls was criticised.

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<sup>13</sup> In the so called *Rueffert case* the ECJ ruled that Member States may not adopt legislative measures which limit contractors for public works contracts to those undertakings which, within their tender submission, agree to pay their employees at least the rate set by a collective agreement which was not declared as generally binding based on the posted workers directive (<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/ruffertcase.htm>).

Figure 14: Prevailing wage laws for public procurement



Source: WSI-Tarifarchiv 2012.

All prevailing wage laws in Germany were carefully checked for compliance with European law. Experts, however, still see these laws under the sword of Damocles because of the restrictive decisions of the ECJ (Schulten 2012). The thresholds vary between the *Länder*. Bavaria, Berlin, Hamburg and Saarland have no thresholds at all, Bremen and Schleswig-Holstein have thresholds for orders up to EUR 10,000 and Hesse up to EUR 50,000 (Schulten/Pawicki 2008: 187).

In North Rhine-Westphalia a prevailing wage law (*Tariftreuegesetz*) has been in force since May 2012. If a company gets a public order above a threshold of EUR 20,000 it has to pay an hourly minimum wage of at least EUR 8.62 to those employees who are involved in carrying out the public order. The effects of this law have not yet been evaluated which is mainly due to the short period of validity.

## Part Two. Employment and procurement in municipalities

Municipalities are important local employers and residents quickly notice the impacts if public services are reduced and charges are increased, or if service quality falls as a result of constant staff cuts.

The number of people employed by municipalities has fallen considerably in the last two decades, in part as a result of the increasing privatisation and outsourcing of services formerly provided by public authorities. Municipalities in Germany enjoy considerable freedom and flexibility as to how services are provided and the legal form of the organisations that provide them. At the same time, however, municipal tasks and services are shaped to a significant extent by decisions at national level, which place considerable restrictions on municipal freedoms and have led to structural budget deficits in a large number of municipalities. As well as cutting down on investments in infrastructure, municipalities are attempting to reduce their high debt levels by reducing staff numbers in particular, by making more efficient use of staff and/or by outsourcing services that used to be provided by public authorities.

In the following we investigate whether the new pay regulations have had an effect and how the make-or-buy situation has developed. Of particular interest in cases where there has been an increase in external contracts or outsourcing of public services (buy), is whether work and pay conditions in the public service have changed, and if so how. In addition, we look at the impacts that re-municipalisation of services has on working conditions of employees.

The following analyses are based on literature research and case studies in three cities in North Rhine-Westphalia that are particularly affected by growing debt levels. The selected examples are used to illustrate the reasons for make-or-buy decisions in each case, how the procurement processes work and the impacts they have on the quality of public services and employment conditions. In some cases, attempts are being made to bring outsourced services back under municipal control (re-municipalisation).

### 5. Selection of municipalities and research design

Our analyses are based on up-to-date literature research and on case studies conducted in three municipalities in North Rhine-Westphalia involving six union and employee council representatives. The case study data are supplemented by four additional expert interviews: two interviews on the impacts of the collective bargaining reform on working conditions with employee council chairmen, one interview with a union expert for the local authority level and a union expert for the public utilities and waste disposal area.

The three municipalities selected for the study are cities that are heavily in debt and have been under pressure for years to consolidate their budgets. Another factor that played a part in the selection of these municipalities was that North Rhine-Westphalia has the largest population of all the German states and has been particularly affected by far-reaching structural changes, the consequences of which are still noticeable today. The collapse of the formerly dominant

steel and coal industry in the Ruhr area not only had considerable consequences for the workforce (high unemployment), but also led to a substantial loss of tax revenue for the municipalities as large industrial companies declined. Municipal revenues fell noticeably, while outgoings (e.g. state transfer payments because of greater numbers of unemployed people, job-seekers and the long-term unemployed) increased significantly.

In terms of outsourcing and the extent of external contracts awarded, the three municipalities have taken different approaches in some areas. One municipality has had some success with re-municipalisation, while the other two decided to outsource public-law service areas, turning them into private-law entities in which the municipality holds a majority interest. Since one of the municipalities is a city that belongs to a district (*Kreis*), forms of inter-municipal collaboration (where several municipalities collaborate to provide certain services) are more common here than in towns and cities that do not belong to districts.

Table 12: The case studies at local level

Municipality	Inhabitants	Municipal employees	Dept level	Particularities
A	~ 500,000	~ 6,000	extremely high (financial support from NRW)	trend to outsourcing (private-law entities)
B	> 500,000	~ 9,000	very high	trend to outsourcing re-municipalisation in two areas (IT, cleaning)
C	~ 50,000	~ 550	comparatively low	inter-municipal collaboration re-municipalisation of many services

Source: Own compilation.

Municipality A is a city with just under 500,000 inhabitants that does not belong to a district. Its core budget is heavily in debt (approx. EUR 4,200 per inhabitant in 2009) and it has for years been obliged to present budget consolidation plans to the chief administrative officer (*Regierungspräsident*) for approval. Since 2011, the municipality has received financial support from the *Land* NRW on condition that it presents a balanced budget within the next five years. The incumbent mayor is a social democrat. Unemployment in the municipality was around 13% in July 2012. Approximately 6,000 people work in the central administration, of whom more than 60% are women, about a third are civil servants and about 30% work part-time (primarily women). In the last decade there was a strong decrease of public employees, but in the last four years employment level has remained more or less stable. The administration is currently being reorganised and we were not given the opportunity to speak with a representative of the municipality. We held in-depth discussions with the employee council chairman and the responsible trade union secretary. The municipality holds direct relevant interests in around 30 companies, plus a large number of indirect interests. In the past, the municipality has tended to outsource municipal services by turning them into municipal en-

terprises and limited liability companies (*GmbHs*). Outsourcing accounts for 47% of total personnel costs (core administration and outsourced areas).<sup>14</sup>

Municipality B is a large city with more than 500,000 inhabitants that also does not belong to a district. In 2009, the debt level in the core budget was around EUR 3,300 per inhabitant. Further savings will have to be made in the next few years, including savings in personnel costs. The local unemployment rate is about 13%, so the transfer payments that the municipality has to pay to people in need of benefits are correspondingly high. Around 9,000 people work in the central administration, 24% of them are civil servants. The proportion of women is 57%, and almost one third of employees work part-time (the majority of them women). In some areas (indoor cleaning, IT), the municipality has attempted to re-municipalise services that had been outsourced in the past. A common arrangement in this municipality is the outsourcing of services to municipal enterprises in which the city holds a majority interest. Outsourcing accounts for no less than 64% of the total personnel costs. The incumbent mayor is a social democrat.

Municipality C is a town of around 50,000 inhabitants that belongs to a district. The town has experienced some serious structural changes over the past few decades. It used to be a mining town, but is now continually expanding its service sector. The SPD has held an absolute majority on the council for many years. Unemployment is around 11%. The staffing plan for the central administration shows almost 400 full-time equivalents, a fifth of them civil servants positions. The proportion of part-time contracts has been increasing for years. Transfer payments for those in need of benefits are declining. Total debt levels in the central administration in 2009 were around EUR 1,700 per inhabitant. As a municipality that belongs to a district, the city has inter-municipal collaboration arrangements with neighbouring municipalities in a number of different areas. For years, this municipality has been regarded as an example of efforts to re-municipalise as many municipal services as possible. Outsourcing accounted for only 24% of the total personnel costs in 2009.

In two of the three municipalities, guided interviews were held with employee council members and the trade union officials responsible for the municipalities. Arranging interviews at the employer side (HR or procurement officers of the municipalities) turned out to be very difficult. One reason might be that the responsibility for procurement decisions is not that centralised as we had expected in advance. Instead it seems as if such decisions are mainly made within the various departments of the municipal administration. Finally, we succeeded in carrying out at least one interview with a municipal representative responsible for finances (supporting the city treasurer). The reluctance provides an indication of how sensitive the make-or-buy issue is for local government.

The key findings from the interviews in the three municipalities were recorded and compared in relation to changes in working conditions and pay and procurement policy. Although it is not possible to make any general statements about trends based on three municipalities, the

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<sup>14</sup> Outsourcing expressed as a percentage of the total personnel costs for core administration plus all outsourced entities shows how high personnel costs in the outsourced organisations and companies are in relation to the total personnel costs. It provides an indication of the organisational strategy for the exercise of municipal functions and the extent of outsourcing in the fulfilment of municipal duties (Bertelsmann Stiftung o.J.).



case studies provide a good illustration of the restricted options available to municipalities in some areas.

## 6. Municipal duties and services and financial situation of municipalities

Municipal self-government of towns and cities, local authorities and districts has a long tradition in Germany – both politically and economically. Municipalities have their own revenues, their own budgets and their own assets, which are designed to strengthen their economic and political autonomy. Municipal self-government is enshrined in the German constitution in Art. 28 para. 2: “Municipalities must be guaranteed the right to regulate all local affairs on their own responsibility, within the limits prescribed by the laws. (...) The guarantee of self-government shall extend to the bases of financial autonomy.”

The services to be provided by the municipalities are manifold: power and water supply, waste disposal, local public transport and savings banks. Moreover, services of general interest, in particular cultural and educational services (e.g. museums, theatres, libraries, schools and nurseries), benefit payment services, sports and leisure facilities, social and health services (youth centres and homes for the elderly, advisory centres, hospitals, etc.) and other services (e.g. fire service, cemeteries, zoos and botanical gardens). Depending on the local circumstances, municipalities run a large number of other companies and facilities, including ports, airports, exhibition centres and health resorts (cf. Wissenschaftlicher Beirat der Gesellschaft für öffentliche Wirtschaft 2005).

Figure 15: Municipal activities and duties



Source: own compilation.

These services are provided locally by the municipal companies and facilities, which hold responsibility for them. Fundamental decisions concerning service provision (particularly as regards large-scale investments and service quality and price) are taken by the local council

(e.g. town or municipal council), provided they act in the people's best interests. In view of the precariousness of many municipal budgets, however, this is becoming increasingly difficult.

There are many reasons for the high level of debt among municipalities. Some of the main reasons include legal requirements prescribed by the national government that have led to considerable financial problems, and budget constraints caused by structural change, financial crises, the steep rise in social benefits and loss of revenue. Municipalities that are badly affected by de-industrialisation and unemployment have been particularly hard hit.

