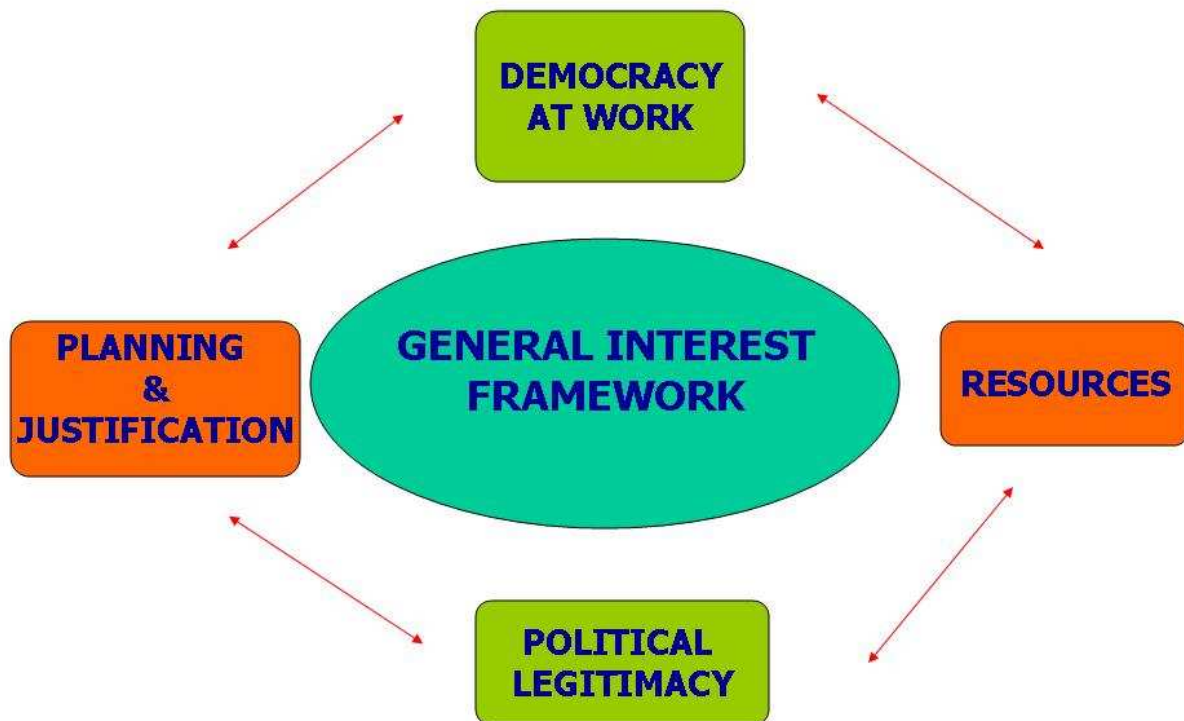


DECENTRALISATION AND PUBLIC SERVICES: A CASE OF PUBLIC SECTOR RESTRUCTURING



Source: adapted graph from Mercè Kirchner Baliu, EIPA-ECR, presented at the Trace EPSU workshops in June and December 2005



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DECENTRALISATION and PUBLIC SERVICES:

A CASE OF PUBLIC SECTOR RESTRUCTURING

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¹ The TRACE (Trade Unions Anticipating Change in Europe) project <http://www.traceproject.org> receives funding from the European Union, European Social Fund Article 6 Innovative Measures

1. Introduction: The TRACE project, what, why, how?

TRACE – Trade Unions Anticipating Change in Europe – is a EU-funded project coordinated by the ETUI-REHS² Education department on behalf of national trade union confederations and European industry federations affiliated to the ETUC – the European Trade Union Confederation. The focus for everyone is on restructuring, adapted to the needs of different countries and sectors. The results of the overall project will contribute to the European trade union response to the ongoing debate at EU level on restructuring and employment³.

EPSU's contribution to the TRACE project started in 2005 and ran until Autumn 2006. It is entitled "*Decentralisation in public services: a case of public sector restructuring*". The main focus is on the implications of decentralisation of public services for collective bargaining, working conditions, employment and quality of public services. It has been developed within the EPSU's National and European Administration and Local and Regional Government Committees, building up a group of 40 union representatives from 20 European countries (including EU, EEA and candidate countries). The network has worked together in 3 workshops in Oxford, Berlin and Brussels. Reports and other material from these workshops can be consulted at <http://trace.epsu.org>.

The term decentralisation is taken in its widest sense, meaning shifts of responsibilities (political, administrative, fiscal) between central and regional/local levels of government. Decentralisation is not a new phenomenon but has taken on a new momentum in many countries over the past years, with both old and new EU Member States increasingly engaged in a

² European Trade Union Institute for Research, Education and Health and Safety attached to the ETUC.ETUC.

³ *Communication on restructuring and employment, Commission, March 2005*

double process of European integration, outside their borders, and decentralisation within their borders. While decentralisation is usually presented as a positive reform to bring public services closer to people's needs our findings are more mitigated: in most cases improving the quality of public services is not the main driver of current decentralisation reforms. In some countries decentralisation has become a euphemism for privatisation, outsourcing and lack of accountability.

Indeed, in a context of budgetary constraints and growing needs for more and better services, decentralisation, when not supported by appropriate resources, can increase the risks of outsourcing, territorial fragmentation, and lead to poorer employment conditions and/or quality of services. Trade unions – and citizens – are inadequately informed and consulted prior to the reforms despite consequences on employment and working conditions, trade union organisation, as well as on the quality of public services. A somewhat paradoxical conclusion is that decentralisation requires an overall framework at national level defining, coordinating and safeguarding public service objectives and standards, financial redistribution mechanisms, users and workers' rights. We would also argue that the growing impact of the EU internal market on public services and administrations reinforces the need for a positive regulatory framework on public services at EU level. Such frameworks need to be democratically agreed involving trade unions and citizens and allowing for local specificities.

This case study on decentralisation for trade unions in local, regional and national government draws on these discussions. It includes information on the way EU policies impact, directly or indirectly, on public services and public administrations, the meanings, drivers and effects of decentralisation and trade union rights. It makes recommendations on the way decentralisation should indeed improve public services and not be driven by short-term political or financial expediency.

Country case studies collected during the project illustrate some of the challenges we are facing, and these are appended to the handbook.

We hope that our findings will bring visibility in the EU debate on restructuring to the constant reforms taking place in the public sector and highlight the way public services can play a central role in providing sources of growth and employment. Such visibility is all the more necessary given that Member States, encouraged by the EU, are moving away from being *providers* of public services to *regulators* of such services. In this new role the State's core functions such as redistributing wealth, protecting not only economic freedoms but also political and social rights, and ensuring territorial cohesion are being challenged. And now we see that the regulatory capacity of Member States (including local and regional authorities) to impose public service obligations on private companies is also challenged, e.g., through the draft Services directive. A new balance of power in Europe is urgently needed that takes into account the European dimension and the requirements for proximity to citizens.

