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**AN OUTLINE OF THE DISTRIBUTION OF POWERS ON SOCIAL SERVICES BETWEEN
CENTRAL AND LOCAL GOVERNMENT IN EUROPEAN COUNTRIES**

The present Report was prepared by the Democratic Institutions and Governance Department of Directorate General II - Democracy, in co-operation with Prof. Gérard Marcou, Council of Europe expert, University Paris I Panthéon-Sorbonne, Director of GRALE (Research Group on Local Administration in Europe), France.

General remarks

The purpose of this report is to provide information on and analysis of the provision of social services in a sample of countries having different type of local government organisation and of social protection system. On this particular issue, sectorial legislation is important. The meaning of the term “social services” is very broad. Despite the fact that such services are provided in all countries, there is no universal definition of what precisely are the social services. The scope of the social services varies from one country to another, depending on how legislation covers different functions that can be qualified as “social”.

Ukraine has adopted the Law on social services (N. 966-IV of 19 June 2003), that has been substantially amended by a Law of 15 March 2012 containing 21 articles requiring a lot of further regulations. Article 1 of the Law on social services (соціальні послуги) gives the following definition: social services are *“a complex of measures aimed to provide support to persons and social groups being in difficult life circumstances and unable to resolve by themselves their living problems”*. According to the same article, *“difficult life circumstances”* (складні життєві обставини) are characterised by *“invalidity, aging, health situation, social conditions, living habits and way of life, resulting in the partial or total incapacity (or the loss of the capacity) of a person, or impossibility thereof, to take care of one's personal or family life and take part to social intercourse, autonomously”*. Lastly, *“social benefits”* (соціальне обслуговування) are the social measures such as allowances, support and care performed by providers of social services (соціальні служби), which can be of various kinds. As in most countries, these definitions are not completely clear and can give rise to interpretations. But they are close to the most widespread conception nowadays, which is based on a universal coverage of the population (reference to “persons”, broad definition of “difficult life circumstances”) rather than of target groups, although there is specific legislation for such groups.

Two general remarks can be made. Historically, social services in European countries were provided by charities, then supplemented by municipal initiatives, before the development of the modern welfare or social State, which replaced over time the social assistance to the poorest by nation-wide social guarantees. As a consequence, the local government functions in this field became residual and regulated by the national legislation. Moreover, non-profit private organisations remained important in providing assistance at local or even national level in European countries, but in different way. An important difference between Ukraine and West European countries is the lack or the weakness of such non-profit charitable sector, which could not develop under the communist regime. In addition, it has to be pointed out that there is no clear division between the various functions in the social sphere. For instance, it is sometimes difficult to draw the line between child care and education, or between health care and social care. Depending on the countries, the same service may be ascribed to child care or to education, to social care or to health care.

The request of the Government of Ukraine to the Council of Europe points out a series of subjects of particular interest for him: orphan children, persons suffering violence at home, persons with special needs, homeless people, financially disadvantaged people, unemployed people, and elderly

people. In countries reviewed, these subjects have to be considered in the context of social policies they are part of, at the national and at the local levels.

Social policies have incurred significant changes during the last decades, as a result of economic globalisation, of the financial crisis and austerity policies that have followed and often aggravated the sovereign debt crisis. These events have not provoked fundamental changes in the social systems of most countries, even if the general level of social protection has been downsized¹. As regards the distribution of tasks between central, regional and local governments, a general trend towards more devolution upon local and regional governments can be observed, and at the same time a tighter financial control by central government, aimed at reducing the social expenditure, whereas in fact aggravated social conditions in many countries have resulted in an increase of the social expenditure. On the other hand, there are uncertainties on how to address new social risks, in particular care for an aging population and disabled persons, how to share responsibilities between national and local government, between national solidarity and attention to individual or local situations, how to keep costs under control. There are also changes in the way that social benefits are provided: specific markets for provision of social services and market-like regulatory systems have been developed, but the devolution to the private sector is quite controversial in this sphere.

Finally, the European Union law introduced a distinction between market and non-market services. The market services, also called “services of general economic interest” (SGEI), are of particular interest for the EU as a Single Market with its rules of competition. The non-market services are based on solidarity and redistribution, so they include sovereign services and escape the rules of competition. Social services are considered as SGEI and have to be reconciled with the Single Market framework as far as governments turn to the market to provide them. However, the Treaty of Lisbon has added to the founding treaties a Protocol on “services of general interest” consolidating the European concept of public services, based on the principle of subsidiarity. The protocol offer better protection to the SGEI. The national authorities are free to define and organise the services they wish to qualify as SGEI, and it is to the local authorities to meet the needs of the citizens. All this supports the distinction in law, within the EU, between social services and other public services.

This report first considers the impact of the State structure on the distribution of functions, especially in the social area (I) and then it analyses the distribution of functions in few countries, members or not of the EU (II). Lastly, it reviews in a synthetic way the major tendencies in recent decentralisation and social reforms (III).

¹The conclusion of Maurizio Ferrera and Martin Rhodes (eds) remains valid (*Recasting European welfare States*, London / Portland (Oregon), Frank Cass, 2000, “Introduction” pp.4-7).

I. The impact of the State structure on the distribution of functions in the social area

Two types of territorial State structure can be distinguished in Europe today. The first one is the classic unitary State, which does not necessarily mean centralised State, having a unique legislative and a unique executive power at the central level; the second one is in principle the federal State, however the Spanish constitutional court uses the term “compounded State” to include the regionalised State. While the State structure is important as regards the exercise of the legislative and executive powers, it has little impact on the local government organisation and functions². As a matter of fact, the comparison between local government systems shows that the source of local government functions does not allow to distinguish clear local government models. Therefore, and with respect to Ukraine, unitary or federal States can be considered.

A) Legislation on social matters: the national legislation prevails

According to the Spanish constitutional court, “compounded States” are characterised by political decentralisation in the exercise of the legislative power: “*Autonomous communities (comunidades autonomas) are vested with qualitatively higher autonomy than administrative autonomy of local governments, as far as it includes legislative and governmental powers that confer to them an autonomy of a political nature*”(STC 4/1981 and 25/1981). The Italian constitutional court has also recognised the distinction between political and administrative decentralisation after the constitutional review of 2001, giving to the regions legislative powers in matters reserved to the national legislation (n°274/2003). However, these differences in the State structure have no impact on the constitutional and legal position of local governments (municipalities and, as the case may be, upper local government tiers) and, in particular, compounded States do not necessarily have further decentralised local governments. Nevertheless, political decentralisation in that sense means a different distribution of powers as regards social legislation, administration and financing of social expenditure, and hence a configuration of the multilevel governance for social services. Regarding the legislative powers, the main point is that in compounded States, this is to the national legislation to address with three major issues: general social security system (health care, support revenue in case of illness), pensions and unemployment benefits. Local governments are not excluded, especially to bring back unemployed people on the labour market or to grant some social benefits to immigrants. Furthermore, legislation on social assistance is usually shared between national and regional legislation.

In Germany, all the social legislation at federal level can be found in the Social Code (*Sozialgesetzbuch*). This code embraces matters of concurring legislation at federal level. According to the Basic Law, social assistance (*öffentliche Fürsorge*) (art.74.1, 7°) and social security, including unemployment insurance (art.74.1, 12°), are matters of concurring legislation, but federal legislation is subject to conditions (achieve equivalent living circumstances on the whole federal territory or guarantee the unity of legal and economic conditions in the general federal interest - art.73.2) only

² G. Marcou (2013), “Les collectivités locales dans les constitutions des États unitaires en Europe”, *Les Nouveaux Cahiers du Conseil constitutionnel*, n°42, pp.63-87.

with respect to social assistance; it is subject to no conditions with respect to social security and unemployment insurance. As a consequence, there is no room for regional legislation on these two matters. In the field of health insurance, the only competence of the *Land* is to design the constituencies of local health insurance agencies (*Ortskassen der Krankenversicherung* - Fifth Part, §143). As regards, social assistance, federal legislation recites principles, rights for beneficiaries and duties for the *Länder*, which have to adopt detailed legislation in order to implement the federal legislation. Authorities in charge with the administration of social benefits are determined by the federal legislation, despite the fact that they are part of the administration of the *Land*. For example, the *Länder* have to establish youth offices (Eighth Part: §69 sq), under the supervision of a higher youth authority of the *Land*, and the *Länder* have the duty to develop a network of institutions and a supply of equal benefits on their whole territory (§82), and a federal government agency is in charge of the oversight of the whole system and to provide guidance (§83). For general social benefits (minimum social guarantee - *Sozialhilfe* - Social Code, Twelfth Part: §3), the administration of benefits is conferred to the rural districts and cities with district powers, unless the regional legislation determines otherwise. Regional legislation is important for the implementation, and in particular to determine the organisation. For example, the regional law of North-Rhine-Westphalia on child- and youth benefits assigns the management responsibility to the rural districts and cities with district powers - this means that this task is decentralised, whereas it could have assigned this task to local agencies of the government of the *Land*. This is the same option in all *Länder* indeed on this issue.