National and regional governments can interfere in areas of municipal sovereignty through legislation (big influence of central government budget decisions). 90% of municipal activities are prescribed by national government and regional government, and only 10% of city or local authority activities are actually their own responsibility (cf. Häusler/Häusler 2012: 23). In the area of mandatory activities in particular, the national government has repeatedly issued new laws on service provision in recent years and the municipalities have to shoulder the resulting costs. These include various social benefits, such as housing allowance payments for people on benefits, integration allowances for the disabled, and costs associated with ensuring a minimum level of income for older people in the event of reduced earning capacity, and with the legal right to a kindergarten place. When the national government transfers the implementation of a task to the municipalities directly by means of a national law, the municipalities have to finance it. The principle of concomitant financing (where whoever orders a service has to pay for it), does not apply here. According to Art. 104a para. 1 of the German constitution, the municipalities are not entitled to reimbursement of costs.

The financial problems of the municipalities are clearly illustrated by the example of childcare services. In 2008, the national government passed a law on childcare, the *Kinderförderungsgesetz* (KiFöG), which included a legal entitlement to childcare for children under the age of three, from August 2013. Although the number of childcare places has increased since then, a further 27,000 places still have to be created by the deadline in NRW alone. For the municipalities this is a mammoth task. Despite support from the regional government, the municipalities lack the funds to increase the number of childcare places and the necessary staff. The slight increase in municipal employment figures relates almost exclusively to kindergartens and childcare facilities to extend the school day (Altis/Koufen 2011: 1113).

Tax relief laws (for companies, sectors, etc.) passed by the German Bundestag exacerbate the situation for municipal budgets which are already stretched. Since 2008, tax relief laws have led to substantial revenue reductions for the municipalities amounting to EUR 4.8 billion. The tax reliefs contained in the law on growth acceleration (*Wachstumsbeschleunigungsgesetz*) alone have led to further revenue losses for the municipalities of EUR 8.4 billion (Häusler/Häusler 2012: 23). The municipal authorities often had no choice but to cover the costs with short term loans to secure cash flow (cash credits). Even though municipalities account for only 6.4% of the huge national debt of over EUR 2 trillion (2011), this still means a municipal debt of EUR 130 billion for municipal authorities in Germany (ibid.).

## 6.1 The financial situation of municipalities in North Rhine-Westphalia

We will pay particular attention here to the situation of the municipalities in North Rhine-Westphalia (NRW) because we conducted our case studies in three NRW municipalities. NRW has the largest population of all German states (*Länder*) and is particularly affected by structural change. It also has the highest debt level. Its cash credits alone amount to EUR 22 billion, which represents half of the cash credits of all Germany's towns and municipalities taken together (cf. Eicker-Wolf/Truger 2012: 25). Municipalities that are heavily in debt cannot balance their budgets by themselves even if they make huge savings. In addition, the investment backlog in NRW is considerable: NRW invested the least per head: EUR 164 compared with an average of EUR 290 for all states (*Länder*), with predictable negative consequences for public infrastructure (schools and transport), the local economy (business location aspects) and the environment (infrastructure redevelopment to avoid damage to the environment) (ibid.: 30). The municipalities' social benefit payments have risen from around EUR 7.2 billion in 2002 to over EUR 13 billion in the past ten years. NRW has the highest amount of social benefits per head (EUR 733) of all Germany's area states (average EUR 571).

The regional government of NRW responded to the precarious situation of these municipalities by passing a "support pact" (*Stärkungspakt*) at the end of 2011 for the municipalities with particularly high levels of debt. By 2016 (within five years) 34 overindebted municipalities must present a balanced budget with financial support from the *Land* (and by 2021 without further assistance). However, this measure is controversial because the associated necessity to make further savings places additional restrictions on the municipalities' capacity to act and their range of services, and is not without consequences for municipal employees. Even if employment increased slightly since 2008 (especially part-time jobs), job cuts and increased workloads for the remaining employees are likely, according to experts. A further criticism is that the support pact law (*Stärkungspaktgesetz*) merely pays consolidation assistance, while the aim of reducing debt levels retreats further into the background (Eicker-Wolf/Truger 2012: 49). New loans generally have to be taken out at higher interest rates. The risk of higher interest payments with a shrinking supply of credit is to be shouldered by the municipalities alone.

Expert opinion tends clearly towards recommending that the national government and *Länder* must provide greater relief for the municipalities to preserve their long-term effectiveness (cf. the debt-reduction concept of Junkernheinrich et al. 2011). However, it has to be taken into account that the *Länder* and the national government are also under pressure to consolidate their budgets and there is a limit to the municipal costs they can absorb.

In any case, the structural overindebtedness of many NRW municipalities has so far meant that, however hard they try to make savings, their efforts are ultimately futile because higher interest payments and financial market debts lead to a constant increase in expenditure. As a result, many local politicians talk of the "futility trap" (*Vergeblichkeitsfalle*). In a joint initiative called "municipalities in trouble" (*Kommunen in Not*), the trade unions voiced the opinion that further savings compromises at the expense of employees could no longer be tolerated because they would not lead to an effective reduction of debt levels.

## 6.2 Municipal discretion to raise local revenues

When it comes to improving revenues without taking out further loans, the options and scope of action available to municipalities are limited to three areas: they can increase taxes, charges and duties for local residents and businesses (1), they can sell municipal assets (2), and they can establish new forms of collaboration between municipalities (inter-municipal collaboration) or take on services for neighbouring municipalities to increase their sources of revenue (3). Even if these measures can improve municipal revenues, according to the experts in our interviews, the consequences are not undisputed and can have some unintended side-effects.

### *(1) Increasing taxes, charges and duties*

Municipalities attempt to increase their revenues by raising business taxes, e.g. by revising the tax rate, raising charges for waste collection, increasing prices for swimming pools, theatres and museums and introducing new taxes, like the “hotel bed tax” in Cologne which is now the subject of a legal dispute. Charging for the use of public spaces (sports halls, assembly rooms), for instance, hinders vital voluntary work. Decisions one would expect to have minimal impact, like reducing the water temperature of public swimming pools, have led to a clear reduction in visitor numbers (and as a result to lower revenues). In one municipality, the public banks (*Sparkassen*) were taxed at a higher rate, which led them to reduce their generous donations to charity. The resulting financing shortfall had to be made up with public funds, which meant expenditure was simply postponed.

### *(2) Selling municipal assets*

In the past, some municipalities attempted to improve their difficult financial situation by selling municipal assets (public utility companies, sewers, etc.). According to a trade union representative the capital city of NRW, which has for years been governed by a conservative council (CDU/FDP coalition), has always been a “private before public” municipality. The city’s ownership share of municipal companies is less than 50% in all cases. Only 20% of the public utility company (including waste disposal and port operations) is owned by the city. 80% has been sold to a big energy provider (only one other municipality located in the Ruhr area has such a high level of private ownership in public utility companies in NRW). In the opinion of the experts we interviewed, this may lead to fast debt reduction, but in the long term the city would lose out on important potential sources of income from profitable sectors. In addition, they claim, the municipalities lose the management and control powers that they can exercise only if they hold a majority stake in municipal companies.

### *(3) Inter-municipal collaboration*

Another way that municipalities attempt to make savings without restricting services too much is through inter-municipal collaboration. This involves a municipality taking on certain services on behalf of another municipality to save costs and to retain and safeguard staff skills. In view of demographic trends (shrinking municipal populations), the high average age of employees in the public service and job losses, inter-municipal collaboration can help shrinking municipalities to manage their tasks. Small municipalities in particular, including the city we studied that belongs to a district (*Kreis*), can use inter-municipal collaboration to retain their capabilities and to keep certain services for residents running at a lower cost. Under EU law, however, services provided through inter-municipal collaboration arrangements

are subject to VAT, so as to avoid favouring municipal service providers. This means, in our example, that when the emergency services of three neighbouring cities in a district are amalgamated, the municipality which coordinates operations has to charge the two neighbouring municipalities 19% VAT on top of emergency operations costs. This makes services more expensive and does only partially benefit the municipalities because 47% of the tax revenue goes to the central government, which is at the same time the main cause of the municipalities' debt burden. This undermines sensible inter-municipal collaboration initiatives (particularly in metropolitan areas like the Ruhr area). NRW has so far not charged VAT, bypassing legal uncertainties with a "mutual assistance" solution (*Beistandslösung*). It appears, however, that this approach is no longer tenable (cf. Landtag NRW 2012: 216ff).

## 7. Pay and working conditions of municipal employees

### 7.1 Employment in municipalities

Of the nearly 5.6 million employees in Germany's public service, over 2.1 million (around 37%) work at municipal level. Most of these employees in municipalities are non-civil servants (86.4%). The proportion of civil servants (13.6% in 2011) is substantially lower than in the public service as a whole (36.9%) (Statistisches Bundesamt 2012b, own calculations). Nevertheless, the experts in our interviews saw the relatively high proportion of civil servants in the central administration of the municipalities as a problem because civil servants cannot be deployed as flexibly as other employees and the burden of work intensification is carried mainly by the non-civil servants. Civil servants are more cost-effective for the municipalities in the short term, as they do not have to pay employer's social security contributions for them. In the long term, however, the necessary pension provisions alone lead to considerable charges for municipalities (similar to the problems at central government level) (Faust/Klößner 2005: 250). Accordingly, a financial problem is being stored up for the future here. Another aspect that was mentioned in one of the interviews is the high cost of health benefits for civil servants.

Table 13 illustrates that the sharp fall in the number of municipal employees between 1991 and 2010 is primarily due to the reduction of non-civil servants. Their numbers fell by nearly 42% over this period. By contrast, the number of civil servants rose by 8.4%. The proportion of part-time employees rose by around 22% between 1991 and 2010. The biggest changes in workforce size and structure took place before the collective bargaining reform of 2005. From 2005 to 2010 the total number of employees fell by only around 3% and affected solely non-civil servants. The number of part-time employees rose by 5.4% between 2005 and 2010. Since 2008 there is a slightly increase of total employment.

Table 13: *Employment in municipalities (direct services), 1991-2010, in 1,000*

<i>Employees</i>	1991	1995	2000	2005	2008	2010	Changes 1991-2010		Changes 2005-2010	
							total	in %	total	in %
<b>Municipalities (total)</b>	<b>1995.9</b>	<b>1.735.6</b>	<b>1502.2</b>	<b>1277.8</b>	<b>1220.4</b>	<b>1241.5</b>	<b>-754.4</b>	<b>-37.8</b>	<b>-36.3</b>	<b>-2.8</b>
Civil servants	168.0	176.2	176.1	180.3	180.9	182.1	+14.1	+8.4	+1.8	+1.0
Non-civil servants	1827.9	1599.4	1326.1	1097.4	1039.6	1059.4	-768.5	-42.0	-38.0	-3.5
Part-time employees	405.9	482.1	487.1	471.2	467.3	496.6	+90.7	+22.3	+25.4	+5.4

Source: Statistisches Bundesamt 2011a and 2008, partially own calculations.