Through this case study we also seek to underscore that change needs planning, time, resources, well-defined objectives to serve the general interest and information and consultation of workers and citizens.

We thank all members of the trade union network for their valuable contributions throughout the project, Harald Kielmann, director of Ver.di's education centre-Bildungsstätte Mosbach, for his unfailing support and training skills throughout the project and Mercè Kirchner Baliu from the European Institute of Public Administration-European Centre for the Regions (EIPA-ECR) who was involved as external expert in two of the three workshops.

Additional information on decentralisation can be found on an online TRACE network server (available from the EPSU website), which will be updated after the completion of the project to continue the debate on restructuring in the public sector.

2. The EU framework on public services, administrations, restructuring and social dialogue

Although the EU should remain neutral regarding the ownership of public services and recognises that public service missions (not public services as such) as defined by Member States take precedence over competition policy⁴, in practice the EU promotes the marketisation of public services.

This is most evidenced through the sectoral directives that require opening up to competition of gas, electricity, postal services and parts of public transport. Most recently, EPSU has campaigned hard to exclude health and social services (and other public services) from the scope of the Services Directive, which aims at creating an internal market of services. At the time of writing, the proposal is still being debated in EU Council of Ministers and European Parliament.

In addition, horizontal rules affect the way public authorities organise and fund public services. These concern public procurement and state aids, which are further backed up by court cases relating to competition. These European rules reinforce the view that public services are best delivered in a competitive framework and that the state should no longer be a service provider but a mere service regulator. There is also at present no protection of the right for public authorities to run services in-house, or in other words to keep public services public.

The Commission takes an incremental approach whereby public services are chopped off in sizable market niches to facilitate competition and business access. It is based on the

⁴ Commission's White Paper on Services of General Interest, 2005

belief that internal market objectives and freedom to provide and trade services should take precedence over other, more fundamental, rights.

In EPSU, we challenge this view. We recently launched a campaign for a positive and coherent approach to protect and develop public services calling for an EU directive setting out broad public service principles such as universality, equality, accessibility, neutrality, affordability, solidarity as well as financial guarantees, including risk-sharing. The basis for this can in fact be found in EU policy objectives themselves, as set out in the EC Treaty, towards a high level of employment, regional cohesion, gender equality, high social protection, and respect for diverse cultures. These objectives will not be met by the market alone. Social dialogue is another central feature of the European Social Model and should equally be central to public administration management. More information on our campaign can be found at www.epsu.org

How does this relate to decentralisation? As a supranational body the EU might seem unrelated to the way sub-national levels of government are organised. Also, the Community does not have competences for public administrations and the way they are organised and reformed. Employers in the central state sector in the EU (EPAN⁵) have argued that the very lack of EU competence for administration, together with the diversity of civil services, makes it difficult to establish common minimum standards for public sector workers and quality administrations. Some also argue that a European sectoral social dialogue in the state sector would challenge trends at national level to

⁵ are organised through the European Public Administration Network (EPAN)), which is made up of EU Directors General charged with public administration
<http://bl.ul.ie/epan/>

“decentralise” human resources management⁶. At the local and regional level on the other hand, the Council of Municipalities and Regions (CEMR) has entered into social dialogue with EPSU.

Yet there are both direct and indirect reasons why the EU affects the patterns of EU sub-national government, while challenges facing public sector employees are increasingly similar across Europe. Indeed a recent study by EIPA (European Institute for Public Administration) found that in addition to budgetary constraints, technological developments and national legislation, EU integration is a central driver of decentralisation reforms⁷. Some argue that together with the expansion of New Public Management, the impact of Community law, including opening of civil service to non-own nationals, has most changed both the structure and content of the civil service.

The points below summarise the different ways the EU impacts on sub-national governments, which in turn can influence governments’ choices on the organisation of public administrations and levels of public service delivery. This broad context that includes both positive and negative aspects needs to be taken into account when identifying trends and responses to change at national level:

- ***The EU depends on lower levels of governments to carry out many of its functions and policies:*** The EU responsibilities in the areas of public utilities, postal services, environment, public procurement, as well as health and social services are often the very concerns of sub-national government (and the level against which voters

⁶ See paper presented by Richard Pond for first TRACE workshop on the links between decentralisation of public services and New Performance Management

⁷ Decentralisation and accountability, Christoph Demmke and Gerhard Hammerschmid (EIPA), study carried out for the Human Resources Working Group of the EU Directors General for Public Administration, May 2006

react in case of failing services). In turn this also means that lower levels of government have to spend additional resources to implement (and to influence) EU policy decisions. The establishment of the Committee of the Regions is in part a recognition of this.

- ***One of the EU's goals is to further democracy and become closer to EU citizens:*** The Commission's White Paper on good governance (2001) considers that one way to achieve this is to promote *decentralisation, stronger co-operation between administrations, and more effective enforcement of Community law.*⁸
- ***The EU promotes e.government through Communications and benchmarking:*** e.government is defined as ICT use combined with organisational change and new skills in order to improve public services, democratic processes and public policies. This definition implies that e.government is much more than technological change. However in the Commission, internal market and Information Society Directorate Generals are the prime policy makers in this area.
- ***European Monetary Union (EMU) limits public expenditure:*** this means that eurozone countries (and countries considering joining the EMU) need to balance out the allocation of resources with EU macroeconomic stability. Various recipes have been used such as increasing reliance on market forces; cooperation between levels of government; further controls over sub-national governments; decentralisation. Caps on public sector employment costs and overall public spending can however

⁸ the term "European governance" is defined as the rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence. These five "principles of good governance" reinforce those of subsidiarity and proportionality.

be found in countries that are not members of the Euro-zone (e.g. Czech Republic, Sweden).

- ***The EU had adopted a number of social directives:*** these include directives on part-time employment, fixed-term contracts, working time, workers' information and consultation rights, health and safety, equal treatment between women and men, anti-discrimination... The EU Treaty contains important provisions to support social dialogue, including in the public sector. The EU can play a positive role to promote social dialogue although it cannot force employers to be organised at EU level and negotiate with trade unions (see further information on social dialogue below). The public sector is characterised in most EU countries by a much higher trade union density than in the private sector; many civil servants however have restricted recognition and bargaining rights across the EU and social dialogue is yet to be put in place in a number of countries.
- ***The EU has agreed a Charter of fundamental rights (2000):*** this provides for trade union rights (including information and consultation rights) as well as the right to a good administration (at EU level) and access to public services (Services of General Economic Interest)⁹. While its binding legal nature is yet to be fully clarified the Charter is in any case already used as an important source of reference by the EU institutions to support legislation and cases in the European Court of Justice (ECJ).
- ***The EU has an impact on the internal administrative organisation of Member States:*** a number of new Member States have changed the organisation of government levels, basically decentralising (or in some countries "deconcentrating" initially) to adapt to the rules on accessing EU structural funds. Administrative capacity is

⁹ Articles 12; 27-28; 41 and 36 respectively

also taken into account in EU accession criteria, and in some cases, civil service employment has increased in the new Member States. The Communication on social services of general interest (26/04/2006) recommends decentralising the organisation of these services to local or regional levels¹⁰ (alongside outsourcing to private sector and developing Public-Private partnerships).