In Italy, the 2001 constitutional review left the full legislative competence on social assistance to the regions, since the matter is not dealt with by the national legislation or by concurring legislation according to which national legislation has to settle basic principles and it belongs to regional legislation to implement them (art.117 of the Constitution). On the other hand, it belongs to national legislation to determine the “essential levels of benefits regarding civil and social rights that have to be guaranteed on the whole national territory” (art.117.1, m). Furthermore, social security is regulated exclusively by the national legislation (letter “o”) and complementary insurances are regulated by concurring legislation. The basis for the State intervention remained the law 328/2000 on social assistance, adopted just before the constitutional review. However the central government did not succeed to pass regulations on such standard levels of benefits (by contrast with health care) and the regional legislations did not diverge substantially from the framework of the law 328. The discrepancies between the level of benefits prevented the central government to reduce strong territorial disparities³.

In Spain, the Constitution has devolved broader legislative competences to the regions than in Germany and in Italy. It made possible for the regions (*comunidades autonomas*) to take over the legislation since the source of the regional legislative competence is the statute (organic law) of the region, as adopted by the national parliament and not any constitutional provisions (see art.149.3). Social assistance is conferred to the regional legislator (art.148.1, 20°) and the national legislation

³A. Marzanati (2009), “L’aide sociale en Italie: le rôle des collectivités locales”, in: GRALE, *Droit et Gestion des Collectivités Territoriales 2009*, Paris, Ed. du Moniteur.

includes only “basic legislation and economic regime of social security” which implementation is entrusted to the regional governments (art.149.1, 17°). As a matter of fact, there is no national legislation on social assistance. The general social security law (26/1990, 20 December 1990, as modified) includes unemployment benefits since 1992 (Third Part: art.203 sq), but there exists only regional legislation on social assistance, on the basis of regional statutes, with various coverage and focus⁴. The constitutional court of Spain has clearly ruled that the Constitution has clearly distinguished social security and social assistance, but did not define the scope thereof, meaning that social assistance is any form of social protection external to social security guarantees, and hence a relatively broad scope of initiative for regional legislation to determine the content of social assistance benefits (STC 146/186, 25 November 1986).

To sum up, in compounded States social assistance is regulated at the regional level, but essential social guarantees are determined nation-wide and are based on the principle of equality, although their administration is devolved upon local governments and the equality is not achieved in practice.

The organisation and functions of local agencies of central government is another difference between compounded and unitary States. In unitary States, there are still local agencies, subordinated to the central government, in charge with the implementation of the central government legislation and policies at local level. They are usually (not always: for example Portugal and England, nowadays) under the responsibility of a prefect appointed by the central government. The prefect has to pay special attention to the implementation of national policies and make use of his own powers and some financial instruments for this purpose (France, Sweden). In compounded States, local agencies of central government have less powers, and usually not on social matters. However, in Italy prefects have to guarantee the provision of essential public services. But in Spain regional governments have their own local agencies for the implementation of their legislation. This is also the case in Germany, in larger regions (4 *Länder*). These local agencies are subordinated to the regional government and may have responsibilities in social matters (in Germany see the case of Bavaria, in relation with oversight on local government)⁵.

B) General and methodological approach of local government responsibilities in the social sphere

⁴Francisco Javier López Fernández (2014), *Acción social en España (centros, servicios y establecimientos de servicios sociales)*, Madrid, ACCI, pp.88 sq.

⁵ See my previous report: *Report on European practice and legal framework on prefects, local governments and emergency situations*, Council of Europe, 17 September 2015 CELGR (2015)2.

Before looking into local government functions on social services, it is necessary to draw a broader view of the existing European local government systems⁶.

First of all, a function is considered to be conferred on a local authority when this authority exercises purely managerial powers, or a regulatory power, or the power to take individual decisions affecting third party rights as any administrative authority does, whether the function is exercised as own or delegated power and as mandatory or voluntary power. Conversely, the participation, without decision-making, in the exercise by another authority of a given function, cannot be seen as "exercise of a function". Functions cannot be assessed independently of the powers associated with them.

Then, the discretion of a local authority vested with given function depends on the legal regime applicable to this function: the local authority has less discretion in case of a delegated function (performed as an agent of a higher authority) and is bound and supervised, while in case of own function it has only to comply with the law and the national rules. Lastly, the financial regime is also relevant: usually, delegated functions are compensated for their costs by central government; own functions should be funded from the general budget without earmarked subsidies, in order to respect local self-government, but this is not always the case.

As regards the content of functions it is possible to group them in four consistent profiles: social profile, economic profile, town-planning / environment profile, police / public order profile. The social profile includes welfare, unemployment benefits, social care organisations (for elderly, children under protection, disabled persons...), public health, education, culture and heritage, leisure and sport facilities. The economic profile includes domiciliary services ("communal economy", according to Ukrainian terminology), energy policy measures, local roads, public transports, social housing, economic development initiatives. As pointed out earlier, some functions may be related to one sector or another one, e.g. to one department or another one, for example in the case of children support measures (social benefit or education) or for jobless people (social welfare or unemployment insurance). Social measures may also be related to functions of the economic profile: social tariffs for domiciliary services, public transport, low-cost housing.

The competence profile may be strong or weak, depending on the extent of the function performed. For example, the social profile will be strong if the function includes all or most personnel expenses (for example for education teaching staff, for social care social workers...). The economic profile will be considered as strong if it includes functions relating to energy and social housing, weak if it does not. The following table reflects that kind of analysis for a sample of European countries.

⁶ See for more details: G. Marcou, *The extent and nature of powers and functions of local authorities in Council of Europe member States*, Council of Europe, 9 April 2007 LR-FS (2006)1.

Combinations of municipal (or intermunicipal) competence profiles by country⁷

Country	Social profile		Economic profile		Town planning / environment profile		Police / Public order profile	
	Importance	Trend	Importance	Trend	Importance	Trend	Importance	Trend
Germany	Weak	<	Strong	>	Strong	--	0	–
Spain	Weak	>	Weak	--	Strong	--	Strong	–
France	Weak	<	Strong	<	Strong	<	Weak	<
Hungary	Weak	>	Weak	<	Strong	--	0	–
Italy	Weak	<	Strong	–	Strong	–	Weak	–
Netherlands	Strong	<	Strong	–	Strong	–	Strong	>
Poland	Strong	>	Weak	>	Strong	–	0	–
Portugal	Weak	<	Strong	<	Strong	<	Weak	<
England	Strong	<	Weak	>	Strong	<	Strong	>
Sweden	Strong	–	Weak	<	Strong	–	0	–

Key:

0: virtually non-existent function

<: expanding

>: narrowing down

--: stable

This is a very simplified picture and, in particular, the mark “weak” or “strong” is to be understood only in relative terms, with regard to other profiles for the same country. It gives no indication on the degree of discretion of the local government bodies, on their relations with upper tiers, and hence on autonomy. It gives either no indication on the level of social guarantee: “weak” social

⁷Ibid. table updated.

profile usually reflects that most social guarantees are managed by central government. Nevertheless, it reflects interactions between functions within the same profile, and a certain consistency in the distribution of functions. This is what is important when comparing local government functions in the field of social services among European countries.

It can also be observed that certain tasks are carried out by municipalities or their consortia, or by the upper tier of local government (district/*Kreis*/*powiat*/province/county/*département*) and where applicable by their sub-divisions (as with the *freguesias* in Portugal): space planning (urban planning, planning permission, development projects), allocation of social benefits and management of social institutions for certain categories of the population (in particular for the elderly), roads and public transport (depending on the size of the authority), water supply (with the notable exception of England), housing (with the notable exception of the Netherlands, Italy and Switzerland), and construction and maintenance of school buildings.