Other employment characteristics based on data from the Federal Statistical Office are only available for 2002 onwards. Table 14 shows that the proportion of women in the municipalities has grown slightly between 2002 and 2011 (from 58.8% to 59.2%). The proportion of women among part-time employees was also somewhat lower in 2011 (84.8%) than in 2002

(87.4%), but was still very high. The proportion of women among civil servants at local level was 39.4 % in 2011<sup>15</sup>, which was a bit higher compared to 2002. 76% of the female civil servants work in the central administration and in the department for youth and social care. 65% of them work in part-time jobs, whereas the part time share of all female civil servants at local level is 45%.

The proportion of fixed-term employment contracts fell slightly over the period and in 2011 it was significantly lower in the municipalities (8.3%) than in the public service as a whole (15%) (Statistisches Bundesamt 2012b). According to one municipal representative, fixed-term contracts are often counter-productive because of the highly standardised and routine processes in central administration. The rationalisation gains (faster processes) were, she said, cancelled out if the municipalities kept having to train new people, so fixed-term contracts were avoided where possible. The proportion of women among municipal employees on fixed-term contracts rose by over five percentage points between 2002 and 2011 to 68.1% (Table 14).

Table 14: *Employment structure at municipal level, 2002 and 2011, in %*

Share of	2002	2011
women	58.8	59.2
part-time employees	34.2	39.5
women among part-time employees	87.4	84.8
civil servants	11.7	13.6
women among civil servants	34.1	39.4
women among non-civil servants	70.9	62.4
part-time employees among civil servants	13.8	22.3
part-time employees among non-civil servants	36.9	42.2
fixed-term contracts among non-civil servants	9.8	8.3
women among non-civil servants with fixed-term contracts	62.7	68.1

Source: Statistisches Bundesamt 2003 and 2012b.

The previous analysis included only employees in direct public services. If one looks at direct and indirect public service employees, it appears that more than a third of municipal employees work in private-law entities (35.2%) in 2011. Half of municipal employees are found to work in the central administration (50.3%). The remaining municipal staff works in hived-off private-law entities that are still controlled by the municipality (around 9%) or in public-law entities (*Anstalt öffentlichen Rechts*) and public trusts (*Stiftung öffentlichen Rechts*) (5.6%) (Statistisches Bundesamt 2012b, own calculations).

In recent years, the proportion of municipal employees working in facilities organised as private-law entities has risen. However, it is not possible to compare the figures over time based

<sup>15</sup> At the *Länder* level the share of female civil servants (51.3%) is higher than at local and Federal State level. Most of them work as teachers or in the education system (72.4%). At the Federal State level only 16% of all civil servants are women.



on data of the Federal Statistical Office because the census criteria have changed. Before 2011, not all employees in the private entities were recorded.

## 7.2 Impacts of the collective bargaining reform

Following 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) in 2005, new employees in the public service now earn less than those recruited before 2005 (partly because the holiday allowance and Christmas bonus have been replaced with a smaller annual bonus). However, there are still considerable pay differences between the public service and the private sector, particularly in the area of low-skilled workers, so that outsourcing decisions are often justified with the fact that private companies can offer services more cheaply because of their lower wage costs. There are standard employee pay regulations that apply to all the municipalities. They are bound by the public service collective agreement for the federal state and municipalities (TVöD), which defines classification criteria as well as pay levels. Discretion regarding pay is very limited: “Making payments above the collective pay scale in the municipal public service is strictly against the rules of the federation of municipal employer associations (VKA). Moreover, the scope for remuneration outside the agreed pay scale is severely limited because of the poor budget situation and controls by auditing authorities. In addition, there are a number of court decisions that specify classification practice.” (Schmidt et al. 2011: 212; own translation)

However, the collective bargaining reform of 2005 opened up some possibilities that give municipalities with a certain amount of flexibility at this level. These include the introduction of a low wage group (pay grade 1) to prevent outsourcing or promote insourcing, and a performance-related pay option, to make the public service more efficient. The interviewees also pointed out that there is a certain amount of leeway in pay grade classification that can be used to reduce personnel costs.

### 7.2.1 Introduction of a low-wage group – pay grade 1

The decision to accept reduced pay for low-skilled tasks by was made in order to retain the number of those jobs at local level. These jobs which had traditionally used to be part of the public service were seen as uneconomical and were increasingly being outsourced (Schmidt et al 2011: 245). The new collective agreement (TVöD), which came into force in 2005, created a low wage group (pay grade 1), which is lower than the lowest pay levels in the former collective agreement. The gross monthly entry-level wage for pay grade 1 is EUR 1,499.50 (2012) which corresponds to an hourly pay rate of EUR 8.84 in West and EUR 8.62 in East Germany. The slight difference is the result of the diverse weekly working hours. In West Germany, the entry level is below the West German low-pay threshold (EUR 9.54 in 2010). The gross pay increase from entry-level to the highest level of experience (level 6) in this pay grade (EUR 1,672.33 per month) is 11.5%, which is significantly less than the increase for the other pay grades. Furthermore, employees who reach level 6 in the next higher pay grade 2 earn 33% more than those who are at level 6 in pay grade 1.

New employees who do “extremely simple activities” (*einfachste Tätigkeiten*) can be put into pay grade 1. Appendix 3 of the TVÜ-VKA, the agreement on transferring municipal employ-

ees to the TVöD pay scale, provides a list of examples of such activities for pay grade 1 (cf. Schmidt et al. 2011: 244):

- food and drink servers;
- cloakroom attendants;
- washing-up, washing vegetables and other housekeeping and kitchen activities;
- cleaners in outdoor areas like courtyards, paths, green spaces and parks;
- toilet attendants;
- servers;
- domestic workers;
- domestic helpers;
- messengers (without supervisory role).

Pay grade 1 is still a highly controversial issue within the trade unions. On the one hand, there is the desire to protect jobs or to bring them back into the public service, but on the other hand, it is questioned whether the low pay level can be regarded as “fair” for public sector employment (cf. Schmidt et al. 2011: 245). Moreover, the way the list of examples is used is particularly disputed. Employers assess that the list can be extended at company level, whereas the trade unions see the list as exclusive unless it is extended by means of a pay agreement (cf. *ibid.*: 246).

In our interviews, the handling of pay grade 1 in practise was also criticised. For instance, an employee council chairwoman assessed that in canteen kitchens there are, in fact, no extremely simple jobs. In her view, all the jobs in this area are demanding as employees have to know how to operate machinery and be familiar with the hygiene and safety regulations (e.g. the use of detergents). In addition, work in the canteen kitchen is physically demanding and also requires organisational skills and the ability to work in a team. In some cases, the respective employee council had managed to move women out of pay grade 1 and classify them in the next pay grade 2 with the above mentioned arguments. These “successes” achieved in the interests of the employees have, however, met with resistance from the auditors, whose main focus is on economical use of taxpayers’ money. The regional auditing authority carries out random tests to check the legality of pay grade classifications for employees covered by collective agreements, with the evident primary aim of checking whether employees have been put in higher grades than they should have been. It is remarkable that this is seen as a waste of public money.

In 2011, the proportion of municipal employees throughout Germany classed in pay grade 1 was 1.3%. Although this seems to be quite low, it is notable that this is four times higher than in 2006, i.e. shortly after the collective bargaining reform (Statistisches Bundesamt 2012b). According to an employee council survey carried out in 2010, around one third (32%) of NRW municipalities had employees in pay grade 1 at all. An average of 2.7% of employees in these municipalities were in pay grade 1. Interior cleaning is the main area to use this pay grade (Schmidt et al. 2011: 249f). About 91% of the employee councils assessed in the survey that the new wage group had not helped avoiding outsourcing or promoting insourcing (cf. *ibid.*: 254).

In our interviews, the experts stated that they were not really able to say for certain whether the introduction of pay grade 1 had had the desired effect of preventing the outsourcing of low-skilled jobs, or insourcing services that had already been outsourced before (re-municipalisation). One employee council member criticised the fact that even during the discussion about the introduction of pay grade 1, no one was able to give concrete figures to show the effects it would have, i.e. to what extent pay grade 1 could actually prevent outsourcing. Even six years after the new pay scale was introduced, no reliable impact figures are available. However, the representatives from trade unions and employee representation bodies pointed out in our interviews that renewed insourcing of cleaning jobs would only be possible if there were a further efficiency increase in this area. In practical terms, this would mean a greater workload for the employees. For inside cleaning jobs, they claim, this generally means that increasingly large areas have to be cleaned in an ever shorter time, which in their view, effectively amounts to a pay cut.

### 7.2.2 Performance-related pay

Performance-related pay was introduced in 2007 for municipalities (and the Federal State level) with the stated aim of creating a way of making public administration more efficient. In addition, the idea was to increase employees' motivation, personal responsibility and leadership skills (cf. TVöD-VKA).

The suggested amount for performance-related bonuses initially started at 1% of the employer's total wages bill for the previous year for employees covered by the collective agreement (TVöD). Further increases in the performance-related pay percentage were agreed in the 2010 collective bargaining round. The initial 1% volume was financed with money saved by abolishing holiday allowances and Christmas bonuses, which were replaced by smaller annual payments in the switch from the old to the new collective agreement, and through the phasing out of existing entitlements. This meant that the initial sum was financed by the employees themselves. However, the employers had an obligation to pay out the performance-related bonus in full every year (Schmidt et al. 2011: 81).

A performance-related payment presupposes that an internal agreement has been signed that regulates its introduction and application at local level. This opened up the possibility of avoiding introducing variable performance-related pay. In this case the legislation prescribes a flat-rate payment of the 1% sum to all employees (cf. Schmidt et al. 2011: 83). A performance-related bonus can consist of a one-off payment, which is usually based on a target agreement, or it can take the form of fixed-term, revocable bonuses that are usually paid monthly. The methods used to measure performance and the criteria used to determine performance-related pay must be also defined in the internal agreement (ibid.: 84f and 105).

Employers were the key proponents of performance-related pay, seeing it primarily as a means of improving the productivity of a public service suffering from overburdened budgets and competition from the private sector (cf. ibid.: 87). According to representatives of ver.di, from the trade union's perspective the introduction of performance-related pay was assessed as less important (cf. ibid.: 97).

A survey with employee councils on performance-related pay practices was conducted in the NRW municipalities in 2010 to investigate whether the performance-related pay principle is

actually practised. According to the results, 89% of the surveyed municipalities had an internal agreement on performance-related pay. The remaining 11% gave various reasons for not having such an agreement. The most common were that the employer and/or the employee council had rejected the concept of performance-related pay, or that the parties had been unable to agree on how it should be implemented in practice. The survey also found that in around 14% of the municipalities, the sum was paid out at a flat rate to all employees, i.e. without differentiating according to performance, despite the existence of an internal agreement. This means that in total a quarter of the municipalities (11% without an agreement and 14% with an agreement but continuing with flat-rate payments) continue to distribute the performance-related pay budget without differentiating according to performance (cf. Schmidt et al. 2011: 106f).