- ***The EU recognises the freedom of movement of all workers:*** European case law on workers' fundamental right to free movement (based on article 39.4 of the EC treaty on the public sector derogation from the right to free movement of labour) promotes the opening of civil service to nationals of other member states as well as recognition of experience and training acquired in another EU member state or in the private sector. This has particular implications for so-called career-based civil service¹¹ since the legal status of public sector workers is irrelevant under EC law.

The list would not be complete without coming back to the proposed Services Directive and better regulation agenda:

- ***The draft Services Directive puts centre stage administrative simplification and cooperation*** as key objectives for the realisation of an internal market of services. The proposed rules aim at "removing overly burdensome authorization schemes, formalities that hinder the freedom of establishment". The directive proposes setting up points of single contact where service providers will be able to have access to and/or complete all formalities to set up a business. Besides the fact that these provisions are only concerned about private service providers (and not workers or citizens) the absence of any reference to

¹⁰ See EPSU critique of the said Communication, 2006

¹¹ As a first direct consequence, there must be a classification of jobs and careers in order to determine whether they should be opened up or not to other EU nationals.

administrative capacity and resources to implement these reforms is a concern. For instance, the UK has calculated that such contact points would require up to 700 million Euros to be set up, depending on the remit given to them. The Directive also obliges Member States to introduce electronic procedures. There is also no reference to social dialogue at national, sectoral and European levels. This is the most blatant example that administrations are no longer outside the remit of the EU contrary to what is stated in the EC Treaties.

- ***The EU “better regulation agenda” reinforces the view of administration as a “burden”.*** A EU common methodology for assessing administrative costs of legislation is being developed as part of the Lisbon strategy to deliver growth and jobs in Europe. The methodology includes measurable targets in specific sectors reducing the administrative burden as part of the new impact assessments. This could be a positive initiative, but unfortunately the focus is very much on business access to new markets and the impact assessment falls short of taking broader social and employment aspects into account.

Last, administration officials are increasingly involved in benchmarking via the OECD¹² Directorate for public governance and territorial development (GOV) or, at EU level, the European Public Administration Network (EPAN). EPAN is composed of EU Directors General for public administration who discuss many issues that are potentially, or de facto, collective bargaining issues, such as training, pensions, wage systems, performance-related pay, mobility, human resources management, performance as well as decentralisation, among others. Regular informal meetings of the EU ministers in charge of the civil service provide strategic guidance to the DGs. There is at present little accountability of these activities to either

¹² Organisation for Economic Cooperation and Development

parliaments or trade unions, although EPSU, through TUNED¹³, is making progress in establishing a social dialogue with EPAN¹⁴.

This context needs to be taken into account when looking at current reforms in the public sector. While decentralisation remains a choice for national governments, the room for manoeuvre is more limited than it seems at first sight. There is also very little debate about European developments affecting the civil service at national level. The absence of a clearly defined public sector/administration Commissioner and Council of Ministers, in contrast with other sectors, means that the current situation is rather patchy and often taken over by internal market priorities.

It also means that we do not have a clearly identified interlocutor within the Commission to raise restructuring matters in relation to the public sector, unlike other sectors (e.g. transport, car, textile, but also energy where different Directorate Generals of the Commission have responsibility).

¹³ TUNED is the Trade Unions' National and European administration Delegation. It was set up by EPSU and CESI (confédération Européenne des syndicats Indépendants) in February 2005 to represent the trade union side in the informal social dialogue with EPAN. TUNED is led by EPSU.

¹⁴ Many of the issues discussed by EPAN do feature in the local and regional government social dialogue.

3. What is decentralisation all about? Terminological issues, employment trends, risks and gains

Terminology on decentralisation

All the EU States refer today to the territorial decentralisation, at least at the municipal level, with all of them having ratified the European Charter of the Local Autonomy. There are no more centralised States in Europe, except some very small States¹⁵. At the same time, as we have seen, many aspects of public services and administrations are now partly decided in Brussels by EU governments, which points towards a re-centralisation process, while a trend towards intercommunal cooperation, especially in larger states, is gaining a new momentum.

There is a lack of comparative information and analysis on the issue of decentralisation that can convey different meanings. The European Institute for Public Administration¹⁶ (EIPA) provides a typology on the different political and administrative decentralisation structures of EU members states – i.e. political, administrative and/or fiscal decentralisation. While different terms and processes are at play such as devolution, deconcentration, relocation, decentralisation, they all imply a transfer of authority, responsibility and resources. Our discussions showed however that the transfers of resources are often not commensurate to the new legal responsibilities granted to lower subnational level of government¹⁷. But in theory at least these three elements should come together.

¹⁵ At the international level, some guidelines on decentralisation are due to be finalised in Spring 2007 by the Governing Council of UN Habitat, and with CEMR involvement.

¹⁶ www.eipa.nl

¹⁷ For information on trends in local finance, see www.dexia-creditlocal.fr

There are however big differences regarding the degree of decentralisation of political, administrative and financial powers to local and regional levels of government. In many new Member States, the weight of central governments is still relatively high, and this is also the case in some of the old Member States.

Level of public sector employment in Europe

Employment figures in the public sector vary depending on the delimitations used for public administrations. They however can give a useful indication of the extent of decentralisation. Using a narrow definition (excluding public utilities and semi-public organisations or institutions), the public sector, remains a large employer representing some 32 million employees (including hospitals in France and education) or 16% of the total workforce in the EU 25.

Nordic countries and Hungary have the highest proportion of public sector employment e.g. Sweden 31% followed by Denmark, 30.8%, Hungary, 29% and Finland, 28%. It represents about 1 job out of 5 in Belgium, France, the UK and most New Member States. It is a bit less in Austria, Cyprus, Spain, Ireland, Italy and Portugal. The lowest proportion, about 10%, is found in Germany, Greece, Luxembourg and the Netherlands .¹⁸

¹⁸ Les fonctions publiques locales, décentralisation et réformes des conditions d'emploi des agents publics dans l'Europe élargie, CFPT (Centre National de la Fonction Publique Territoriale, France) and Dexia , May 2006

Public sector employment and public spending

Countries	% public spending/GNP	% public employment/total employment
Belgium	49,5	23
Austria	49,9	13
Cyprus	43,6	15
Czech republic	44,3	21
Denmark	55,1	31
Estonia	36,4	22
Finland	51,1	28
France*	53,4	20
Germany	46,9	10
Greece	49,8	10
Hungary	49,7	29
Ireland**	33,7	15
Italy***	48,6	14
Latvia	35,8	22
Lithuania	33,2	23
Luxembourg	45,3	10
Malta	48,8	21
Netherlands	46,6	10
Poland	43,0	20
Portugal	46,1	14
Slovakia	40,6	19
Slovenia	47,4	18
Spain****	38,8	13
Sweden	56,7	32
UK	43,7	18
EU 25	47,3	16

Source : Eurostat, ILO, national sources, 2006¹⁹

Many countries have reduced public sector employment. This trend has been first due to the privatisation of utilities and postal services.