The powers and responsibilities in the fields of education, health, and social security or benefits are variable. Broadly speaking, local governments are largely responsible for these issues in the Nordic countries. In Denmark, since 1st January 2007, the overall management of the healthcare and health insurance system was devolved upon the five new regions (previously the former 14 counties were entrusted with). In Sweden, social security is managed at the national level, whilst the counties are in charge with the hospitals and the healthcare system. In Germany, France, Italy or Spain, on the other hand, local governments exercise only partial or marginal powers and responsibilities in these areas (in the table above: "weak" social profile). The same applies to education: the recruitment and management of staff is generally the task of the State or of the regional authorities (e.g. German and Austrian *Länder*, autonomous communities of Spain, Belgian *communautés*, but not in Italy), in the Nordic countries and the United Kingdom it is the responsibility of municipalities (see in the table above: "strong" social profile).

II. The distribution of functions in the social sphere

Broadly speaking, social security is administered under the central government's authority in all countries, with the exception of Denmark where management was devolved upon the new regions with the territorial reform 2007. Unemployment benefits are also regulated at the central level, but the management of beneficiaries in order to bring them back to the labour market is decentralised upon local governments. As a consequence, there is a shared responsibility between central and local governments in this matter. By contrast, all forms of social assistance are still managed by local governments, but in the framework of detailed national regulations, and they tend to be residual with respect to the social security system.

In most European countries, a general competence clause is recognised to local government bodies, at least at the municipal levels, as required by article 4 of the European Charter on Local Self-Government. Exceptions are Portugal, since the law of 1999, and Spain as a consequence of the new

law on basics of local self-government n°27/2013 of 27 December 2013. The UK recognised the general competence clause with the Localism Act 2011, but local authorities were already vested with the power to take any initiative for the "well-being" of their inhabitants. In France, the law of 7 August 2015 on the new territorial organisation of the Republic removed the general competence clause of regions and *départements*, but maintained it for municipalities. The general competence clause makes possible for local authorities to take any initiative, also in the social sphere, in order to alleviate the situation of deprived persons. Nevertheless, the main functions performed by local government bodies in this respect are those regulated by law and subject to central government control.

Lastly, local government functions in the social sphere are usually shared between municipalities and the upper local government tier, sometimes also with local State agencies, but the general tendency for State administration is to retreat from the management of social assistance and to leave it to local government bodies within the framework of the law. Local State agencies keep residual functions to enforce specific regulations and they supervise local government activities.

Beyond these general features, particular cases may be distinguished:

- for unemployed people, most countries have established an unemployment insurance and a minimum support revenue; some others (UK) consider unemployment benefit as a social benefit and not as revenue substitute;
- for elderly, there is a growing differentiation driven by market offers; this is also partly the case for child care; nevertheless, for child care as for disabled, public services still prevail;
- lastly, a new risk resulting from dependence of aging or disabled persons arises to nation-wide protection systems, whereby local government is losing powers, notwithstanding it keeps delivering tasks (the Netherlands is an exception).

Due to the idiosyncrasy of the various national situations, resulting from different historical settings and policy choices, it could be confusing to deal with each function. Therefore, it will be preferred to represent the social services pattern in selected countries: France, the territorial pattern of local government of which can be compared to Ukraine with municipal fragmentation and significant deconcentrated State agencies at regional and district level; Germany with a rather similar social policy framework, but in a different territorial State structure; England, with a different social policy framework and traditionally large territorial units in a rather centralised administrative system; the Netherlands, because of increased responsibilities of municipalities resulting from social policy reforms.

A) France

Since the early eighties decentralisation reforms have dramatically changed the distribution of tasks among local government levels. In broad terms, these reforms gave the responsibility of the social services to the *départements*, with the participation of municipal bodies⁸.

1) Department level

Social workers and the management of allowances as well as decision-making powers previously exercised by local branches of the Ministry of Social Affairs were transferred to the departments. Under the 1983 reform, the control of about 95% of the social care expenditure was transferred to the departmental councils (services for the elderly, children services and most services for disabled people). Most personnel from the local branches of the Ministry and social workers were transferred under the authority of the presidents of *départements*. Further social policy reforms have increased *départements'* responsibilities and their budgetary burden (2003 and 2009: minimum revenue allowance; 2001: autonomy allowance for the elderly; 2009: disability compensation allowance).

However, in most cases whereas the departmental council has to provide monetary social benefits, services are delivered by municipal or inter-municipal bodies, or by the private non-profit sector under the supervision of public authorities. The main functions transferred to the departmental council are “mother and child care”, young people under protection and housing for elderly people who can no longer live independently.

All monetary social benefits are managed by the elected heads of departmental councils, according to nationally-regulated rates and conditions, and are funded from the department’s budget. According to the law, departmental councils may increase the rates and provide more generous conditions of access to allowances, but usually this is not the case for financial reasons. Main allowances managed by departmental councils are the “active solidarity revenue” (*revenu de solidarité active*) for job-seekers out of the labour market for several years, with coaching aimed at bringing them to the labour market (with training and personal monitoring, jointly with “*Pôle emploi*” – see below), the “personalised autonomy allowance” (*allocation personnalisée d’autonomie*), for aged persons having lost their capacity to live autonomously in their daily life) and the “compensatory allowance for disabled persons (*prestation compensatoire du handicap*). Local family allowances agencies (see below) serve as agents of departments for the service of the active solidarity revenue.

⁸See further: G. Marcou (2016), "Local government public service provision in France: diversification of management patterns and decentralisation reforms", p.55 in: H. Wollmann / I. Koprič / G. Marcou (eds), *Public and social services in Europe. From public and municipal to private sector provision*, London, Palgrave. 2016.

A new national public corporation, the National Fund for Solidarity and Autonomy (CNSA), was established by law on 30 June 2004 with the objective of financing benefits and providing technical support to institutions and local government bodies in charge of social care for elderly and disabled people with limited autonomy. Between 2006 and 2013, financing provided by the CNSA and the Social Security fund for these services increased by about 50 per cent. Overall, the funding for services to compensate for the loss of autonomy comes from several sources: the CNSA (37 per cent, with resources coming from State levies – general social contribution, solidarity contribution for autonomy and additional contribution to the latter), state budget (26 per cent), Social Security fund (19 per cent), departmental councils (17 per cent) and has increased sharply since the mid-2000s (CNSA 2014). In this respect, departmental councils act as agencies of central government, implementing national policy, particularly in the case of personal autonomy-related services.

2) Municipal and inter-municipal level

In 1986, municipal offices for social services (*centres communal d'action sociale* - CCAS) were established as public law corporations under the chairmanship of the mayor, replacing the social boards of municipalities with a form of institution with more powers and greater autonomy; some CCASs are inter-municipal. The CCASs are responsible for a lot of equipment and services for the population: homes for the elderly, social care centres, various forms of childcare and playgrounds. They proceed to applications for social benefits, and they provide social assistance to persons in urgent need. Departmental councils may also delegate them own tasks. Overall the CCAS budgets amount to 2.6 billion euros and CCASs employ about 120,000 people, more than employed by *départements* in the social sphere. In addition, regulatory, planning and supervisory functions are mainly the responsibility of *départements* (Penaud et al. 2011). Various planning documents were incorporated into social policies by national legislation, they have to be adopted jointly by prefects and presidents of departmental councils (Code of social care and families, in particular art. L.312-5).

3) Public and private delivery bodies

In France as in other countries, social services are not exclusive functions of local governments and private organisations involved in the social sector are not vested with a public duty. Social care in general has to be considered in the larger context of a broad employment sector “services to persons”. About one third of people working in social care (representing 41 per cent of work hours) are employed by delivery bodies of all kinds, whereas two thirds are directly employed by individuals, frequently using allowances or tax privileges established by national legislation, not by local government bodies. Both forms of employment have increased considerably from the early 2000, although the increase has been much greater in the case of delivery bodies (x3.5).