The trade unionists in our interviews tended to be sceptical of performance-related pay. In the opinion of one employee council chairwoman, there is a risk of municipalities paying “routine bonuses” (*Nasenprämien*). Although she stated that the employee council has a say in deciding on principles, such as the criteria to be used for the payment of bonuses, it is not involved in individual cases. Neither does the employee council have any precise knowledge of how many employees receive extra pay or bonuses or the reasons for them. This means that, in her view, it is likely that employees are treated unfairly when it comes to bonus payments. Another employee council chairwoman was against individual performance-related bonuses because, in her view, the desired increase in efficiency can only be achieved through teamwork.

According to another survey with employees carried out by Schmidt et al. (2011: 146f) in 2010, employees are also sceptical of performance-related pay. The results show that the employees are not opposed to performance-related pay in principle, but are critical of the performance bonus because it is difficult to measure performance properly in practice. The representative of one municipality also highlighted the fact that performance bonuses are usually paid only when employees intensify their efforts, at a time when workloads are already high because of staff shortages. In her opinion, the effort is hardly worthwhile financially, so the motivational effect is limited. For this there would need to be other forms of recognition and appreciation, which cannot be achieved with extra payments.

At present there is no representative information about whether performance-related pay actually improves the quality and efficiency of work in the public service. Any effect is likely to become visible only in the long term. There has already been some experience of implementing performance bonuses when the former BAT pay scale was in force (laid down in the framework collective agreement on principles for performance payments and bonuses, TV-L). However, the result was rather sobering, since only a few municipalities actually had introduced the performance-related payments (cf. Tondorf 2007).

### **7.2.3 Pay classification structures in municipalities**

A comparison of civil servants with non-civil servants in the municipalities by pay brackets shows that there are some clear differences (Table 15) Whereas two-thirds of civil servants are in “higher middle service” (*gehobener Dienst*) or “higher service” (*höherer Dienst*) grades, over two-thirds of non-civil servants are in “middle” (*mittlerer Dienst*) and “lower

service” (*einfacher Dienst*) grades (cf. section 1.2). To a certain extent, this is related to the fact that employees in lower positions are less likely to be civil servants.

Table 15: *Municipal employees by pay bracket, 2011, in %*

<b>Civil servants</b>	<b>in %</b>	<b>Non-civil servants</b>	<b>in %</b>
Higher service	14.3	Higher service (E13-E15ÜE)	3.2
Higher middle service	52.6	Higher middle service (E9-E12)	24
Middle service	32.9	Middle service (E5-E8)	50.6
Lower service	0.1	Lower service (E1-E4)	18.6
		Others	3.7
<i>Total</i>	<i>100</i>	<i>Total</i>	<i>100</i>

Source: Own compilation according to Statistisches Bundesamt 2012b.

If one looks at the remuneration system for non-civil servants, one can see that there is a large pay differential between pay grade 8, i.e. the highest “middle service” grade, and pay grade 9, the lowest “higher middle service” pay grade. Employees who reach the most senior level (level 6) in pay grade 9 earn 27% more than those in level 6 of pay grade 8. The pay differentials between other neighbouring pay grades are much smaller (with the exception of a similarly large jump from pay grade 1 to pay grade 2, see section 5.2.1). One of our interview partners described this as the “magic threshold”, saying this is why people hardly ever get promoted to pay grade 9. Cash shortages are another reason why people tend not to be placed in higher pay grades.

It is not clear whether there is a conscious strategy behind the “magic threshold” – reducing personnel costs by grouping more people in “middle service” grades. It is, however, noticeable that, unlike in the TVöD, the relative intervals between neighbouring pay grades in the former BAT pay scale were fairly even. This suspicion was only mentioned in one interview and it does not appear to be something the people concerned talk about. The employee council members and trade union representatives we interviewed stressed, however, that there is a trend towards classifying employees in low pay grades. For instance, they claim that tasks are sometimes described as simple in job descriptions despite the fact that the requirements are high (e.g. foreign languages and computer skills).

Several of our interviewees also pointed out that the new collective agreement admits the possibility of an employee performing a more senior role temporarily without being placed in a higher pay grade. In this case, employees receive an additional payment: the difference between their normal pay level and the wage that they would earn if they were to perform the more senior job permanently. Several employees in one municipality were said to be receiving such additional payments despite the fact that they should have been moved to a higher pay grade a long time ago because they were already doing the more senior job on a permanent basis. The fact that employees are not immediately moved up a pay grade, but receive the pay difference as an extra payment, can be viewed as a cost-saving measure because it means that even if the employee is moved up to a higher pay grade at a later date, their level of seniority in the grade will be lower, resulting in lower pay.

### 7.3 Summary

The options for deviating from collective pay regulations at municipal level are limited. The effect of the collective bargaining instruments – the introduction of a low pay grade with the aim of avoiding the outsourcing of simple jobs, and the introduction of performance-related bonuses to increase employee motivation – are, according to the experts we interviewed, largely unclear. In addition, as a representative of one municipality emphasised, the performance-related bonuses are relatively small and the expected motivation boost for employees has failed to materialise in most cases because of higher workloads.

A more important factor in determining working conditions and employment prospects in the public service is likely to be the relationship between services that continue to be provided by the public authorities and the extent to which services are outsourced in various forms. The trade unions are advocating to retain the proportion of employees within the public sector as high as possible and to limit third-party contracts. At the very least, they are calling for more detailed information about the costs associated with external contracts and outsourcing so that they can take part in the discussion from an informed position. In the following sections we investigate the reasons given for make or buy-decisions and the various types of organisation that can be used to provide these services.

## 8. Procurement at local level – What are the reasons for make or buy decisions?

The debate about whether public services should remain in municipal hands or be provided by private entities is not a new one, but it is a highly charged one depending on the interest group. Fundamentally, the principle of municipalities providing and taking responsibility for services locally does not prevent them awarding contracts for these services to a private (local, regional, large-scale or even international) company or entering into a public-private partnership.

The provision of municipal services has changed considerably over the past two decades – partly as a result of German reunification – with public services being outsourced and privatised. Other reasons have encouraged the outsourcing trend as well:

- New management concepts like “new public management” applied concepts from the private sector to the public service to increase its efficiency and take pressure off the national budget.
- The debt levels of public budgets triggered by the financial crisis prompted or even forced lots of municipalities to sell off public shareholdings or to contract private companies to perform municipal functions.
- Liberalisation and privatisation policy at European level has had an increasing influence on national states. According to EU policy, public services should be subject to the same competition rules as services provided by the private sector (the entire public procurement policy is influenced by EU legislation).

In recent years around 50% of all public services had been outsourced as independent units. Three-thirds of them were private companies (private-law business forms) or were partially privately funded (cf. Libbe et al. 2011: 6). However, there are almost no systematic comparisons to show whether the privatisation of formerly public services has led to more cost-effective services or better service quality, and experts are sceptical about it (ibid.: 5). The following section describes the possible forms of outsourcing to legally independent entities.

### 8.1 Forms of outsourcing of municipal services

The following forms of outsourcing of municipal obligations are practised:

1. Conversion of a municipal function or institution into a public-law entity. This includes municipal enterprises (*Eigenbetrieb*) and municipally operated undertakings (*Regiebetrieb*). The municipality retains powers of control.
2. Conversion of a municipal function/body into a private-law entity, e.g. a limited liability company (GmbH), with the municipality retaining control. For instance, most public utility companies take the form of private-law entities, but are majority-owned by the municipality.

3. Outsourcing/contracting – awarding a contract to a private company. Contracts for services that used to be provided by the municipality are awarded to private companies and social businesses. The municipality retains responsibility for task fulfilment.
4. Material privatisation: All or the majority of the public function/institution is sold to the private sector, e.g. sale of (municipal shares in) trade fair companies, hospitals, public utility companies. When the municipality retains only a minority shareholding, it loses its control and can only trust that private market actors will act in the public interest. In profitable areas (e.g. energy, power, waste recycling) material privatisation also means the municipalities deprive themselves of potential revenue sources for good.
5. Other privatisation forms, such as public-private partnerships.

Figure 16 shows the institutional arrangements in which municipalities retain a certain degree of management and control and therefore retain responsibility for enforcement. Contracts and forms of outsourcing that go beyond this count as material privatisation. In this case, public services are transferred wholly and indefinitely to private providers.

*Figure 16: Forms of outsourcing of municipal services in which the municipality retains control*



Source: Own compilation

When a municipality collaborates with others instead of providing a particular service by itself, it usually hopes to be able to provide services more cheaply, to benefit from the expertise of external partners and, ideally, to pass on cost savings to consumers or inhabitants. This, at least, is the rational and logical justification, but it is not the only factor that plays a role in these decisions. Municipalities that have to make substantial savings frequently decide under pressure and the benefits they seek in collaborating with private companies do not always materialise. According to the employee council members, there are no transparent cost-benefit calculations to show whether a particular service really can be, or indeed has been, provided more cheaply by private companies. The trade union representatives and work councillors in



our interviews hoped that the reform of the regional employee representation law (*Landespersonalvertretungsgesetz*, LPVG) passed in November 2011 will give the employee council greater powers to intervene in business affairs (LPVG NRW § 65).

#### **Improved involvement of employee representation in public procurement decisions**

According to § 65 of the reformed LPVG NRW, the employee council can now request the establishment of a business committee, as is also provided for in the provisions in the law on labour relations at the workplace (*Betriebsverfassungsgesetz*, BetrVG), to discuss the business concerns of the unit and brief the employee council. The following areas are of particular interest:

- the commercial and financial situation of the unit,
- intended investments, partnerships with private entities,
- position of the unit within the authority as a whole,
- rationalisation plans/introduction of new working and management methods,
- relocation of units or sub-units,
- creation, merging or division of units,
- cooperation with other units as part of inter-administrative collaboration.

According to the interviews, there is also a hope that these new regulations will provide the employee councils greater codetermination options through timely and better insights into procurement decisions. However, the trade union representatives emphasised that there is an urgent need for trade union training in economic issues if the employee council is to be able to make serious, informed checks and have an influence. Until now, comparatively little of this kind of training has been offered, but more training courses are being planned.