¹⁹ *ibid*

According to the CNFPT/DEXIA study on local government employment, it is however only in Austria and Germany that the reduction has been constant since the early 1990s. In some countries, e.g. France and Ireland, there has been an increase of public sector employment although this does not necessarily mean an increase of civil servants as contractual staff fill some of the new jobs. In the new Member States there was a progressive increase in civil servants during the late 1990s with a view to introducing a neutral and competent civil service.

The share of employment at local and regional levels varies greatly from one country to another but overall, both levels have become a larger employer than central level of administrations. It goes from 88% in Germany to 30% in France and 13% in Ireland. The table below shows the importance of the regional level in federal states (Germany, Austria and Belgium) or "regionalised" (Spain), in Nordic countries and the UK.

In Belgium, employment in regions and "communautés" have significantly increased over the past years to the detriment of central public services. The same trend is taking place in Spain. In the New Member states, the rules on access to EU structural funds have triggered an important transfer of civil servants from central administrations to local authorities.

Distribution of public sector employment within Member States

Countries	% central state level	% federal state level	% local authorities
Belgium	29	39	32
Austria	40	44	16
Germany	12	53	35
<i>Average of federal states</i>	27	45	27
Cyprus	92		8
Czech republic	43		57
Denmark	21		79
Estonia	39		61
Finland	23		77
France*	70		30
Greece	83		17
Hungary	35		65
Ireland**	87		13
Italy***	58		42
Latvia	40		60
Lithuania	na		na
Luxembourg	66		34
Malta	na		na
Netherlands	75		25
Poland	41		59
Portugal	74		26
Slovakia	53		47
Slovenia	85		15
Spain****	23		77
Sweden	17		83
UK	44		56
EU 25	44	9	48

*France: central level includes hospitals

**Ireland: health staff are included in central state

*** Italy: central level includes military "corps" (military di leva) and social assistance

****Spain: university staff are part of the regions and counted here in local authorities

Sources: national²⁰

²⁰ ibid

It is not our purpose here to compare civil services (which is often a perilous exercise due to the ongoing reforms that are taking place in the public sector). However, a common typology distinguishes between employment-based civil service (Denmark, Sweden, Finland, Netherlands, Italy, UK) and career-based civil service (others).

The employment-based system is characterized by a contractual relationship based on common labour law, recognition of experience acquired in the private sector, management by performance, varying degrees of job security, no specific pension scheme, mobility incentives.

A career-based system is founded on public law, access takes place at the entry grade of a certain career path within which promotion takes place in accordance with relevant legal provisions (including exams), life-long appointment, specific civil service staff pensions. The concept of *governance* is said to be stronger in career-based systems, while collective bargaining plays a more important role in employment-based civil service.

In reality there is a mix of both systems in most civil services. For instance, as only 11% of Germany's local public sector employees are civil servants this country could be labelled as an employment-based system. In France 24% of local public sector employment do not have civil servant status. In any case the career system is never the sole one that governs public sector workers.

Some form of performance-related pay, pension reforms increasing retirement age and greater flexibility are introduced in many public administrations. Alignment of working conditions in the public sector to the private sector has become a common feature. In all EU countries the increasingly narrower central civil service does however maintain a special status for its civil

servants charged with missions of public authority (defence, justice, finance, general administration, foreign affairs...).

According to the CNFPT/DEXIA study, decentralisation has usually led to a reduced number of civil servants leaving local authorities the possibility to contract out to the private sector or to appoint employees on private law contracts. Coupled with the new public management and requirements for greater flexibility and mobility it is undeniable that the career-based system is being eroded.

The progressive alignment towards a contractual system does not necessarily lead to a reduction of public sector workers, at least at local level. Clearly here the importance of the role of trade unions, in the absence of an overall framework for public sector workers, becomes all the more crucial to negotiate common standards.

Irrespective of the system, it is important to ensure that the civil service can maintain, and develop, not just a high degree of efficiency but also integrity and regard for the public interest. This means avoiding gender and other inequalities among civil servants, as well as with other public sector workers.

Potential risks and gains of decentralisation

There are many reasons why governments *should* decentralize powers. Indeed, is it possible to have participative, accountable, and responsive governments without a reasonable degree of decentralization? Clearly however, context is everything. From the TRACE discussions we have seen that it is important to assess carefully the objectives set for decentralization, as well as the process in which it takes place.

From the different case studies presented, political and financial expediency seem to play the key role, with concerns about the *quality* of services (including the quality of employment) featuring little – if at all - in motivation.

The different advantages and disadvantages of decentralisation which were highlighted by the case studies are summarised in the table below:

Advantages	Disadvantages
<ul style="list-style-type: none"> ➤ Improves democracy and accountability (central state shouldn't accumulate all power – though clearly size of country is a factor here) ➤ Brings services “nearer to the people” ➤ Makes it easier to dovetail services to local needs ➤ Can support quality standards (as these are better influenced by local authorities) ➤ Can safeguard public services (as local democratisation and vote sanction may limit the scope for reducing services) ➤ May increase overall employment (as some duplication of employment will often be necessary), though the quality of employment may deteriorate 	<ul style="list-style-type: none"> ➤ Can increase risks of externalisation/privatisation (especially if not coupled with sufficient resources for current - and future - needs) ➤ May make it more difficult to maintain or develop national quality standards and ensure all people access to quality services ➤ May lead to more opportunities for corruption linked to public contracts ➤ Can make it more difficult to organise workers, especially if on different terms and conditions ➤ May also reduce employment (or at least lead to reduction of civil servants)

Understanding the potential risks and gains of decentralisation, and the measures that need to accompany it, is clearly the first step in influencing the process and in determining more clearly what standards and frameworks are needed, and at what level.

Cause and effect are not automatic. Rather than draw general conclusions, the discussion emphasised instead that, if it is to be positive, decentralisation has to be properly managed and take place within a clear framework. The Turkish colleagues emphasised, for example, that decentralisation in their country could only be negative at the present time.

Central governments – and indeed the EU – need to assume the overall responsibility for ensuring access to quality public services for all, but local and regional governments need to have a wide degree of autonomy in defining, funding and providing public services.