Among delivery bodies, associations provide 59.3 per cent of work hours, public bodies 10.9 per cent (mainly those run by departmental councils and CCAS, both of which are decreasing in number) and private enterprises 29.7 per cent (sharp increase in recent years). Care for the elderly represents 48 per cent of the total, but makes up 57 per cent of the activities of associations and 56 per cent of the activities of public bodies. Autonomy allowances given to elderly and disabled

people (funded from *département* budgets) have certainly boosted the sector, and in particular the market in social care services, because the receivers of the allowance are free to choose how to spend it. Day nurseries and other similar childcare institutions remain largely under the direct control of public authorities (61 per cent), mainly CCASs, or are managed by voluntary organisations (over 30 per cent). “Mother’s assistants” are licensed, trained and supervised by the *départements* (although they are actually employed by parents). At the management level much depends on municipal bodies. Eight of ten municipalities run programmes for elderly people and four run programmes for deprived people, children and young people⁹ (Penaud et al. 2011).

4) Central government responsibilities

As already pointed out, the regulatory framework for social benefits and social services devolved upon local authorities is established by national legislation and central government regulations. At the local level, local State agencies under the authority of the prefect perform regulatory, supervisory and planning functions. They have the power to close an institution in case of serious violation of the law. Planning is focused on institutions for elderly that provide medical care financed by the Social Security fund. They have to enforce the right to decent housing provided by the law, when people turn to the prefect if they cannot find one. The prefect can resolve such situations only in relation with local authorities. Local State agencies are particularly active for the implementation of the law regarding housing planning, in order to enforce national priorities in local planning documents with regard to the balance between various kinds of housing (social and market price housing, housing to rent and to buy...), and though so called “city contracts”, used by central government to support rehabilitation and upgrading of housing and equipment in deprived urban areas.

Furthermore, local agencies of the various branches of the Social Security Fund are involved in the implementation of social benefits. These agencies belong to national networks and have only managerial autonomy. In particular they provide various allowances. The so called “family benefits agencies” (*Caisses d’allocation familiales*) provide “housing allowances” (to alleviate housing costs for households with lower incomes) and may offer services such as nurseries in coordination with the local authorities. There exists one agency in each *département*.

Although decentralisation has been administratively successful in the social sphere, two problems remain unsolved. Territorial disparities are too great, particularly with respect to functions that are not fully regulated by central government, and this will not encourage further decentralisation. This is so because national regulation does not determine the level of financial commitment of the local

⁹ Penaud, P., Amghar, Y.-G., Bourdais, J.-F., Dupays, S., Laloue, F., Lhost, H., and Moleux, M. (2016), *Les politiques sociales*, Paris, Sciences Po/Dalloz, 3rd ed.

authority for social care institutions. Furthermore, the monitoring and evaluation by central government is not satisfactory, and too often the response to problems is the over-regulation¹⁰.

Lastly, central government still performs directly an important function as regards childcare: 100 per cent of children from three to six years old are admitted to pre-schools (*écoles maternelles*), as are 49 per cent of children between two and three years, although there are important regional disparities in provision. The teaching personnel, in pre-schools, as in schools, including headmasters, is employed by the State and paid from the State budget directly, whereas municipalities run pre-schools, and elementary schools, and employ ancillary personnel (for catering in particular).

5) Unemployment benefits

Unemployed people are supported by benefits funded by an unemployment insurance system managed on the basis of a nation-wide collective labour agreement signed by representatives of employers and of trade unions, within the framework of the law. Conditions and rates of allowances are determined by this agreement.

Allowances are distributed by local State agencies (named "*pôle emploi*") under the ministry of Labour, as provided by the law. Agencies help job seekers to find a job and control them. People who remain more than two years out of the labour market lose the benefits of unemployment allowances, and have access to social benefits served by departmental councils (so called "active solidarity revenue"). They are then involved in a programme deemed to bring them back to the labour market. Such programmes are determined for each beneficiary jointly by the departmental council and *Pôle emploi*.

During the debates on the law of 7 August 2015 on the new territorial organisation of the Republic, regions claimed for the devolution of employment agencies under their authority. However, central government considered necessary to keep them under its control. As a matter of compromise, the law provides for the region "to participate in the coordination of all stakeholders in the employment public service", and for municipalities, inter-municipal authorities and departmental councils to contribute to his functions; local employment agencies will enter in regional agreements on employment, professional orientation and training for this purpose (Labour Code: new articles L.5311-3 and 5312-3).

B) *Germany*

In Germany, the social protection system is based on Bismarck's legacy, in the sense that it is based on a national social insurance system covering health care, pensions and unemployment. As a consequence the Federation is responsible for legislation and financing all guarantees provided by the law nation-wide, and local government has only a residual function for social benefits that are the very last social safety net. However, local governments have regained over time new

¹⁰ Inspection G n rale des Affaires Sociales (IGAS) (2008), *Les politiques sociales d centralis es*, Paris, Department of Social Affairs.

responsibilities for various guarantees or policy instruments created outside of the social security system¹¹. This is reflected, as mentioned earlier, in the German Social Code.

Local government in Germany, municipalities and districts (*Kreise*), together named “*Kommunen*” (*communes*), may form “intermunicipal corporations” of public law (*Verband*) for the exercise of specified functions. Their legal framework may vary from one *Land* to another, but it remains similar. This legal framework is issued by regional legislation and, for larger urban areas, special legislation is issued by several regional parliaments (*Landtag*) (for example such cities as: Francfort/Main, Hannover, Stuttgart...). Additionally, it must be pointed out that three *Länder* are cities, and therefore their institutions exercise jointly municipal and State responsibilities: Berlin, Bremen, Hamburg. This means that these cities are also vested with the power to issue regional legislation on social benefits for their inhabitants.

1) Minimal social guarantee (general social benefit)

The minimum social guarantee has replaced the former municipal social assistance to indigent people, formerly administered and financed by and large by local government. The development of social security guarantees, with new special protections for risk groups, has changed the role of social assistance, downgraded to a residual social support system. Two recent reforms have again limited the scope of local government functions in this respect: the reform of unemployment benefits, with which part the social assistance was combined (Harz IV reform, 2004), and the introduction of the general autonomy insurance (lastly reformed 2012).

Nevertheless, the responsibility of local government in this area did not disappear. In the sixties of the last century, the law introduced the right to social assistance and allowances were regulated by the law, and the discretion of local government was strongly limited. Then, the federal law on social assistance (nowadays, Part XII of the Social Code) unified social basis served by local government. But, higher unemployment, aging population with more physically dependent people and, more recently, social assistance to immigrants, have again impacted the financial commitments and required diversification in order to meet the citizens’ needs. This was the result of national legislation rather than of local initiatives, and expenditure for social assistance almost doubled between 1970 and the years 2000. The service of these benefits was assigned to rural districts (*Kreise*) and cities with district rights (*kreisfreie Städte*).

However, from 1st January 2005, unemployment insurance allowance and social assistance benefits were merged for unemployed people able to work into a single allowance served by the Federal Labour Agency (see below). As a consequence, the minimum social guarantee is served from that time to a much lower number of people (people definitely disabled to work, young people living outside of their parents’ home before the end of their 15 years, people under anticipated pension scheme receiving a too low pension).

¹¹F. Bönker / J. Libbe / H. Wollmann (2016), Remunicipalisation revisited: long term trends in the provision of local public services in Germany, p.71 in: H. Wollmann / I. Kopriu / G. Marcou (eds), *Public and social services in Europe. From public and municipal to private sector provision*, London, Palgrave.

Beyond the minimum social guarantee, social benefits diversified to address risks affecting specific social groups: asylum seekers (1992), dependent persons (1994), aging people and persons being no longer able to work (2001). Whereas the first two new social benefits did not affect a lot local government because they still have been administered by local governments, the third benefits passed from local government to social security bodies, resulting in a substantial drop of social expenditure of local government between the late nineties and the early 2000. Later, a major change was the compulsory insurance for dependent aging people from 2001 (*Pflegeversicherung*); this reform has curtailed the role of local government for aging people, because it has favoured the development of private providers (non profit and for profit) and transferred the planning and supervisory functions from local government to the regional government (*Land*) and to Dependency Insurance Funds (being parts of Healthcare Funds). However, local government could take over functions of coordination of offers through local “conferences” on support of dependent people, of information on dependency insurance schemes and of sensibilisation of the public to these people's needs.

2) Provision of social care for elderly, youth, childhood and family

Beyond allowances, social benefits include social care provision by organisations. These social services have remained between the local government's hands, but this does not mean that local governments provide directly these services. Usually, they rely on private providers, most of which are non-profit organisations, and their market share has increased for last past years.