## **8.2 Reasons for re-municipalisation**

The organisational fragmentation of municipalities into institutions and areas of responsibility has been aptly termed *Konzern Stadt* (“municipal group of companies”, cf. Ver.di 2005). It describes the gradual commercialisation of services that were once in the hands of the municipalities and points to the need for control of complex group structures. For those responsible within the municipality, the distribution of tasks to various institutions requires “a readjustment of the strategic decision-making paths and the management, control and coordination structures” (Killian et al. 2006: 9). The associated organisational effort and transaction costs are frequently underestimated. In order to take back managerial and control powers, some municipalities are moving towards re-municipalisation.

One important reason for the re-municipalisation of outsourced services has been the growing loss of confidence in the self-regulation and performance of the markets as a result of the financial and economic crises. Furthermore, private actors have not always performed to the satisfaction of the municipalities, since the contracted services have not met taxpayers’ requirements or expectations in terms of price or quality. Other reasons for the change in attitude included (cf. Bauer et al. 2012: 23):

- the concept of municipal self-government is regaining strength;
- a return to a focus on public welfare rather than profit maximisation;
- regaining control and influence over task fulfilment, better controlling (e.g. compliance with quality, environmental and social standards);

- preventing monopolies when services are provided privately;
- developing efficient municipal company structures to improve efficiency;
- preserving municipal jobs;
- lowering costs and charges for residents;
- opening up new sources of revenue to cross-finance municipal services that run at a loss.

The most common form of re-municipalisation is when services are taken over by municipal enterprises organised as private-law entities, e.g. limited liability companies (GmbH) or public-law institutions (AÖR). All three municipalities we studied have taken this approach for some services (see section 7). In principle, we can differentiate between the following forms of re-municipalisation:

- administrative authority (municipality, district, town council) starts providing services again;
- establishment of new municipal companies to provide services;
- retransfer of operational services to municipally operated undertakings or municipal enterprises that are part of the public administration;
- increasing the municipal stakeholding in public-private partnerships.

Heavily indebted municipalities in particular are not always in a position to take back services previously delegated to private providers and this is not the best solution in every case. Municipalities should check on a case-by-case basis which forms of service provision are best suited to them.

A number of different reasons are cited for make-or-buy decisions for municipal services in the German literature which are listed in table 16.

Table 16 : *Reasons for make or buy-decisions*

<b>Reasons for awarding contracts (buy)</b>	<b>Reasons for providing services within the municipality (make)</b>
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: Own compilation based on Schäfer 2012: 78ff.

Whether a municipality delivers a service itself (make) or contracts it out (buy) varies according to local circumstances. Smaller municipalities are typically not able to provide certain services themselves without help. Local public transport in rural areas, for instance, tends to be privatised or run in collaboration with neighbouring districts or municipalities.

The arguments for buying in services from the point of view of the municipality are usually economically motivated. Fixed costs in the municipality’s budget are replaced by variable costs when services are contracted out. The contract is not open-ended – the economic efficiency and quality are constantly reassessed in new tender procedures. For services that are not required constantly, contracting to third parties provides greater flexibility (the contract for the service is only awarded when it is needed). This can avoid staffing surpluses, and staff shortages can be offset and skills bought in by contracting out to third parties.

On the negative side, outsourcing brings with it a creeping loss of skills within municipalities. A decision to fully privatise services that used to be provided by the municipality is therefore usually difficult to reverse. External contracts always involve transaction costs, which are often underestimated. Even when the municipality delegates tasks to third parties, there are liability risks if the contract does not meet the necessary quality standards or service is poor. In short, contracting or outsourcing service areas brings with it the problem that the municipality loses political powers of control. Even if the independent private company can provide

a service at a lower cost, it is doubtful whether it will continue to work in line with politically motivated standards. Commercial successes are not always social successes (this is particularly clear in areas such as social and cultural policy).

The main argument in favour of keeping services within the municipality (make) is therefore to retain control, i.e. sustainability in the pursuit of socio-political objectives. In addition, by privatising profitable areas, municipalities remove the possibility of cross-subsidising municipal services, such as local public transport and swimming pools that usually depend on subsidies paid for by profits generated in commercially successful areas, such as public utility companies. If too many municipal services are privatised these options are no longer available.

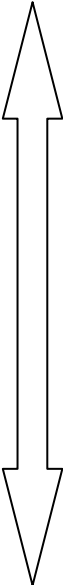
According to recent research, the “private before public” formula preached in the past largely for cost-cutting reasons is as wrong as the simple reverse argument “municipal before private” (Bauer et al. 2012). This opinion was confirmed by our interview partners. Instead, municipalities need a lot of expertise to exercise the autonomy granted them in the choice of action, and should take decisions based on transparent cost-benefits analyses. This at least is what the trade unions are advocating, although admittedly with the primary aim of safeguarding municipal jobs. The new regional employee representation law (LPVG) of 2011 helps employee representation bodies stay informed at the planning phase about investments, planned procurement contracts and outsourcing and helps them be involved in the decision-making process.

The prevailing wage law for public procurement (*Tariftreuegesetz*) in NRW which was passed in May 2012 provides a lever for ensuring that only companies that comply with current collective agreements or respect a set minimum wage are entitled to receive public contracts (cf. Bosch 2012: 131). According to the regional governments’ draft on the motivation of passing the prevailing wage law it “seeks to promote and support a fair competition around the most economically efficient tender in public procurement taking also into account the social acceptability, environmental protection and energy efficiency as well as quality and innovation of tenders” (Landesregierung Nordrhein-Westfalen 2011: 1, own translation). They also write: “Unfair wages are one of the most important threats to social peace and social coherence. Beside necessary actions at federal state level in order to introduce a statutory minimum wage the warranty of an adequate pay is inevitable to prevent wage and social dumping in public procurement. It must be avoided that tenderers in public procurement take advantage of unfair competition. Such practices have not only unsocial consequences but also jeopardise the competitive position of firms providing jobs that are covered by collective agreements and put pressure on the social security systems.” (ibid.: 27, own translation)

Since both laws have only recently entered into force, it remains to be seen what their effects will be. According to our interview partners, public administrations comply with the relevant legislation when calling for tenders. It remains to be seen to what extent compliance with the legislation can be effectively controlled. The responsible officials within the municipalities are still waiting for more detailed rules of procedure. One thing is certain, however: Compliance control efforts for the municipalities will increase and the available human resources are limited.

An investigation into which areas tend to be outsourced and which do not reveals particularly high outsourcing levels in the area of electricity, gas, water and district heating (energy providers) and in the area of public banks (*Sparkassen*), local public transport, waste and health (hospitals). This means that it tends to be the efficient areas that are outsourced through a range of different legal entities (cf. Figure 17).

Figure 17: Public services, levels of outsourcing and organisational form

Level of outsourcing		Organisational form	Areas of activity
Low		Organised within the administration	Public works, green spaces, children’s day care facilities, youth and social advice, sports centres, facility management, public libraries, museums, emergency services, regulatory agency
Partly outsourced		High proportion of public-law organisations	Banks, public works, sewage, green spaces
		High proportion of private-law organisations	Electricity, gas, urban development, local public transport, housing, sports centres
Fully outsourced		High proportion of services provided by private entities	Homes for the elderly, care centres, emergency services, waste, electricity, gas, hospitals

Source: Killian et al. 2006: 121.

In the following section we look at five selected municipal services in more detail.

## 9. Employment conditions and procurement practices in selected service areas

According to an agreement with our project partners from the UK, France, Hungary and Sweden we decided to analyse five public service areas in greater detail: local public transport, elderly care, school catering, cleaning and waste management. Based on literature research and the findings from the case studies we analyse whether these services tend to be provided by the municipalities themselves or whether they tend to be contracted out or outsourced. The cleaning and waste management areas are examined in greater detail. The main point of interest in the cleaning area is whether the introduction of a low wage pay grade has had an impact on municipal procurement policy and if so how. We selected the waste management sector because the growing, profitable recycling market is leading to a trend towards re-municipalisation in this area. Table 17 provides an overview of patterns of provision in the five selected service areas.

Table 17: Procurement of five selected service in three municipalities

Service type	Municipality A	Municipality B	Municipality C
Local public transport	Outsourced in limited liability company GmbH (municipality share 100%)	Outsourced in public limited company (AG = PLC)	Outsourced in limited liability company on district level (inter-municipal collaboration)
Elderly care	Mainly private or non-profit providers		
School catering	Not in responsibility of municipalities		
Cleaning	Outsourcing in GmbH (municipality share 100%)	Mix of inhouse and outsourced provision (50 : 50)	Privatised
Waste	Outsourcing in institution under public law (AöR)	Outsourced in limited liability company GmbH (municipality share 100%)	Re-municipalised (institution under public law)

Source: Own compilation.

### 9.1 Local public transport – run by the municipality through private-law entities

Local public transport is dominated by municipally owned companies. The majority of companies are organised as limited liability companies (GmbH). The municipality is either the sole owner or holds a majority interest. Fully privatised transport firms are rare and are to be found primarily in smaller towns or rural districts (cf. Libbe et al. 2011: 11).

According to our expert interviews, local public transport usually does not generate a profit and has to be cross-subsidised by profitable areas. The most common arrangement seems to be that public utility companies provide financial support for public transport companies.

### 9.2 Elderly care – widespread and growing privatisation

Elderly care is a service of general interest, but only a small proportion of elderly care services in Germany are provided by public authorities. As social assistance agencies, municipi-

palities finance elderly care in cases where residents are not able to afford accommodation and subsistence costs by themselves. A large proportion of the total costs for elderly care services are paid by the long-term care insurance (LTCI) which was implemented in 1995 (home care) and 1996 (residential care) as a fifth pillar of the German Bismarckian social security system after two decades of discussion and argument (Kümmerling 2011). The LTCI is financed by mandatory care insurance contributions for employers and employees (similar to the German health insurance system). The payments to the care providers for their services are negotiated individually with so-called “care bodies” (*Pflegekassen*).

In 2009, only 3.5% of home care and residential care services were run by public authorities. More than a half (50.9%) were run by private providers, followed by non-profit organisations (church institutions and charities) (45.7%). In the past ten years, the proportion of public and non-profit organisations decreased while the market share of private care providers has risen accordingly (Table 17).

*Table 18: Organisations in charge of elderly care institutions*

<b>Ownership</b>	<b>1999</b>	<b>2009</b>
Public	4.9%	3.5%
Non-profit	51.4%	45.7%
Private	43.7%	50.9%

Source: Statistisches Bundesamt 2001 and Statistisches Bundesamt 2011e.

According to one trade union expert for the local authority level, the proportion of municipal elderly care institutions in NRW has been decreasing for 15 years. All owners of elderly care institutions have significant financial problems as a result of rising investment costs. Municipal organisations are generally no longer able to afford modernisations and investments. So this area represents an open door for privatisation. In elderly care, competition from private providers has increased and traditional church institutions and charities frequently cannot compete.