The quality of public administration at national, regional and local level is clearly key, both in order to manage reforms, and to ensure that such reforms serve the interest of citizens. Here the TRACE workshops stressed the link between quality administration and good governance, and pointed out that the concept of good governance needs to be (re)assessed in light of new forms of public service delivery, for example public-private partnerships and outsourcing. How can we ensure in these cases that political responsibility rests with public authorities and that the general interest is protected?

Linked to this is the issue of monitoring and evaluating the impact of reforms on the quality of public services. Here it was emphasised that the criteria for such assessments needs to be broad and mechanisms need to be participative.

4. What can trade unions do at national and EU levels? A checklist for challenges and policy options

The need for an overall framework

A central prerequisite for decentralisation, as with any other restructuring, is the justification for reform. There were many examples in the discussion of governments justifying reforms because of short-term political expediency, or by reference to the EU (*we have to do it because of Brussels*). In many cases justification was invented, or the government went much further than was required.

Rigorous justification for proposed reforms must be the starting point: a broad cost-benefit analysis encompassing social, employment and economic objectives needs to be carried out prior to reform decisions. This should be, in our view, part of the better regulation agenda.

Establishing the right framework is difficult: *“The past 20 years of experience of the decentralisation of pay in the UK civil service has highlighted a persistent contradiction between the role of government as an employer, and the role of government as national economic manager; between the desire to devolve, decentralise and delegate, and the broader economic-political imperative to control costs and ensure national performance outcomes.”* (PCS, UK case study)

OECD reports have also supported the need for frameworks e.g. in analyses of decentralisation in Slovakia²¹ and Albania²². If such frameworks are absent, decentralisation can actually exacerbate existing problems. Another OECD study into the experiences of decentralisation and poverty reduction in 19 developing countries showed that poverty was reduced only a third of the countries studied. In some cases decentralization worsened existing inequalities.²³ The ILO has also underlined the need for policy frameworks.²⁴

It is important to tackle difficult questions: for example, the Bulgarian case study concerning water supply and sewage services pointed out that the price set for these services needed to be socially acceptable but at the same time allow for necessary modernisation. This debate is common to many countries. But what does socially acceptable mean? Is it socially acceptable to have wide regional price differences for water within a country (as in the UK for example)? In several countries we have seen governments decentralising responsibility for water to the local level, and as a first step towards privatization and price differentiation. However, this process has happened by stealth, rather than as a result of open, participative decision-making.

²¹ On Slovakia: *"An ambitious decentralisation has been launched, driven more by political objectives than economic efficiency considerations. However....the municipal structures are too fragmented to provide services at an adequate scale and quality, and sub-central fiscal institutions are not sufficiently well developed and integrated with the national fiscal management framework...."*

²² On Albania: *"It should however be noted that central Government institutions do not have the management resources and capacities to steer the decentralisation process, and local government cannot escape the problems of the country generally..."*

²³ Policy insights no 5, Johannes Jutting et al, OECD development centre

²⁴ See for example the Conclusions on the 2001 joint meeting on the impact of decentralisation and privatisation on municipal services

EPSU is campaigning for a EU framework on public service principles and objectives. The EU already defines public service obligations in the network industries (gas, electricity, post, and soon railway) and quality standards (water). There are also “softer” requirements regarding childcare provision for example. The problem is that this remains a patchy approach, while a market approach continues to prevail in essential public services. As the Czech report on healthcare reform underlines *“we stick to the idea that it is not the profit of an individual or a limited group of actors working in public health services that is in the public interest, but the social welfare of the whole society.”*

Adequate financial and human resources are necessary ingredients

Generally, it will be important for trade unions to take a close look at the question of whether the changes in responsibility for the provision of a (public) service to a new level is accompanied by a sufficient transfer of financial resources. Insufficient financial support will immediately result in pressure on wages and working conditions at the new level, but might also cause quality problems in the delivery of services, moreover leading to a conflict between quality and working conditions issues.

It is important to take into account not only the costs today, but also at future developments. In 2004, the administration of minimum income support (RMI) was moved from the State to the departments, the intermediate local level between region and commune. However sluggish growth and stricter rules on unemployment benefits meant more people than anticipated came to rely on income support. Higher spending by departments was not compensated by the State, contrary to initial promises. *“The result is that some departments have maintained support towards the unemployed while others have simply found ways of getting them off the income support list or*

*adopted workfare policies to get them back to precarious jobs.”
(French case study)*

As has been noted, there is experience that decentralisation is often connected with some sort of privatisation or at least changes in the legal structure of responsibilities. This was emphasised for example by affiliates in Croatia, Czech Republic, Turkey, France. Clearly if local funding is lacking this increases pressure on local authorities to outsource services, which can in turn lead to a deterioration in the quality of service and employment.

In any case, to keep services under democratic control might make the creation of new control bodies or supervisory boards necessary. Trade union representation in these bodies should be institutionalised. Generally this approach will depend on whether the trade unions find it desirable to be involved in decision-making processes or prefer a more independent role from outside to have more options to oppose developments they can't accept.

Decentralisation is often accompanied by the introduction of various forms of new public management such as: budgetary reforms; organisational restructuring; marketisation; efficiency and effectiveness; customer orientation; participation. This increases the challenge for the unions. It means that not only the effects of decentralisation itself have to be covered, but also a lot of changes that are not immediately connected with decentralisation. For unions, this might make an effective cooperation and coordination between different trade union departments necessary.

Also massive transfers of new staff and responsibilities can make choices in terms of public policies priorities more acute. *“The new decentralisation reform in France’s education system will lead to the transfer of 100 000 non-teaching staff to local*

level. In some regions staff will increase by 10 with more technical staff than “white-collars”. This is a key issue for HRM. It is likely that some budgetary choices will have to be made between maintaining the same policies and raising taxes or changing policies to keep the same level of taxation.” (French case study)

Trade unions also need resources to anticipate and manage change successfully. Providing support to local trade union representatives and members faced with restructuring is a major task: *“In Denmark, unions are facing one of the most important reorganisation of public sector in 35 years, which includes a redistribution of core tasks between the State, the regions and the municipalities. This is a re-centralisation process affecting 600,000 employees mostly from local government. Trade unions, such as the HK/STAT and HK/Kommunal, have pulled together a significant amount of resources, including joint secretariats to limit the damage.” (Danish case study.)*

Information, consultation and concertation rights are part of good decision-making

The fact that decentralisation stems from political decisions on one or several levels, means that information and consultation rights can be diluted. It is be crucial for trade unions to try to influence the shape of decentralisation before a final democratic decision is taken. Trade unions must be involved in a formal and informal information and consultation process, ideally starting at the very earliest planning stage and continuing through the whole democratic procedures. As with other sectors, information and consultation procedures should not be limited to questions related to restructuring, but also to all areas relating to strategic choices and finance. The political nature of public administrations should not be used as a pretext for not implementing and improving these rights

Prior advance of information and consultation with the social partners before restructuring gets underway is necessary also to set up a framework of measures to support workers in the process of change. The EU workers' information and consultation rights directive²⁵ is a useful tool, but remains poorly implemented in the public sector. Also, as the Estonian report points out, employers sometimes confuse the words *information* and *consultation*.