Social services for childhood, youth and family were allocated to municipal competence in the years 1920, and municipalities were obliged to establish a Youth Office and a Committee on social benefits to youth. This was maintained after the Second World War. Major reforms took place in 1991 with the new law on social care of childhood and youth (nowadays: Social Care: part VIII) and with the law of 2008, creating a new entitlement for all children between 3 and 6 years old to have a place in a *kindergarten*, and from 2013 for all children between 1 and 3 years old. These new entitlements, established by federal laws, have to be carried out by local governments with financial support by the Federation and the Land, and by own means, since this support does not cover all costs. By contrast with France, children care is fully part of social services, and not of education. As a consequence, more than 10% of all local government employees are involved in children care. In addition, local governments serve monetary social benefits to families as provided by federal legislation. Lastly, local governments have developed various activities directed to children or families: leisure, social support for children having suffered from negligence or violence, consultations for parents, preventive measures as regard behaviour of young people.

By contrast, federal policies addressing elderly people's needs have partly substituted traditional municipal assistance. This is the consequence of the obligatory dependence insurance (*Pflegeversicherung*): elderly people are insured obligatorily by the newly created Dependence Insurance Fund, unless they decide to be covered by a private insurance company.

A consequence of reforms of elderly policy and of family and child policy has been the development of private service providers. Non-profit organisations, mainly affiliated to religious bodies, have always had an important role in Germany in direct provision of social services, especially for long term care services. The municipalities' financial difficulties and the new federal legislation in these policy fields have driven them to turn to the private sector in order to be able to have the capacities required by their new legal obligations, whereas they have to subsidise these services. However, local authorities try to keep coordination capacities with regard to all providers and cooperate with the Medical Service of Health Insurance Funds in charge of assessing frailty.

Housing policy has to be reviewed also with respect to the impact of other changes in social policy. Whereas municipal housing companies had built and operated in the past a large share of the housing stock (from the 1920s until the end of the 1970s, at the end more than 25% of the housing stock), in the 1990s, their tax privileges were removed and local authorities have privatised most of their housing stock – for example the city of Dresden privatised its whole housing stock (48.000 flats) to a single private investor. Later on, these policies were assessed critically, and gave rise to a number of local referendums on citizens' initiatives that have vetoed successfully such privatisations. Local authorities changed also their mind, realising that they lost a powerful levy to influence the level of rents on the housing market and to prevent or limit social segregation in urban areas. Furthermore, the reform of the labour market (*Harz IV* reform - see below) has shifted on local government the housing costs for job seekers and other deprived households under conditions, and hence this has increased the interest of local authorities to have control on the allocation of cheaper housing facilities.

3) Employment policy

This is a new area of local policy, in Germany as in other European countries. It has emerged in the eighties of the last century with the increase of mass unemployment and of the costs related to job seekers allowances. This began with initiatives of local authorities, and then the reform of the labour market policy by federal legislation of 2003 (in force from 2005) has integrated local authorities in the new integrated system of insurance-activation-support. The reform was a response to the inefficiency of the existing employment policy, with centrally managed unemployment insurance, because of new characteristics of unemployment, according to regions and social groups. The result had been shifting people who could not get a new job to general social benefits allocated by local authorities, which had not capacity to bring them back to the labour market.

The reform relied on two basic ideas: establishing a network of job centres, according to a one- stop approach and joining several functions (service unemployment benefits, support job seeking, direct people to new activities through training or studies, psychological support...), linking with the Federal Labour Agency (*Bundesagentur des Arbeit*) and local authorities. Although the federal agency was vested with the main role, the law devolved new responsibilities upon local authorities and organised the cooperation between the Federal labour Agency and local authorities. This was not easy and the leadership above job centres was very much disputed; finally, the law established

job centres as joint bodies of the Federal Labour Agencies and of local authorities of the area; however, job centres functions have been referred only to the local authority in about 100 municipalities. But generally, each job centre is managed by a council with half members representing the local authority and half the Labour Agency.

Three kinds of benefits are provided by the Social Code:

- benefits for personal support: 1) by the federal government: unemployment allowance, social allowance for family support (children), health insurance; 2) by local authorities: housing and heating allowance, and, as far as needed, accommodation;
- support to get back on the labour market: 1) by the federal government: training, intermediation with employers, coaching, job offers; 2) by local authorities: supplementary measures for bringing back people on the labour market; supplementary social benefits, such as allowances for child care at home;
- Training and social rehabilitation (local government task): training support, social and cultural activities, children catering.

The new organisation of labour market policy has increased the role of local authorities, in particular in so-called “option municipalities”, e.g. those local authorities that applied for taking over the full responsibility of administering the new system, only a minority of job centres. However the system is mainly financed by the federal budget, its management is centralised under the federal government and the regional governments' responsibility. It is thought that the reform has very much contributed to lower unemployment in Germany, but it failed with respect to long term unemployment, which did not diminish over time¹².

C) England

Social welfare is one of the most traditional responsibilities of local authorities in the UK¹³. However the scope of such services and benefits is nowadays much more limited than in the past, as a consequence of reforms of the last decades. Welfare responsibilities are distinct of education and health responsibilities. Healthcare is within the realm of the National Health Service, and local authorities have had limited responsibilities for public health, recently increased by the Health and Social Care Act 2012. Education is still to a large extent a local government responsibility, but not in full since a large number of schools of the public sector are self-managed under direct supervision of the Department of Education. More recently, childcare and education work more closely with each other and their administrations were merged in 2009. By contrast with other countries, local authorities have practically no say in the implementation of the employment policy of the government.

¹²M. Schulze-Böing / G. Freidinger (2015), “La politique locale de l'emploi en Allemagne – un aperçu”, in *GRALE: Droit et Gestion des Collectivités territoriales*, Paris, Ed. du Moniteur.

¹³M. Hill (2009), “Les responsabilités et les tâches de l'administration locale anglaise en matière de politique sociale”, in: *GRALE, Droit et Gestion des Collectivités Territoriales 2009*.

Due to the local government system of England, the competence for social welfare depends on the area. In one tier areas (densely populated urban areas), local councils are responsible for social welfare in general (metropolitan districts, London, unitary councils). In two tiers areas, social welfare belongs to county councils; district councils at the lower level have no responsibility for welfare but housing with limited powers.

1) Social services for adults

Local authorities are responsible for the provision of social benefits regulated by the law for elderly people, physically disabled, mentally disabled and people with learning difficulties. Expenditure for elderly people represents almost 60%, half for those spent in homes for elderly. However, only 10% of places in residential homes for elderly people are managed directly by local authorities, whereas the others are independent and local authorities buy services required by the situation of a person. For this purpose, local authorities pass contracts with private providers on the basis of a diagnostic done by their social service about the needs of the person. The government encourages local authorities to replace such accommodation by an allowance that the interested person may use for the provider of his own choice.

Furthermore, local authorities provide social care at home for elderly persons living still in their home: catering, cleaning, support for communications or for investments or equipment of their home for disabled persons. For this purpose local authorities organise tenders and assign such tasks to private providers. In this respect, in house local services have to compete with private providers. As a result of central government policies, this type of contracting has been developed a lot for the provision of social services and then regulated by the Care Standards Act 2000 and submitted to inspections performed under the authority of the Secretary of State; this is applicable to childcare too.

The Health and Social Care Act 2012 has extended the duties of local authorities to public health. Local authorities have to develop preventive measures for tackling obesity, early detection of cancer, fitness regimes to prevent illness. New “Health and Well-Being Boards” are statutory committees of upper tier local authorities with elected representatives and subject to scrutiny by the local authority. They have to give public health commissioning support to the “clinical commissioning groups” set up under the NHS reforms. There are view to give local authorities reviw powers on local NHS. Dental services and services for prisoners were transferred under the authority of local authorities by this law. All this is however under central government guidance and supervision (for example: “Public Health Toolkit for Local Authorities of England”, published by the Secretary of State)¹⁴.

2) Childcare

¹⁴See J. McEldowney (2016), “Delivering public services in the United Kingdom in a period of austerity”, p.41 in: H. Wollmann / I. Koprič / G. Marcou (eds), *Public and social services in Europe. From public and municipal to private sector provision*, London, Palgrave.

Childcare services are managed by Services for education and childhood of local authorities (their name may vary) under supervision of two departments under the present government: the Department of Work and Pensions and the Department of Education. Statutory duties of local authorities are determined by the Childcare Act 2006, as modified by the Childcare Act 2016, and by the Adoption and Children Act 2002, as supplemented and modified by the Education and Adoption Act 2016.