Working conditions in the elderly care sector are not subject to a general collective agreement. In total, collective bargaining coverage is extremely low in this sector. There is no employer organisation which is able or prepared to negotiate collective agreements. Accordingly, collective agreements mainly apply to establishments belonging to public and municipal care providers. As regards non-profit organisations, for a long time most of them adjusted their wages (and working conditions) on the former public sector pay system. After the conclusion of the new collective agreements in 2005/2006 non-profit organisations (such as AWO but also Caritas and Diakonie as ecclesiastical providers) increasingly tried to withdraw from public sector pay and implement their own schemes with worse working conditions and lower wages. According to ver.di and professional organisations, however, this trend has recently been stopped and non-profit organisations are more and more returning to the public sector scheme (Kümmerling 2011). One trade union representative we interviewed estimated that only 10% of the around 100,000 employees in the elderly care sector in NRW are employed in sites covered by collective agreements.

Since August 2010, however, a mandatory minimum wage for care services has been implemented, which is currently at EUR 8.75 in West Germany and EUR 7.75 in East Germany. The lowest hourly rates in the various company collective agreements for church and charity care providers are typically higher. According to a recent analysis based on the *Lohnspiegel* survey, full-time care workers covered by a collective agreement earn on average EUR 2,597 per month which is almost 19% more than the average monthly pay of other care workers (EUR 2,118) (Bispinck et al. 2012: 3).

### 9.3 School catering – private companies and social businesses

In the school sector, the municipalities are only responsible for “external” school matters, i.e. for capital expenditure. Teaching staff come under the responsibility of the *Länder*, so it is only caretakers and school secretaries who are employed by the municipalities. School catering has only gained in importance in the past few years with the expansion of full-time schools. The municipalities only organise the call for tenders and are not responsible for direct provision of catering services. The initiative and responsibility for choosing a school caterer generally lie with the school management. School caterers are usually private companies or non-profit organisations (social businesses). School catering is usually paid for by the parents, but a few municipalities have initiatives for subsidising the cost of school meals for low-income families through social benefits.

### 9.4 Cleaning – a mix of make and buy

Since the 1970s, municipalities have – similar to private companies in other sectors – increasingly been awarding cleaning contracts to private cleaning companies to cut costs (cf. Gather et al. 2005: 11).

A nation-wide survey of municipalities with 10,000 to 50,000 inhabitants that was conducted a few years ago found that nearly half (47%) of municipalities used private cleaning firms or non-profit organisations (*freie Träger*) for indoor cleaning. The bigger the municipality, the higher is the proportion of external contracting. There are also some municipalities that use a mix of in-house and external cleaning services. Municipalities in NRW contract out an above-average proportion of cleaning services (cf. Killian et al. 2006: 46f).

In another study (Gather et al. 2005) company case studies were used to investigate the extent to which the employment situation in private commercial cleaning companies differs from that in municipal cleaning organisations and how working conditions have changed as a result of privatisation. The research found that the privatisation of cleaning services had led to a worsening of working conditions both for the private sector and the municipal cleaners. However, some differences were found between municipal cleaning and private cleaning firms: cleaners stand a greater chance of a job that is subject to social insurance contributions in the municipalities, and private commercial cleaning firms rarely have an employee representation body (ibid.: 206f).

The differences in pay levels found in the study have narrowed noticeably in the past few years. This is partly because there is a minimum hourly wage for commercial cleaning which, in West Germany at least, is comparatively high (higher than for care work, for example) (West Germany EUR 8.82, East Germany EUR 7.33). In addition, municipal pay levels for cleaners have worsened considerably since the introduction of pay grade 1. The entry-level



gross hourly wage for pay grade 1 in West Germany is currently EUR 8.84, which is only slightly above the minimum wage for commercial cleaning. One employee council chairwoman pointed out, however, that it has to be taken into account that private cleaning companies do not pay a yearly bonus and grant fewer days leave.

Although working conditions for municipal cleaners are more favourable than for cleaners in private companies, they too have worsened in the past few years. Workloads, for instance, have intensified considerably as a result of the constant pressure on costs (cf. ver.di 2011b). Where municipalities attempt to hold onto cleaning services by modernising them, jobs in municipal enterprises are sometimes similar to those in the private sector. Performance standards are increased in line with the private sector, a greater proportion of employees are on fixed-term contracts and greater use is made of flexible working time arrangements (cf. *ibid.*: 205f).

Some municipalities are now increasing the proportion of in-house cleaning services again because they have realised that private cleaning services are not better or cheaper (cf. ver.di 2011b). The results of our case studies indicate that pay grade 1 has played a role in this.

In municipality A, at the beginning of the 1990s cleaning services were converted into a limited liability company (GmbH) that was majority owned by private shareholders. According to a trade union secretary, working conditions for employees worsened as a result of privatisation. The municipality now owns 100% of the GmbH. New employees of the GmbH are all classified in pay grade 1. As well as this GmbH cleaning company, some municipal cleaning is still provided by the municipality itself. However, when these employees retire or leave, they are not replaced. New recruits are only taken on in pay grade 1 within the GmbH.

Municipality B also reduced the level of privatisation of its cleaning services a few years ago. Previously, 30% of the cleaning services were run by the municipality and 70% were contracted to third parties. According to a trade union secretary, local politicians were calling for the proportion of external contracting to be increased still further. But ver.di was able to demonstrate that in-house cleaning is cheaper (partly through the use of pay grade 1). This meant they were able to persuade the municipality to reduce the proportion of external contracts again. The private-municipal ratio is currently 50/50. New cleaners recruited by the municipality receive only pay grade 1 wages and remain on this level. Only those who were already employed in the municipal cleaning service receive wages at the pay grade above.

Municipality C has been contracting its cleaning services out to a private company for many years. The reason given for contracting out at the time was that private cleaning is more cost-effective. According to the municipal representative, no efforts have been made to bring cleaning services back in-house, despite the introduction of pay grade 1. The tender process is repeated at regular intervals (every one or two years) and a contract is awarded to the cheapest provider. The regulations contained in the prevailing wage law for public procurement (*Tarifvertragsgesetz*) are already taken into account in the tender process.

## **9.5 Waste – buy, and some moves towards re-municipalisation**

The majority of waste disposal services are carried out by private service providers. Municipal waste disposal companies are fairly rare and are mostly found in large cities (cf. Libbe et al. 2011: 9f.).

Because of the high level of privatisation, a large number of waste disposal employees work for companies that are not bound by collective agreements. A minimum wage for the waste disposal sector came into force on 1 January 2010 with a current minimum gross hourly wage of EUR 8.33. But even this minimum wage is significantly below the lowest pay rates in municipal and private companies bound by collective agreements. The lowest gross hourly wage for new recruits in the collective agreement signed by the private association of employers in the German waste disposal sector (BDE) is currently EUR 11. According to a trade union expert for the public utilities and waste disposal area, the lowest grade for employees in municipal waste disposal is pay grade 3 with an entry wage of around EUR 10.80 per hour, which increases to around EUR 13.60 per hour for the highest experience level. In addition, he pointed out that the working conditions of employees in waste disposal companies covered by collective agreements are significantly better than in companies with no collective agreement (in terms of e.g. bonuses, pension schemes and employment protection).

There has been an increase in re-municipalisation of waste services over the past few years. These insourcing projects are mainly based on economic considerations. Insourcing is particularly common in the area of waste collection and transportation, while outsourcing is more common in capital-intensive plants (ibid.: 9f).

A study conducted by the German Institute of Urban Studies (*Deutsches Institut für Urbanistik*, difu) asked the stakeholders of some municipalities that had been insourcing waste disposal for years about their re-municipalisation experience. The researchers wanted to know whether their expectations had been met in terms of cost-effectiveness, breaking up monopolies, certainty regarding charges, capacity utilisation of municipal plants, transparency, social and environmental standards and greater flexibility. Overall, all the municipalities covered in the survey were content with the decision to re-municipalise waste disposal. Defined targets, like improved cost-effectiveness and strengthening the region had been achieved and there are no plans to carry out further privatisations in this sector (ibid.: 10f).

Further re-municipalisation are expected in the future because the waste collection and commercialisation sector is becoming increasingly lucrative as prices for raw materials and secondary materials rise. Waste industry operators are therefore expecting profits to grow (cf. Libbe et al. 2011: 9). An expert we interviewed also mentioned that municipalities are increasingly considering bringing waste disposal back into the public domain so as to benefit from revenues from the sale of recyclable materials.

One of the main driving forces behind such decisions at the moment is the introduction of a recycling bin for plastic and metal waste for every household by 2015 at the latest. Waste disposal companies expect turnover to rise significantly as a result of the recycling bin. The German recycling management and waste law (*Kreislaufwirtschaftsgesetz – KrWG*) that came into force in June 2012 contains regulations for the introduction of a recycling bin. Before the law was passed there were heated disagreements between the municipalities and private operators about whether waste disposal is carried out by the municipalities and whether the municipalities can decide independently to carry out the recycling and commercialisation themselves or to contract it out to third parties through a tender process. The alternative was to set up neutral offices, forcing municipalities and private providers to respond to calls for tenders

on an equal footing (cf. BVK 2012). Ultimately, responsibility was given to the municipalities by the new legislation.

In municipality B the waste disposal services, including the municipal truck fleet, were recently converted into a limited liability company (GmbH) so as to be able to make profits through the new form of organisation. Following the change of corporate form to a GmbH and a reorganisation of the workflows, lots of new, simple jobs were created in the truck fleet section that did not exist before.

In municipality C the collection and transportation of waste was contracted out to a private transport company. It has now been re-municipalised and is once again the responsibility of a municipal enterprise. Our interview partner stressed the fact that such insourcing projects take a lot of preparation. In this case it took two years. What prompted the municipality to consider re-municipalising the service was that the contract with the private transport company was about to run out. The municipality had the option of renewing the contract, putting it out for tender again or re-municipalising the service and taking it over as a municipal enterprise. The decision had to be taken before the contract was put out for tender because a municipal enterprise is not allowed to take part in a municipal call for tenders.

## 9.6 Summary of case studies

What changes in income, working conditions and procurement strategies can be observed over the past few years at municipal level in the public service in view of the considerable budget constraints? Staff reductions have taken place at local level most by age-induced labour turnover as they have at national and regional level, and have affected non-civil servants in particular. By outsourcing and awarding contracts to external providers, the core area of municipal administrations has been continually squeezed. However, so far these measures have not led to an effective reduction in structural municipal debt.