Trade unions need to develop regular and permanent contacts with governments (at the various levels), their departments, members of Parliament, local authority associations, political parties, etc. These political actors remain the main addressees for political lobbying. Permanent and reliable contact with political actors will be helpful. Sometimes it even may be useful to create common bodies of public employers and trade union representatives to steer the restructuring process. *“A steering group was formed with representatives from the affected municipalities and their works councils. This group developed a common proposal which was acted on by the Regional Government of Lower Saxony and became the basis of the legislation process in 1999.” (Ver.di report on Region Hannover).*

Effective lobbying depends on a clear vision of what the trade union position is. Threats, dangers, but also chances for the membership must be clearly identified and turned into a trade union strategy and concept (minimising risks, preventing disadvantages, promoting chances). As several unions might be involved, trade union cooperation (including the confederation level) and coordination can be crucial.

²⁵ Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community

Strategic options might make identifying alternative concepts of decentralisation or beyond decentralisation necessary. Saying “no” is not enough. And a strategy only based on stressing the negative impact of the planned changes on the labour force won’t be sufficient. As many restructuring projects are driven by financial restrictions, alternative economic trade union concepts might be necessary. Communicating the trade union vision is also important. As the media becomes more and more important, more resources need to be invested in developing a media strategy. Another aspect is that quality considerations often play only a minor role in government plans. To examine the impact of plans on the quality of services from trade union side might open the strategic option of coalitions between unions and users’ groups and other civil society actors. *“The whole process of transformation of healthcare institutions from public organisations into business companies has an important impact on the whole system of healthcare provision in the country. What is to be considered is the accessibility and quality of the services and, of course, the terms and conditions for all the healthcare workers.” (Czech case study)* The Lithuanian case study also raises a number of quality concerns around to restructuring of the healthcare system.

There is a wide range of trade union culture and tradition in terms of lobbying, ranging from top-level talks to industrial action. All options should be considered. The legal framework must be examined to make clear which trade union and workers’ rights are applicable. The legal framework will be mostly at national level, but some supranational EU regulations might also be considered (e.g. Acquired Rights Directive – see below). In Ireland unions threatened industrial action against the state training and employment agency because (FAS) because it breached consultation procedures and coerced staff into co-operating with the Government’s decentralisation programme by linking promotional posts to relocation to Birr. *“While industrial action will be regrettable it is necessary as a*

direct consequence of the position adopted by FAS of continuing to issue the disputed 'Birr Clause' Promotional Contracts to members, even though the Labour Court has found that issuing such Contracts is in breach of our Consultation Procedures Agreement". (SIPTU, Ireland)

Developing and improving social dialogue at cross-sectoral and sectoral level covering both public and private sector. As guardian of the EC Treaties, the Commission is to promote and facilitate social dialogue. There are two European social dialogue committees out of a total of 31 committees in the public sector/public services: local and regional government and electricity. In local and regional government the employer side is represented by the CEMR –Council of European Municipalities and Regions. An informal social dialogue is taking place between the EU directors General for public administration (EPAN) and EPSU-led TUNED. The issue of decentralisation should be raised as part of the European social dialogue.

Furthermore, the restructuring debate should also be about identifying new, or alternative, areas of growth and employment and here public services should be playing a much bigger role. In its 2005 Employment report, for examples, the Commission identified health and social services as job-creation sectors for the second consecutive year.

Negotiating change through collective agreements

Once the specific kind of decentralisation is shaped and democratically agreed it will be necessary to start a bargaining process between trade unions and their respective counterparts on the public employers' side. The result of this bargaining process should be a collective agreement covering all areas of interest for our membership preventing as many negative effects of decentralisation for workers as possible. *"A collective*

agreement was concluded which protects employment and forbids dismissals for reasons of restructuring and privatisation.” (Ver.di report on Region Hannover).

Decentralisation of responsibilities might mean that one (central) collective agreement must be replaced by a large number of new decentralised agreements. In Turkey for example unions have signed agreements with 400 municipalities but this leaves still many more to go. *“Clearly if both sides can coordinate and agree upon a national framework for certain issues at least, this is easier.” (Turkish case study)*

Although it seems more effective to have (national) framework agreements, all strategic options of the unions involved must be considered. In general there is a tendency that union bargaining power is higher at national level, but there might be exceptions making it interesting to transfer bargaining responsibility to local (or workplace) and regional levels. This of course depends on wide and complete trade union representation at the local level with the administrative power to handle bargaining and agreement, this also to prevent regional disparities. It also depends on general strategic union perspectives, e.g. their attitude towards regional pay and working conditions etc. The balance of what should be regulated in a framework agreement and what should be left to the decentralised level must be clearly identified.

A decentralised environment may lead to a different approach towards the civil service status of employees. This can have far-reaching effects on the employees' working situation. In addition, bargaining power might also be different. In some countries bargaining power is lower as a result of legal restrictions. In some countries such as France and Romania (subject to pending reform), a civil service status covers working conditions of all civil servants at all levels of the civil service. *“The good thing about the French civil service status*

is that transfers of staff can be made without impacting on working conditions since they are the same across the whole civil service (i.e., central, local and hospitals).” (French delegate.)

Preserve members’ acquired rights

A major consideration for trade unions will be to maintain standards. Acquired rights (depending on past time of employment, age etc.) must be kept and transferred into new agreements. This does not only concern pay and working conditions, but also pension schemes and other aspects of social security. Issues such as training and mobility also need to be considered. Sometimes split agreements for old and new employees (hired before or after decentralisation) are considered as an option for the unions.

Many decentralisation programmes have a relocation component. In this case it will be very important for unions to find agreements to prevent unwanted forced mobility on the workers’ side. If mobility of (part of) the workforce is inevitable, it should be strictly kept to the voluntary level. *“We do not oppose tasks’ decentralisation, but we find that this process should not mean making people in State services redundant because they cannot relocate”, (Croatian case study).*

A wide array of incentives might be offered to employees to raise the level of acceptance. These could include: coverage of travel expenses as long as workers still maintain their former centre of living/home; coverage of removal costs; extra days off for finding new homes and organising removal; beneficial payment for mobility (gradually decreasing if quick mobility is desirable); (temporary) extra payment for higher costs of living at the new place for higher rents etc.; support for other working family members to find a new job and/or preference to family members if new staff is hired at the relocated services.