Within this framework, local authorities have to perform several kinds of services: childhood protection, services to frail children (because of serious illness or disability); services deemed to facilitate the access of parents to the labour market.

Following the Children Act 1989, local authorities have to ensure child protection in case of risk of bad treatments or negligence, give support to families, keep a register on child protection and adopt child protection plans about means that can be used to support families or take over children at risk and ensure their guardianship in institutions or in another family. In this case, the decision has to be taken by a court, but social workers of the local authority usually initiate such procedures. Furthermore, all local authorities have to have an “adoption service”, working together with registered adoption societies (voluntary societies) and adoption support agencies that can be vested with the power to discharge functions for the local authority. According to the Education and Adoption Act 2016, the Secretary of State may give directions to one or more local authorities to make arrangements on jointly discharge of their functions under this legislation. Local authorities are also in charge selecting foster parents for children or young people under their guardianship. The responsibility of local authorities is extended to young people after court’s decisions on offences and they might have “community house” with special educational personnel, or they have if necessary to assign such young people to institutions under another authority as determined a regional planning committee. According to Children and Families Act 2014, they have to appoint an officer specifically in charge of the oversight of the education and school performance of children or young people with foster parents.

As to services to frail children, local authorities have to adapt education and care services to their special needs. According to Children and Family Act 2014, local authorities are responsible for identifying children or young persons with special educational needs resulting from a learning difficulty of disability. They have to ensure integration of educational provision and training provision with health care provision and social care provision. When necessary or on request of parents of the young person himself, the local authority has to secure an education, health and care (EHC) assessment in order to determine the whole set of measures deemed to ensure his education in the best possible conditions. For those having special needs but not requiring an EHC plan, special conditions have to be agreed between the local authority and the mainstream school.

Lastly, local authorities are responsible for the development of services facilitating the access of parents to the labour market. Since 1998, all children over 4 years are entitled to publicly-funded pre-school education, then over 3 years, since 2004, and over 2 years for disadvantaged families (under eligibility criteria) since the Child Care Act 2016 (c.5, 16 March 2016). This new act has also

extended the benefit: it consists of 15 hours a week for 38 weeks a year, instead of 12 hours 30 and 33 weeks before. All childminding agencies or childminders have to be declared to the local authority, which has to approve their arrangements and equipment. This activity is subject to inspections under the authority of the Secretary of State; the inspectorate is in charge of the register of childminders. However the scope of publicly managed services is quite narrow.

3) Unemployment benefits

By contrast with other countries, local authorities have little to do in labour market policy.

The present system, still applicable to unemployed people, is based on the Job Seekers Act 1995 that introduced the job seeker's allowance (JSA), allocated to unemployed people actively seeking a new job, in order to cover living expenses while the claimant is out of work. This is a nation-wide benefit administered by the Department of Work and Pensions (DWP). It takes two forms: contribution based (unemployment insurance) and income-based. In the latter, the subsistence allowance is supplemented by the local authority paying directly housing rents to landlords. Furthermore, the Employment and Support Allowance, replacing three previous benefits from 2008, gives financial support to people having difficulty to find a job because of long term illness or disability. It is also serviced by DWP.

Governments have attempted to introduce workfare schemes, e.g. mandatory work activity of beneficiaries of JSA after nine months. By contrast with subsidised work plans by charities and public services, the "Work Programme" 2011 was deemed to assign job seekers to private employers on public funds as a counterpart of the JSA. This was turned down by the Supreme Court (30 October 2013, UKSC 2013-64). But local authorities have no part in that kind of work activating policy.

With the Welfare Reform Act 2012, six nation-wide benefits (among which the income-based JSA and ESA) should be replaced by a single one, the Universal Credit, but it is still in the pilot stage because of implementation difficulties. The law distinguished several conditionalities depending on the situation of the claimant. But the Welfare Reform and Work Act 2016 has alleviated conditionality for people with limited capacity to work and with young children.

Job seeking is under control by job centres; local authorities have no activity in this respect. Since, they benefit from the general competence clause introduced by the Localism Act 2011, they could undertake initiative to support job seekers. There is no evidence of such initiative at present.

4) The impact of the Localism Act and of "Big Society" discourse

The "Big Society" discourse was the flagship of the Coalition Government formed after 2010 elections: reducing the size of the State and empower citizens, communities, the voluntary sector to assume civil responsibility, by changing relationships between citizens and the State. The Localism Act has introduced the general competence clause for local authorities, and made possible for them to take over assets or service provision with central government support and funding through Big

Society Network, Lottery Funding, the Community Asset Fund or the Big Society Capital Bank. Although this could have affected the provision of social services, there is at present only marginal impact on local authorities and on the role of the private sector in the provision of such services¹⁵. Local government functions are still monitored by the central government through funding and ministerial guidance and supervision based on legislation designing local government duties.

D) *The Netherlands*

Social welfare has incurred deep changes in the Netherlands from the late 1990s. The Dutch government has opted for more devolution to municipalities than in neighbouring countries, in the framework of a national steering based on financial instruments. This kind of decentralisation of social welfare is part of a change in the basic conception of social welfare, it is not driven by a decentralisation policy. The basic idea of the welfare reform is to replace “compensatory” arrangements by “activation” programmes, and to rely more on citizens' capacity¹⁶.

At the same time, it should not be overlooked that national welfare guarantees have replaced, from the end of the Second World War, assistance functions formerly carried out by municipalities. These guarantees are performed by three national administrative independent bodies: the national social security institution (*Uitvoeringsinstituut Werknemersverzekeringen – UWV*), which has incorporated the management of the unemployment insurance; the Bank of Social Insurance (*Sociale Verzekeringsbank – SVB*), in charge of pensions and family allowances) and the Health Insurance Institution (*Zorginstituut*) for health care benefits.

Functions of local government in this area are carried out only by municipalities; provinces have no responsibility but for youth welfare benefits, until 2014, when the Youth Act 2014 transferred this task to municipalities.

As a consequence, the functions of municipalities are focused on general social care and on activation and social support of unemployed people, and more recently on youth social care.

1) General social care

Dutch municipalities have a number of responsibilities in the area of general social care and reforms have increased municipal discretion in this respect. For a long time, central government had been establishing rights for beneficiaries and obligations for municipalities, together with funding measures and considerable margin for municipalities to frame policies according to the local needs.

The new law on “social assistance” (literally: “social support” - *Wet Maatschappelijke Ondersteuning - Wmo*) of 2007 was introduced as “a law of participation instead of a law of claims”¹⁷. This policy

¹⁵See J. McEldowney (2016), “Delivering public services in the United Kingdom in a period of austerity”, op. cit. p.41.

¹⁶D. Bannik / B. de Vroom / M. van Genugten / R. Ossewaarde (2009), “Décentralisation et activation . Les changements dans les tâches et les responsabilités des communes néerlandaises en matière de politique sociale”, in: GRALE, *Droit et Gestion des Collectivités Territoriales 2009*, Paris, Ed. du Moniteur.

¹⁷Ibid., quotation of a commentary of the cabinet to an assessment of the bill, 2005.

was confirmed and adjusted by the new law on “social assistance” of 9 July 2014 (*Wmo 2015*). The full name of the latter law is: law on municipal assistance in the fields of autonomy, participation, protected accommodation and welcome. In particular, it offers a precise legal framework to municipal responsibility.

This legislation has abolished the policy of social assistance targeted by law on specific groups of beneficiaries and provides instead for a global social budget of about 40% of the general budget of a municipality, covered from the Municipal Fund (a national resource for municipalities), and municipalities are bound by the law to devote this share of their budget to social welfare. From 2009, the law on budgetary participation has created “participatory services”, meaning new forms of voluntary activities, and training courses deemed to enhance citizens' capacities to local self-management of care.

As a consequence, the municipality has no longer to provide universal social benefits to entitled beneficiaries. Social benefits have to be determined locally with voluntary associations of citizens (for example elderly people, disabled persons, drug consumers...) in need of social benefits or care institutions. The law creates conditions for the constitution of social assistance networks, and merging associations representing the same beneficiaries. The purpose is to increase citizens' involvement, facilitate local neighbourhood projects, support to frail persons. This requires more municipal support in larger cities where neighbourhood relationships are less active than in rural municipalities.