In our analyses we focused on two issues. Firstly, we investigated what effects the 2005 collective agreement had on the income levels of municipal employees. Secondly, we analysed whether different patterns can be identified that show how municipalities organise public services. Do they tend to keep as many services as possible in public control or is there a creeping erosion of public services as contracts are awarded to private entities and services are spun off as independent private-law entities? In short, what is the public-private mix?

In terms of the *impacts of the new collective agreement* since 2005, it should be stressed that there are few possibilities at municipal level to improve employees' working and income situations using the collective agreement instruments. By introducing a bottom pay grade, the employers and trade unions intended to prevent simple services being contracted out or privatised as far as possible (cleaning services in particular). This can be seen as a reaction to the pressure on employment in the public service caused by privatisation and outsourcing. The success of this measure has been fairly limited. Although some municipalities have succeeded in bringing (parts of) outsourced areas back under public control and safeguarding public service jobs, external contracts continue to dominate.

Performance-related pay, which was included in the TVöD primarily at the request of the employers, and which was intended to make up for the significant cuts (Christmas bonus and holiday allowance), has been introduced very cautiously and does not really produce the de-

sired increase in motivation and performance among employees because of the limited financial resources available for performance-related bonuses. Judging by our case studies, it is likely that even where municipalities have signed an internal agreement on performance-related pay and have involved the employee council in defining suitable criteria, the practices followed for bonus payments are not transparent for a large number of employees. The risk of unmerited bonuses being paid exists, according to the employee council members we spoke to. In many cases, the budget available for performance-related bonuses is distributed evenly, which means it does not make a noticeable difference to individuals.

The second focus of our research was *municipal procurement and outsourcing policy*. To put it bluntly, there can be no talk of a systematic and coordinated procurement policy based on our findings. The factors that determine make-or-buy decisions in the municipalities vary widely and are obviously diverse even across various departments within the same municipality even though fiscal policy considerations always play an important role. But what is missing are systematic comparisons evaluating whether a particular service is really less expensive and above all better if it is contracted out to private companies. According to the experts there is no one best way. The pressure to make savings varied depending on the level of debt, the scope and cost of mandatory services and the economic strength of the municipalities. For a long time, the “private before public” approach dominated as a way of making savings quickly. However, this approach is gradually being replaced by the view that municipal structures that resemble corporate groups are slowly depriving themselves of their political control. The concept of municipal self-government is still highly valued in Germany. The recent financial crises have also undermined trust in the reliability of markets and the efficiency of private companies. Accordingly, there are signs of cautious moves towards insourcing services that had been outsourced in the past. However, against the background of the difficult budget situation in many municipalities, the decision to bring service areas back under municipal control is closely linked to a requirement for further efficiency gains. A higher efficiency goes along with increased workloads for the employees. The situation is aggravated by the fact that the number of newly hired staff in recent years has been small which led to a continual increase in the average age of municipal employees. Our interviewees emphasised that, as a result of the increased workloads and higher average age of the municipal staff, the levels of sick leave have been growing in recent years.

## 10. Lessons for research, policy and practice

Finally we want to point out three major challenges in order to improve public sector employment conditions:

1. The growing indebtedness of the public sector (especially at local level) over the last years and further cost cutting in order to produce balanced budgets (debt brake) conflicts with the issues of service quality and improving working conditions. For several reasons the future agenda has to consider the following points:

- An ageing labour force and minimal replacement of employees in the last years has led to work intensification and growing sickness rates. Therefore middle and long-term oriented human resource management and social dialogue concerning the quality of working conditions in the public sector is necessary. In the next 15 years, a lot of experienced employees will retire. The recruitment of young qualified people for public services to replace them is becoming more and more difficult because of lower pay compared to the private sector.
- Existing forms of performance related pay do not seem to be very effective in improving recruitment. The traditional pay gap for skilled people is increasing. It is necessary to improve the relative attractiveness of public service employment especially for higher skilled employees.
- The former role of the public sector as a model employer can be called into question. Convergence of (formerly diverse) pay levels in the public and private sector particularly for low-skilled occupations. Further a growing share of temporary (especially at *Länder* level) and part-time work reduces the number of fulltime-jobs with a commensurate lowering of standards and reliability.

2. Regarding the quality of services the trend of outsourcing to private entities has to be re-considered.

- Municipalities should not lose their capacity to influence and control delegated public services (quality-criteria). Moreover, sooner or later, if too many services are outsourced a lack in competence will follow. Efforts to re-municipalise should be encouraged and supported.
- Early involvement of staff councils in make or buy-decisions is required. Staff councils should be given detailed information about the costs associated with external contracts and outsourcing, so that they can take part in the discussion from an informed position. The reformed LPVG NRW (regional employee representation law) is a first step in this direction.

Whether new attempts to establish minimum pay standards (via prevailing wage laws) in public procurement will be effective in practice should be monitored carefully.

3. The financial situation of many municipalities is still precarious. In the long run the state has to accept that it cannot commit the municipalities to provide more and more services without additional central funding (principle of connectivity). Indebted municipalities will

never be able to balance their budgets unless the state pays a greater proportion towards their structural deficit. In addition, increased and reformed taxation maybe necessary to achieve this.

## References

- Altis, Alexandros / Koufen, Sebastian** (2011): Entwicklung der Beschäftigung im öffentlichen Dienst. In: *Wirtschaft und Statistik* 11: 1111-1116.
- Bauer, Hartmut / Büchner, Christiane / Hajasch, Lydia** (Hrsg.) (2012): *Rekommunalisierung öffentlicher Daseinsvorsorge*. Schriftenreihe des Kommunalwissenschaftlichen Instituts der Universität Potsdam 6, Potsdam.
- Bertelsmann Stiftung** (o.J.): *Wegweiser Kommune*. Finanzberichte, Internetdokumente, abrufbar unter [www.wegweiser-kommune.de](http://www.wegweiser-kommune.de)
- Bispinck, Reinhard** (2006): Mehr als ein Streik um 18 Minuten – Die Tarifaussensetzungen im Öffentlichen Dienst 2006. In: *WSI-Mitteilungen* 7: 374-381.
- Bispinck, Reinhard / Dribbusch, Heiner / Öz, Fikret / Stoll, Evelyn** (2012): *Einkommens- und Arbeitsbedingungen in Pflegeberufen*. Eine Analyse auf Basis der WSI-Lohnspiegel-Datenbank. Projekt LohnSpiegel.de. Arbeitspapier 07/2012. Düsseldorf.
- Bispinck, Reinhard / WSI-Tarifarchiv** (2011): *Tarifpolitischer Jahresbericht 2010: Beschäftigungssicherung und gedämpfte Lohnentwicklung*. Düsseldorf
- BMI (Bundesministerium des Inneren)** (2011): *Der öffentliche Dienst des Bundes. Daten zur Personalstruktur 2011*. Aktualisierte Fassung vom 22. August 2011. Berlin.
- Bofinger, Peter** (2008): Das Jahrzehnt der Entstaatlichung. In: *WSI-Mitteilungen* 7: 351-357.
- Bosch, Gerhard** (2012): Public sector adjustments in Germany: From cooperative to competitive federalism. In: Vaughan-Whitehead, Daniel (ed.): *Public Sector Adjustments in Europe: Scope, Effects and Policy Issues*. Geneva: 115-140.
- Brandt, Torsten / Schulten, Thorsten** (2008): Auswirkungen von Privatisierung und Liberalisierung auf die Tarifpolitik in Deutschland. Ein vergleichender Überblick. In: Brandt, Torsten / Schulten, Thorsten / Sterkel, Gabriele / Wiedemuth, Jörg (Hrsg.): *Europa im Ausverkauf. Liberalisierung und Privatisierung öffentlicher Dienstleistungen und ihre Folgen für die Tarifpolitik*. Hamburg: 68-91.
- Bremeier, Wolfram / Brinckmann, Hans / Killian, Werner** (2006): Kommunale Unternehmen in kleinen und mittelgroßen Kommunen sowie in Landkreisen. In: Killian u.a. (Hrsg.): 25-53.
- Bundeszentrale für politische Bildung** (2007): Internet-Dokument [http://www.bpb.de/wissen/68ET1Y,0,0,Besch%20ftigte\\_des\\_%20ffentlichen\\_Dienstes.html](http://www.bpb.de/wissen/68ET1Y,0,0,Besch%20ftigte_des_%20ffentlichen_Dienstes.html)
- BVK (Beteiligungs- und Kunststoffverwertungsgesellschaft mbH)** (2012): Themenschwerpunkt „Wertstofftonne“: 10 Fragen und Antworten. Frankfurt. <http://www.bkv-gmbh.de/themen/unsere-schwerpunkte/wertstofftonne/10-fragen-und-antworten/>
- Czerwick, Edwin** (2011): Beschäftigungsstrukturen im öffentlichen Dienst – Differenzierung und Individualisierung von Beschäftigungskategorien. In: Koch, Rainer / Conrad, Peter / Lorig, Wolfgang H. (Hrsg.): *New Public Service. Öffentlicher Dienst als Motor der Staats- und Verwaltungsmodernisierung*. 2., überarbeitete und erweiterte Auflage. Wiesbaden: Gabler: 151-179.
- Edler, Jacob / Edquist, Charles / Georghiou, Luke / Hafner, Sabine / Hommen, Leif / Papadakou, Mona / Rigby, John / Rolfstam, Max / Ruhland, Sascha / Tsipouri, Lena** (2005): *Innovation and Public Procurement. Review of Issues and Stake*. Study for the European Commission (No ENTR/03/24). Final Report. Fraunhofer Institute Systems and Innovation Research. Karlsruhe.
- Eicker-Wolf, Kai / Truger, Achim** (2012): *Kommunalfinanzbericht 2012. Entwicklung und Perspektiven der Kommunalfinanzen in Nordrhein-Westfalen*. Eine Studie im Auftrag von ver.di NRW, Landesfachbereich Gemeinden. Düsseldorf.
- Ellguth, Peter / Kohaut, Susanne** (2011): Der Staat als Arbeitgeber: Wie unterscheiden sich die Arbeitsbedingungen zwischen öffentlichem Sektor und der Privatwirtschaft? In: *Industrielle Beziehungen* 18 (1-2): 11-38.