If mobility is not acceptable for the worker she/he should have the opportunity to continue working at a workplace in the their former geographic area. If there is a definitive cut in jobs and not enough jobs left for those who can't move, alternative employment strategies must be considered and arranged, such as: transfer to other (public) services; early retirement schemes; redundancy benefits; personal labour market coaching to find a new job; re-training; etc. *“The Norwegian Coastal Administration was relocated from Oslo to Alesund in January 2002. Out of about 100 employees, only five employees moved to Alesund. All the others got new jobs, got pension or disability pension”.* (Norwegian case study)

All measures should be examined under aspects of gender and equality. As family responsibilities are not equally shared between women and men, mobility pressure has different effects on the sexes. Agreements should take these inequalities into account. *“YS State Sector fears that local negotiations will lead to a bigger gender wage gap.”* (Norwegian case study). In the UK the trade unions have also raised concerns that delocation plans could impact negatively on public sector staff from ethnic minorities.

At EU level there is no protection of workers' rights in case of relocations or transfers of staff from one administration to another. There is however protection in case of privatisation. The European Acquired Rights Directive²⁶ provides for terms and conditions (including pay, leave, hours, length of service, pension schemes, access to trade unions etc) to remain unchanged upon transfer from one employer to another, be it within the public sector or from the public sector to the private. It does not cover civil servants, administrative reorganisation of public administrative authorities, or the transfer of administrative

²⁶ Council directive 2001/23/EC of 12 March 2001 on the approximation of laws of the Member States in relation to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or part of undertakings or business.

functions between public administrative authorities. The broad definition of undertaking - pursuing an economic activity for profit or not- however leaves room for interpretation.

Ensure that (re)training opportunities accompany change

Decentralisation can lead to changes in the provision of the services (legal and quality standards etc.). Adequate training should be offered with clearly defined rights for the employees. As mentioned above, retraining might also be a strategy to maintain employment in the context of relocation.

It might be useful to promote the creation of specific training institutions and facilities linked with the restructuring process in the public sector. In Croatia there are plans to set up a “Local Democracy Academy”, which might serve as an example. *“The academy activities will include: analysis of requirements for professional training in different legal areas and preparation, development and evaluation of educational programmes. (Summary of decentralisation process in Republic of Croatia)”*

Good quality training and lifelong learning for all employees as an ongoing process – not just in relation to restructuring - is a key European demand. There is a European cross-sectoral agreement on lifelong learning and this should be used to promote this right with the employers at national level and other levels.

Consider the implications for human resources management

While the issue of decentralisation of HRM did not emerge as a central issue during the workshops, research indicates a trend towards decentralisation of HRM.

The aforementioned EIPA survey on decentralisation and ethics identified a number of consequences of HRM decentralisation. These included improved productivity and citizens satisfaction due to increased service speed and quality, greater flexibility in HRM functions and employment conditions adapted to local conditions. However, the study also found the decentralised HRM led to duplication and resource/competence deficits, wage bill inflation, lack of transparency and increased politicisation. The study concludes: *“any decentralisation initiatives require careful planning and a transition period under close guidance and monitoring by a central body”*.

5. Final remarks on anticipating change and meeting peoples' needs

Despite the impact of EU policies on the state sector and local and regional government, the current debate on restructuring in the EU is largely focused on the impact of globalisation pressures on internationalised sectors.

The Commission's recent social initiatives on restructuring include the consultation of social partners on anticipating restructuring, a forthcoming Green Paper on labour law (that may provide for a transnational collective bargaining framework) and consolidation of workers' information and consultation rights (as provided for in the Directives on European Works Councils and Information & Consultation rights). EPSU and the ETUC consider these initiatives as a positive attempt to develop a coherent EU-wide strategy on restructuring. However, the EU's economic policies must reflect a broader agenda - one of pursuing long-term, sustainable economic and social progress for all – if such social initiatives are to be successful.

Decentralisation can potentially improve public services taking into account the need for proximity and the wider European and international environment. Yet this will be difficult to achieve if current reforms are mainly driven by budgetary considerations rather than improving local democracy and quality of public services.

The risk of delegating some essential services to a lower level of government to alleviate central budgets without taking a prospective analysis of evolving local needs and resources is clearly problematic. Not all regional or local authorities are facing the same economic situation and a national system of wealth distribution is essential to avoid territorial fragmentation

whose first victims are those who need public services the most.

In terms of employment, we have seen that in some cases, decentralisation has led to a decreased number of civil servants. Overall latest public sector employment figures in the EU, however, indicate that in most countries this has not led to a decreased number of the total public sector workforce.

Trade unions, as well as public service users, are seldom informed and consulted on the initial phase of decentralisation, although their support can be sought for implementing reforms.

In cases where financial transfers to regional and local authorities do not match the level of new responsibilities serious risks of outsourcing have been identified. The fragmentation of decision-making is also a concern. For trade unions, decentralisation requires stepping up trade union cooperation at all levels (geographical and branch levels).

Trade union experiences of decentralisation indicate the need for a national framework in terms of working conditions, but also in terms of public service role and principles, to avoid territorial and social inequalities.

We believe that decentralisation must mean social and political progress in terms of improving the quality of public services, reinforcing democratic accountability, ensuring equal treatment of public sector workers and service users. But to achieve these objectives there are no quick fixes.

Current trends also reinforce our view that a regulatory framework at EU level to protect and develop public services needs to be put in place urgently and be accompanied by common social and labour rights across the EU.

To conclude, the debate on decentralisation is not seen as a EU topic and remains largely national, even though the recommendations made at the OCED and EU levels have repercussions at national level. Furthermore, at national level there seems to be little societal debate on the nature and implications of reforms either. In this respect, a coordinated EU level discussion and social dialogue on decentralisation – and in general restructuring in the public sector - could encourage wider debate and provide a forum for evaluation and assessment.