This has in practice resulted into strong financial pressure on the funding of social care, in particular for domiciliary care. Care at home of elderly people, persons afflicted by chronic diseases, disabled persons, or persons needing assistance at home after surgery is now funded by this social budget of the municipality and individual contributions determined by the municipality and varying from one municipality to another; services are assigned to private providers after EU wide tender procedures. Price competition has eliminated local providers and a lot of bids selected through the tender procedure could not be performed as proved by contracts for agreed tariff conditions. The final result has been lower quality of service and attempts to renegotiate tariff conditions¹⁸.

The process is first to assess specific needs of each person entitled to social welfare benefits, for example personal care at home, need of being cared in a social institution, housing, capacity of the beneficiary to manage his own service, to rely on a neighbour, need a special equipment (wheelchair...) and so on. Then a personal budget (*persoonsgebonden budget*) is determined, the beneficiary may choose between managing it according to the care he/she needs or leaving it to the municipal administration.

To carry out these tasks, municipalities are vested by the law with regulatory and planning powers. According to the new law (*Wmo 2015*), municipalities have to adopt a plan on the execution of local social policy with the kind of measures to be taken by the executive board of the municipality, and

¹⁸Ibid.

this plan has to embrace all forms of social support, including non-institutional forms by voluntary work or members of the family, for which training and assistance may be provided, benefits available for inhabitants in need of social support, social care to support autonomy and participation in social intercourse of people who are no longer able to live with usual support of family members and their social network, social care for people with psychological problems who need protected accommodation (art.2.1.2). This plan has to take care of service integration through cooperation between social assistance, public health, prevention, social care, childcare, housing etc.; it has to preserve choice of beneficiaries of social care, and to preserve autonomy of life as long as possible. For the implementation of this plan, the municipal council is vested by the law with rule-making powers to determine, in particular, eligibility criteria to social care for autonomy and participation in social intercourse, the way of determination of the personal budget, quality requirements, treatment of clients' complaints, periodical reports, contribution of the client to the costs of social care. The executive boards is entitled to issue general dispositions for the implementation of the plan and of rules adopted by the council (art. 2.1.3 to 2.1.7; art. 2.2.1 and sq).

The law provides also for prevention and detection of domestic maltreatment, maltreatment of children (see art.4.1.1 and sq) and personal data protection (art.5.1.1. and sq).

The system seems to be accepted by most municipalities and beneficiaries; it seems to be more sensitive to individual needs and more open to a great variety of local arrangements to match needs on a community basis. On the other hand, this situation has generated a lot of litigations. The aim of the law was supposed to be make citizens less dependent on public administration. But a lot of persons and associations turned to courts against municipalities as failing to perform their statutory duties for social welfare. The new system has made beneficiary of social welfare more dependent on family, associations or neighbours, especially when benefits are delivered to such communities to help the beneficiaries. Such situations do not always strengthen personal autonomy. Social welfare benefits have been made more uncertain for the beneficiaries¹⁹.

2) The participation of municipalities to the labour policy market

Since 2004 the law on Work and Assistance (*Wet Werk en Bijstand*) has assigned municipalities the task of implementing labour market reintegration policy. The principle is that anyone who asks the municipality for assistance must receive help in seeking a job. This policy falls into two parts: a guaranteed minimum income in the form of an allowance for residents of the municipality whose income and conditions are determined by law, and reintegration measures designed to help beneficiaries to find another job. The municipality pays the allowance in accordance with the statutory conditions, but it is free to decide on steps it takes to encourage return to the labour market. The financial instrument is the Municipal Work and Income Fund, which is financed by a State grant in two parts: to finance allowances, and to finance integration measures. The municipality retains the balance of unspent allowances, but it has to cover the deficit by other

¹⁹Ibid.

means if the number of beneficiaries increases; conversely, any surplus in the integration part of the grant must be reimbursed to the State budget. This is deemed to be an incentive to municipalities firstly to reduce the number of beneficiaries and secondly to allocate all available resources to labour market integration and make efficient use of them, so as to reduce the number of beneficiaries. However, the implementation has revealed several bias: in favour of most easily reinserted unemployed people (short-term and young beneficiaries) whilst the incentive had little impact on long-term beneficiaries, except in small municipalities that have interest to lasting reduction of beneficiaries²⁰.

Amendments adopted at the end of 2014 were designed to improve the system by increased devolution to municipalities²¹. This is based on cooperation between municipalities in order to broaden opportunities for jobseekers. But, beneficiaries have to accept non paid work for the community, as proposed by the municipality according to their skills, during the time they are seeking a new job, and they are entitled, at the same time to follow training course. The municipality has also to subsidise enterprises that accept to recruit people from target groups (e.g. long-term jobseekers, disabled people...). These people are then entitled to a coaching in their job. For the implementation of the law, providing for regional cooperation for employment, 35 employment areas were designed in the Netherlands by social agreements signed by representative organisation of employers, unions, municipalities, the national social security institution and others. Lastly, people of such target groups are under protection until they have worked during two years with at least the minimum wage and without subsidy for the employer.

III. Major tendencies in recent decentralisation and social reforms

Having reviewed major and typical models of decentralisation in the field of social services, it is obvious that some common features and tendencies can be sorted out. As it can be observed in other fields, similar tendencies, thrived by economic and social changes, can be reflected in very different administrative systems. Six tendencies can be identified: 1) social services are usually performed as own competence; 2) they are embedded in the framework of a multilevel governance of social policy; 3) there is an increasing tendency to integrate social services with respect to beneficiaries; 4) there is a continuing and to some extent renewed tendency to involve volunteers, charities, citizens, beneficiaries themselves in the provision of social services; 5) there is an increasing involvement of local government in labour market policies; 6) there is also an increasing involvement of market providers for social services.

A) Social services provision as own competence of local government

This means that this function is performed with own budget, even if this might be supplemented by special grants, or if the financial burden is taken into account in the parameters determining general

²⁰Ibid.

²¹O. Jansen (2015), "Collectivités locales et emploi aux Pays-Bas", in GRALE, *Droit et Gestion des Collectivités Territoriales 2015*, Paris, Ed. du Moniteur, p.115.

grants. This means also that local government decisions are subject to legality supervision, and not to merit supervision, by the higher State authority.

This does exclude national regulation imposed on local authorities. This is especially the case for some social services that are of paramount importance from the view point of social justice and protection. Child care, adoption, young people under judicial protection but under custody carried out by a local authority, unemployment benefits for the part being left to local authorities, benefits for disabled persons are subject to detailed national legislation determining rates and conditions of eligibility. Local authorities have managerial and supervision responsibilities and little discretion. The Netherlands offer a distinct example, where municipalities have to work out their basket of social services in relation with local stakeholders within a national legal framework.

There is concentration of social services responsibilities on upper tier of local government. In France, the main responsibilities of local government in social area are performed by *départements* (departmental councils), and municipal functions are progressively transferred to intermunicipal bodies in larger cities. This is not only because of the typically French municipal fragmentation (with is now being overcome with the generalisation of intermunicipal bodies with a minimal threshold of 15,000 inhabitants, and exceptions only in low density areas). In Germany too, the Social Code privileges the assignment of the responsibility for the management of social services to rural districts and cities with district rights (*kreisfreie Städte*). In England, in two tier areas, the county is responsible for social services. The Netherlands are rather an exception, with municipalities providing all social services that are decentralised. In Sweden and Denmark, where social services are rather generous and their management very much decentralised, they are shared between municipalities and the upper tier (county councils in Sweden, regions in Denmark).

B) The multilevel governance of social policy

Social policy is mainly central government matter in all countries nowadays, whatever State structure they have. This is part of the welfare social covenant upon which modern European States have developed, and the basis for the qualification as “welfare State” or “social State”. It is generally accepted that State, e.g. central government, has to guarantee people against risks of social life. Therefore, functions of local government in the field of social services cannot be considered as a genuine function, as it has been a substitute to charities in the past. They are assigned to local government by law and within a comprehensive social welfare system. This does not rule out social services or benefits created on the basis of the general competence clause, but in fact such services or benefits are rather marginal, especially in budgetary terms, compared with those determined as duties by national legislation. Nevertheless this should not be underestimated, because it allows some flexibility for local authorities to be more responsive to local social situations.