- Europäische Union** (2004): Richtlinie 2004/18/EG des Europäischen Parlaments und des Rates vom 31. März über die Koordinierung der Verfahren zur Vergabe öffentlicher Bauaufträge, Lieferaufträge und Dienstleistungsaufträge. In: Amtsblatt der Europäischen Union L 134, 30. April: 115-240.
- Färber, Gisela / Funke, Melanie / Walther, Steffen** (2011): Nachhaltige Finanzierung der Beamtenversorgung. Ökonomische Perspektiven und rechtliche Gestaltungsmöglichkeiten. Berlin.
- Faust, Frank / Klöckner, Bernd W.** (2005): Beamte – die Privilegierten der Nation. Weinheim.
- Gather, Claudia / Gerhard, Ute / Schroth, Heidi / Schürmann, Lena** (2005): Vergeben und vergessen? Gebäudereinigung im Spannungsfeld zwischen kommunalen Diensten und Privatisierung. Hamburg.
- Häusler, Rainer / Häusler, Martin** (2012): Deutschland stirbt im Westen. Berlin/München/Wien.
- Hamburger Senat** (2007): Evaluierungsbericht zum Hamburgischen Vergabegesetz (HmbVgG). Mitteilung des Senates an die Bürgerschaft, Bürgerschaft der Freien und Hansestadt Hamburg. Drucksache 18/7388. November.
- Institut der Deutschen Wirtschaft Köln** (2011): Das leise Sterben der Gemeinden. iwd Nr. 19, Köln. <http://www.iwkoeln.de/de/infodienste/iwd/archiv/beitrag/27572?highlight=leise%252Bsterben>
- Keller, Berndt** (2010): Arbeitspolitik im öffentlichen Dienst. Ein Überblick über Arbeitsmärkte und Arbeitsbeziehungen. Berlin.
- Killian, Werner / Richter, Peter / Jan Hendrik Trapp** (Hrsg.) (2006): Ausgliederung und Privatisierung in Kommunen. Empirische Befunde zur Struktur kommunaler Aufgabenwahrnehmung. Berlin.
- Kreislaufwirtschaftsgesetz – KrWG** (Gesetz zur Förderung der Kreislaufwirtschaft und Sicherung der umweltverträglichen Bewirtschaftung von Abfällen). Ausfertigungsdatum: 24.02.2012. <http://www.gesetze-im-internet.de/bundesrecht/krwg/gesamt.pdf>
- Kümmerling, Angelika** (2011): "And who cares for the carer?" Elderly Care Work in Germany. walqing social partnership series 2011.16. Duisburg.
- Landesregierung Nordrhein-Westfalen** (2011): Regierungsentwurf für ein Gesetz über die Sicherung von Tariftreue und Sozialstandards sowie fairen Wettbewerb bei der Vergabe öffentlicher Aufträge (Tariftreue- und Vergabegesetz Nordrhein-Westfalen – TVgG – NRW). Düsseldorf. [http://www.dstgb-vis.de/home/aktuelles\\_news/aktuell/nrw\\_referentenentwurf\\_fuer\\_tariftreuegesetz\\_vorgelegt/nrw\\_referenten\\_entwurf\\_tariftreuegesetz.pdf](http://www.dstgb-vis.de/home/aktuelles_news/aktuell/nrw_referentenentwurf_fuer_tariftreuegesetz_vorgelegt/nrw_referenten_entwurf_tariftreuegesetz.pdf)
- Landtag Nordrhein-Westfalen** (2012): Plenarprotokoll 16/6 vom 05.07.2012: 216-223.
- Lehndorff, Steffen / Haipeter, Thomas** (2011): Negotiating employment security: innovations and derogations., in: Hayter, Susan (ed.), The role of collective bargaining in the global economy: negotiating for social justice. Cheltenham: Edward Elgar: 20-46.
- Libbe, Jens / Hanke, Stefanie / Verbücheln, Maic** (2011): Rekommunalisierung – Eine Bestandsaufnahme. Deutsches Institut für Urbanistik. Berlin.
- Mitbestimmung 11/2011, Magazin der Hans-Böckler-Stiftung, Düsseldorf.
- Niechoj, Torsten / Stein, Ulrike / Stephan, Sabine / Zwiener, Rudolf** (2011): Deutsche Arbeitskosten: Eine Quelle der Instabilität im Euroraum Auswertung der Eurostat-Statistik für 2010. IMK-Report 68. Düsseldorf [http://www.boeckler.de/pdf/p\\_imk\\_report\\_68\\_2011.pdf](http://www.boeckler.de/pdf/p_imk_report_68_2011.pdf)
- OECD** (2011a): Government at a glance. Paris.
- OECD** (2011b): Government at a glance. Country note: Germany (OECD National Accounts). Paris. <http://www.oecd.org/dataoecd/59/48/48213695.pdf>
- Schäfer, Roland** (2012): Rekommunalisierung – Fallstricke in der Praxis. Erfahrungen aus Bergkamen. In Bauer u.a. (Hrsg.): 73-80.
- Schmidt, Werner / Müller, Andrea / Trittel, Nele** (2011): Der Konflikt um die Tarifreform des öffentlichen Dienstes. Verhandlungsprozesse und Umsetzungspraxis. Berlin.



- Schmidt, Werner / Müller, Andrea / Trittel, Nele** (2011): Der Konflikt um die Tarifreform des öffentlichen Dienstes. Verhandlungsprozesse und Umsetzungspraxis. Berlin.
- Schulten, Thorsten** (2012): Renaissance of Pay Clauses in German Public Procurement and the Future of the ILO Convention 94 in Europe. Global Labour Column, Number 91, March 2012.  
[http://www.global-labour-university.org/fileadmin/GLU\\_Column/papers/no\\_91\\_Schulten.pdf](http://www.global-labour-university.org/fileadmin/GLU_Column/papers/no_91_Schulten.pdf)
- Schulten, Thorsten / Pawicki, Michael** (2008): Tariftreueregelungen in Deutschland – ein aktueller Überblick. In: WSI-Mitteilungen 4: 184-190.
- Statistisches Bundesamt** (2001): Kurzbericht: Pflegestatistik 1999. Pflege im Rahmen der Pflegeversicherung. Deutschlandergebnisse, Bonn.
- Statistisches Bundesamt** (2003): Personal des Öffentlichen Dienstes 2003, Fachserie 14 Reihe 6, Wiesbaden.
- Statistisches Bundesamt** (2006): Personal des Öffentlichen Dienstes 2005, Fachserie 14 Reihe 6, Wiesbaden.
- Statistisches Bundesamt** (2008): Personal des Öffentlichen Dienstes 2007, Fachserie 14 Reihe 6, Wiesbaden.
- Statistisches Bundesamt** (2010): Personal des Öffentlichen Dienstes 2009, Fachserie 14 Reihe 6, Wiesbaden.
- Statistisches Bundesamt** (2011a): Personal des Öffentlichen Dienstes 2010, Fachserie 14 Reihe 6, Wiesbaden.
- Statistisches Bundesamt** (2011b): Mikrozensus: Bevölkerung und Erwerbstätigkeit. Stand und Entwicklung der Erwerbstätigkeit in Deutschland 2010, Fachserie 1 Reihe 4.1.1. Wiesbaden.
- Statistisches Bundesamt** (2011c): Finanzen und Steuern. Versorgungsempfänger des öffentlichen Dienstes, Fachserie 14 Reihe 6.1. Wiesbaden.
- Statistisches Bundesamt** (2011d): Verdienste und Arbeitskosten. Arbeitnehmerverdienste 2010. Fachserie 16 Reihe 2.3. Wiesbaden.
- Statistisches Bundesamt** (2011e): Pflegestatistik 2009. Pflege im Rahmen der Pflegeversicherung. Deutschlandergebnisse, Wiesbaden.
- Statistisches Bundesamt** (2012a): Daten aus dem Gemeindeverzeichnis. Gemeinden in den Ländern nach Einwohnergrößenklassen. Gebietsstand 31.12.2011, Wiesbaden.
- Statistisches Bundesamt** (2012b): Personal des Öffentlichen Dienstes 2001, Fachserie 14 Reihe 6, Wiesbaden.
- Stefaniak Anna, / Vollmer, Hans** (2005): Evaluierung Tariftreuegesetz Nordrhein-Westfalen – Endbericht. Sozialforschungsstelle Dortmund. Februar 2005.
- TdL (Tarifgemeinschaft der Länder) / ver.di** (2009): Tarifeinigung in den Tarifverhandlungen für die Beschäftigten der Länder. Berlin. 1. März 2009.
- TdL (Tarifgemeinschaft der Länder) / ver.di** (2011): Tarifeinigung in den Tarifverhandlungen für die Beschäftigten der Länder. Berlin. 10. März 2011.
- Tepe, Markus / Kroos, Daniela** (2010): Lukrativer Staatsdienst? Lohndifferenzen zwischen öffentlichem Dienst und Privatwirtschaft. In: WSI-Mitteilungen 1: 3-10.
- Tondorf, Karin** (2007): Tarifliche Leistungsentgelte – Chance oder Bürde? Berlin.
- TVÖD VKA:** [http://www.vka.de/site/home/vka/tarifvertraege\\_\\_texte/](http://www.vka.de/site/home/vka/tarifvertraege__texte/) ...
- Ver.di** (2005): Steuerung und Mitbestimmung im Konzern Stadt. Eine Veröffentlichung der ver.di Bundesverwaltung, Fachbereich Gemeinden, Berlin.
- Ver.di** (2011a): Wertstofftonne: Entwurf bevorzugt Tariflose. „Angriff auf die kommunale Daseinsvorsorge“ – ver.di: unter kommunaler Regie. Berlin  
<https://ver-und-entsorgung.verdi.de/abfallwirtschaft/themen/wertstofftonne/aha-hannover>
- Ver.di** (2011b): Putzen kann jeder – von wegen. Arbeitsbedingungen in der Reinigung haben sich deutlich verschlechtert – Gesundheitsschutz auf der Agenda.  
<http://kommunalverwaltung.verdi.de/berufsgruppen/reinigungsdienste/von-wegen-putze>

- Vesper, Dieter** (2012): Finanzpolitische Entwicklungstendenzen und Perspektiven des Öffentlichen Dienstes in Deutschland. IMK Study 25. Düsseldorf.
- Voss, Dorothea / Weinkopf, Claudia** (2012): Niedriglohnfalle Minijob. In: WSI-Mitteilungen 65 (1): 5-12.
- Willenbruch, Klaus / Aydintan, David** (2010): Public Procurement Law in Germany. TaylorWessing. [www.theworldlawgroup.com/files/file/docs/TW%20Procurement.pdf](http://www.theworldlawgroup.com/files/file/docs/TW%20Procurement.pdf)
- Wissenschaftlicher Beirat der Gesellschaft für öffentliche Wirtschaft** (2005): Zur Beibehaltung kommunaler Dienstleistungen in der Europäischen Union (Internetdokument). [www.bvoed.de/assets/files/downloads/c.1.3.goew.pdf](http://www.bvoed.de/assets/files/downloads/c.1.3.goew.pdf)
- WSI-Tarifarchiv** (2012): Tariftreuregelungen in Deutschland (Stand: Juli 2012). Düsseldorf.