19 October 2006

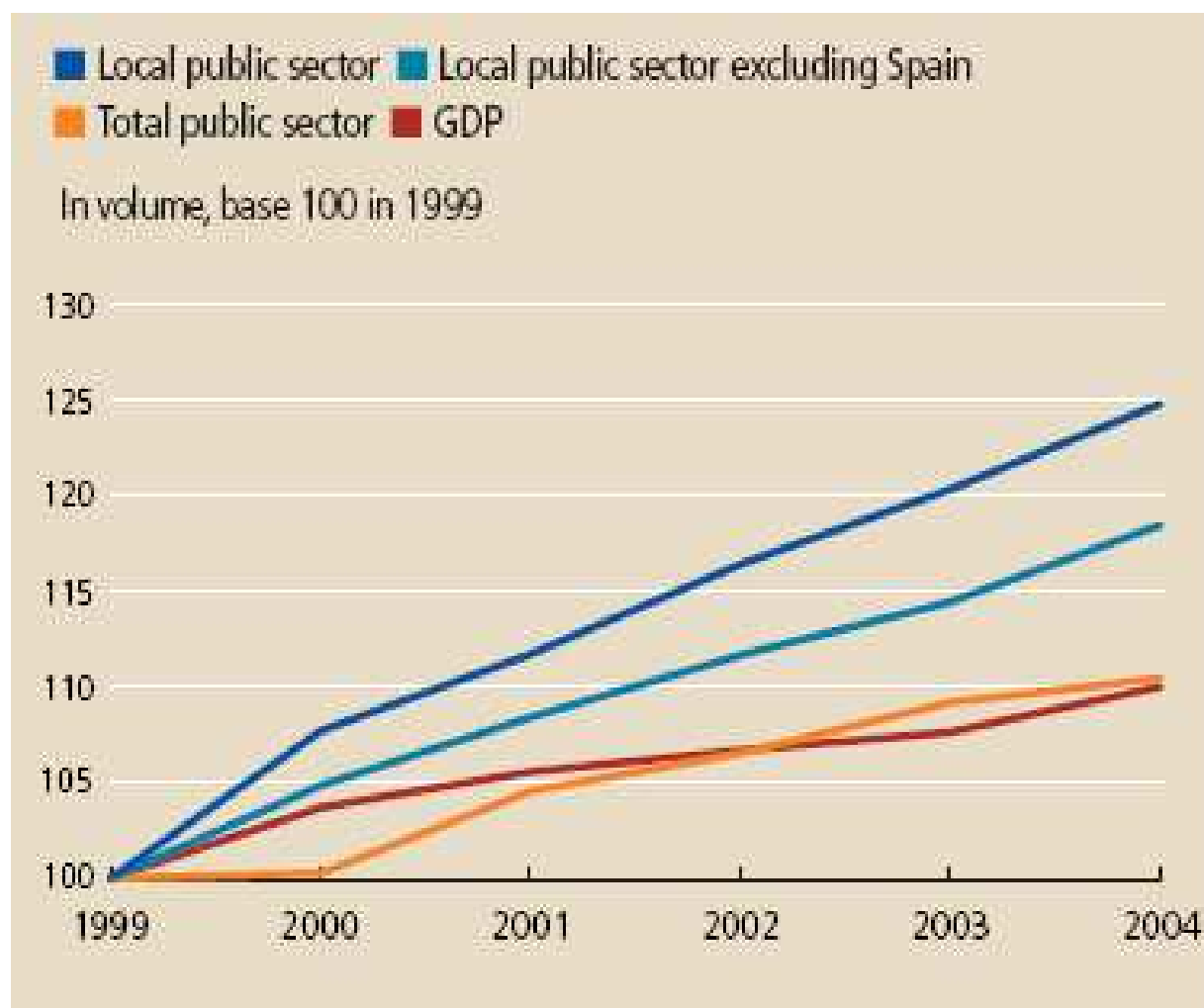


APPENDICES

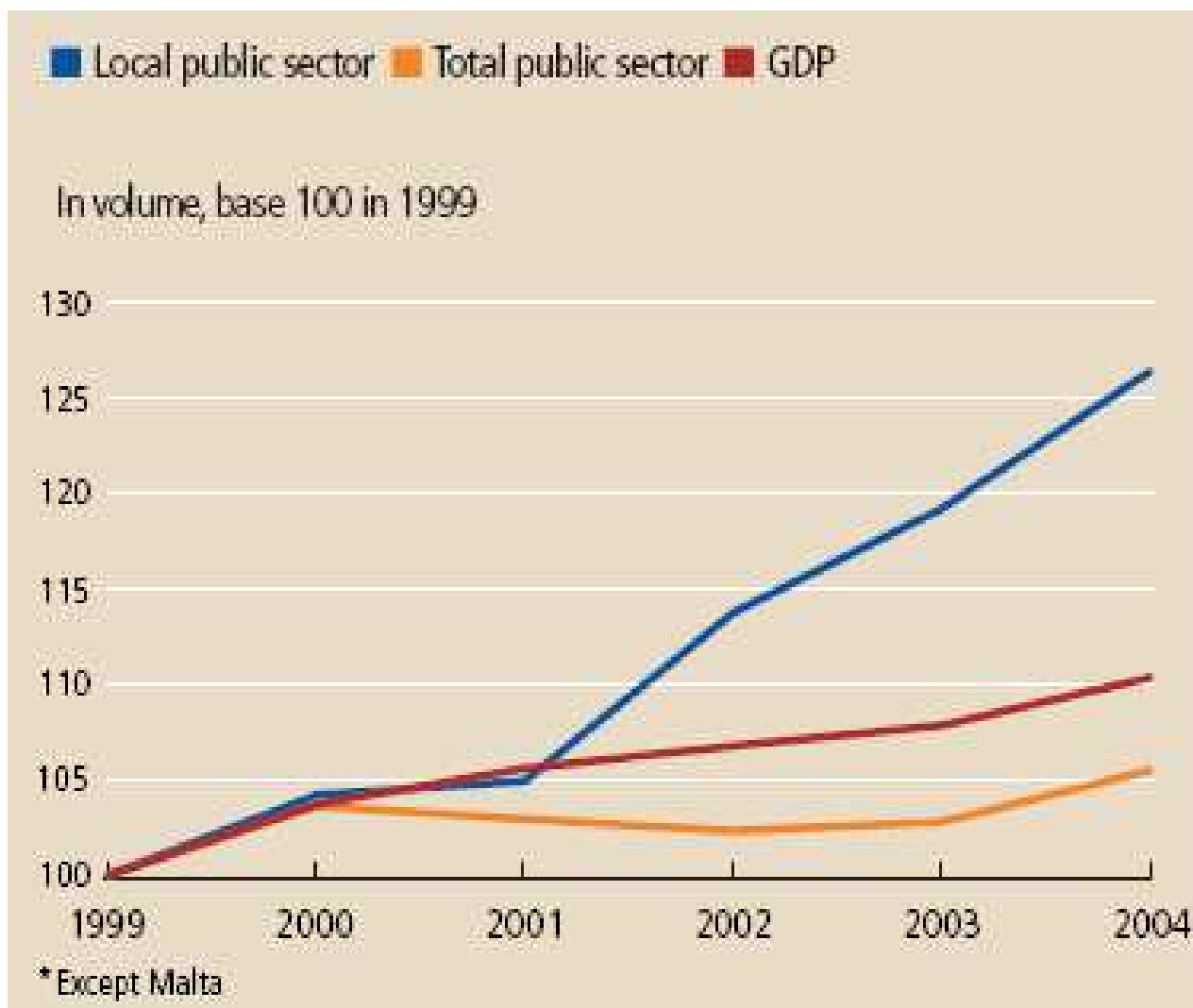
Appendice I

Local expenditure and tax revenue is rising throughout Europe

1. Local public expenditure from 1999 to 2004 (EU15) (Source *Dexia local finance in the European Union*, November 2005)



2. Local tax revenue from 1999 to 2004 (EU-25)²⁷ (Source *Dexia local finance in the European Union*, November 2005)



²⁷ Except Malta

Appendice II

Participants

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