The multi-level dimension of social responsibilities is not only reflected in the responsibility of central government in legislation, in the determination on allowance rates and eligibility conditions,

in financial support to local government social service provision, but also in the fact that main social guarantees are under central government responsibilities, directly or indirectly, mainly through agencies of non-budgetary funds. Examples are Family Care Agencies (*Caisses d'Allocations familiales*) in France, servicing housing and family benefits at the very local level, and providing assistance and support to local stakeholders in social services (such as subsidies for nurseries or leisure centers, for associations active in the social field, shelters for women that are victims of domestic violence...). They are part of the national social security scheme, but they cooperate with departmental councils and their social workers, and are the agent of the *département* for the minimum social income (*revenu de solidarité active*). Such a system can also be found in Belgium, and in Germany for health care insurance agencies. In other countries, such agencies do not have local offices with specific functions for the public or local government; the benefits are managed centrally (see Netherlands, Sweden, for instance). Multilevel governance is also necessary between local governments when functions are shared between them (for example for elderly care in France and Sweden).

By contrast, local agencies of central government administration are usually not involved in multilevel governance, because they perform mainly regulatory and supervisory functions. However it may happen that central government involves such agencies in agreements with local governments to implement social policy objectives of central government. This is the substance of so called "city agreements" in France, passed between prefects and heads of intermunicipal bodies for comprehensive social planning in deprived urban areas; there were also social policy chapters - "local area agreements" - practised in England until 2011.

C) *Integration of social services*

The tendency to integration of social services results from the necessity to link and coordinate various social policy fields, or with other policy fields (such as education or health care) in order to improve the service to the beneficiaries and also because it might be difficult to separate policy fields. Integration is easier when only one level of government is in charge of all social services, but this is not always possible due to the structure of local government and does not solve the problem of integration with other policy fields.

The increasing need for integration of services can be ascribed to evolving social conditions: ageing population, the marketisation of social service provision encouraged in most countries, the growing demand of beneficiaries for more individual choice possibilities and to have a say on the service delivered to them, financial pressure on local governments in search of savings, policies targeted to favour care at home for elderly and disabled people rather than in residential institutions²². Prevention policies may also require integration of services, for example in case of diseases related to lifestyle: this makes necessary to build cooperation between health care workers and social

²² L. Montero / S. van Duijn / S. Zonnefeld / M. Minkman / H. Nies (2016), *Integrated social services in Europe. A study looking at how local public services are working together to improve people's lives*, European Social Network, Brighton.

workers. Organisational difficulties should not be underestimated, because of different professional cultures and managerial requirements. For example, in Sweden Health and Social Care consortium were established with a joint care coordinator, in the same premise, but this does not resolve all difficulties. In England, the “common assessment framework” for children in need of special attention (see above, section II) is also a good example of such attempts. In France, Area Family Support Plans (schémas territoriaux d'aide aux familles) were designed to try to overcome services fragmentation for children and families; such plans are worked out and implemented on the basis of an agreement between State administration, the family allowance agency and the departmental council.

D) Involving volunteers, charities, citizens, beneficiaries in the design and provision of social services

The social sector has always been a privileged area for charities and volunteers. The development of social services provided by modern welfare States, including local government bodies, has been essential to substitute charity by solidarity and assistance by dignity. In this context, the role of voluntary organisations has changed and is linked with the provision of social services and benefits determined by law. Then, voluntary organisations are involved in the implementation of social policy, in planning of welfare development and, even more, they can have a stimulating function to reveal situations or needs that are not properly covered by national solidarity and may require new legislation, specific funding or local government initiatives. In France, such voluntary organisations are represented in boards of family allowances agencies and of regional health agencies (not to be confused with health care insurance agencies) in charge of health care planning and supervision; they are also subsidised by the State. Traditionally a lot of voluntary organisations of the social sector have been linked to churches; this is probably what explains that in Poland they prove to have remained active despite the long communist regime. But a lot of them are born from the mobilisation of people on special issues (disability, education problems, victims of accidents, victims of certain pathologies).

A new orientation of social policies is to revive family and neighbourhood help, not only as a consequence of budgetary cuts, but also to keep alive social ties and avoid solitude. At the same time, more favourable regulations aim at keeping people at home as long as possible instead of placing them in institutions. Monetary benefits that beneficiaries can use freely to organise their own life are privileged (see dependence allowance in France, or dependence insurance in Germany). Vouchers available to choose among various providers, public or private, are distributed. The main question is how this freedom of choice can really be ensured. The voucher makes sense only if the local authority (legally responsible for the service) is able to enforce terms of reference on providers and to supervise their activity as if they were in home services, as a matter of protection of the beneficiaries. Another issue is to make sure that beneficiaries have the adequate information to make choices. The approach promoted by “New Public Management” doctrines does not always take care of such issues. In Sweden, where vouchers were introduced for social care, it has been argued that this had benefited private sector providers but in a way that has stimulated

standardisation of services, whereas it was supposed to open more diversified options to beneficiaries; for child care, opponents stressed a threat for quality and class-based segregation²³.

One of the most interesting cases to reconcile solidarity and attention given to the beneficiaries' preferences is the recent Dutch reforms, that have tried to mobilise volunteers, family members, associations in the design of a basket of social services of the municipality taking in account local needs. But this scheme, as pointed earlier, did not escape all critics. In the UK, the promotion of communities' initiatives on the basis of the Localism Act 2011 and of the so called "Big Society" project did not impact the increasing dominance of the for-profit private providers.

E) Increased involvement of local government in labour market policies

This is certainly the most remarkable change as regards the role of local government in social policy, in all countries. This also is the consequence of mass unemployment that has affected European countries since the nineties of the last century. Whereas unemployment allowance remains under central government control, the activation of job seekers has become a new responsibility of local authorities, with the exception of England.

The responsibility of local authorities focused first, by own initiative or under central government incentives, on the promotion of local job places, on training support, on subsidised work places. More recent legislations are turned to mobilise local authorities to bring back people to the labour market. This involves support in job seeking, in relation with job centres, but this can also be combined with the management of allowances, with the purpose to stimulate job seeking and to stimulate local authorities to reintegrate people in the labour market. Most significant experiences of combining job-seekers activation and social allowance have been developed in the Netherlands, in Germany and in Sweden. In several countries, works of general interests have been proposed (or imposed when the law has provided for it) to job-seekers as a counterpart for social support ("workfare"). However, the problem with economic incentives is that they always rely on simplified behavioural models that cannot always achieve their purposes, as shown with the Dutch example. This means that they cannot be used as a unique basis for steering social policy implementation.

That kind of scheme was imported in Poland, where the district administration is responsible for the service of unemployment allowances and services to job-seekers. Job centres, support to employers recruiting older job-seekers, training vouchers offered to job-seekers, specific support for young unemployed people as well as unemployment allowance are under the responsibility of the district authority (self-government body of the district, headed by an elected president – *starost*)²⁴.

²³Ibid. p.14.

²⁴J. Dominiak /B. Konecka-Szydłowska / R. Perdał (2015), "La politique de l'emploi des collectivités locales en Pologne", in: GRALE, *Droit et Gestion des Collectivités Territoriales 2015*, Paris, Ed. Du Moniteur, pp.151 sq.

F) Increasing involvement of market providers for social services

This is also a general trend in social services in European countries, and the consequence of the diversification of needs and situations. This has been made possible mainly by the development of monetary allowances and tax privileges for social services. This development has been particularly important for services to elderly people and for child care for children before and during school age, especially where access to pre-school education is limited because of insufficient offer in public education.

Several types of social services can be distinguished :

- commercial services: home care and market based services offered directly to users, and used by people able to supplement their monetary allowance with own revenues;
- services offered by non-profit organisations or commercial businesses purchased by local governments for their residents: offered to beneficiaries with limited personal contribution or on the basis of minimum income allowance; such services are subject to tender procedures ruled by EU law;
- services offered by public institutions controlled by local governments: the costs are framed or established on the basis of the minimum income allowance.

Market provision is generally focused on specific demand. In the UK, market provision has probably the highest market share, whereas in Italy it is very limited because of the development of non-profit organisations' offers and their traditional relations with the public sector. In France, social services have become a sector with growing employment capacity. In Germany, the market provision emerges with the prevalence of non-profit organisations, as in the Netherlands. Not only economic factors may explain these differences, but also the perception by the people of that kind of services. This should not be ignored in Ukraine, especially with the low level of average family income.