

United Cities and Local Governments
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GOLD III Report

The Governance of Basic Public Services

Europe Chapter

Second Part – 31 Country Sheets

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Avertissement

This part of GOLD III report has benefit from the contribution of most of the CEMR national sections, as well as from the country sheets established withing the framework of the report “Mapping of Public Services in the EU and its 27 Member States”, conducted by Association Europa Limoges and RAP Paris for CEEP in 2010. The authors would like to thank them all



AUSTRIA

Area	83,871 sq km
Population ¹	8,423,635 inhabitants
State structure	Federal Republic
Local self-government – constitutional provisions	“The municipality is a territorial corporate body entitled to self-administration while being at the same time an administrative local district.” “The municipality is an independent economic entity. It is entitled, within the limits of the general laws of the Federation and the Länder, to possess assets of all kinds, to acquire and to dispose of such at will, to operate economic enterprises ² as well as to manage its budget independently within the framework of the constitutional finance provisions and to levy taxation.” “A municipality has its own sphere of competence ³ and one assigned to it either by the Federation or the Land ⁴ .” (Article 116 (1) (2), 118, Chapter V Self administration of the Constitution)
Politico-administrative division – 1 tier of local self-government	The state’s powers are separated between the federation (<i>Bund</i>) and nine autonomous provinces (<i>Länder</i>) ⁵ . The 2354 municipalities (15 towns with own statute – <i>Städte mit eigenem Statut</i> , responsible for both municipal and district duties and communes - <i>Gemeinden</i>) are the single tier of local self-government
Average density of population Population disparities between municipalities	Average density of population: 99 inhab./sq km <ul style="list-style-type: none"> - most municipalities have under 10,000 inhabitants - 40 percent in densely populated areas (at least 500 inhab./km²) - 24 percent in intermediate urban areas (100 - 499 inhab./km²) - 36 percent in sparsely populated areas (less than 100 inhab./km²)

In Austria, there is a real dominance of the federal government in the national system and the dependence of all lower governments on national planning and policy⁶; by longstanding tradition, people in the Lander have a solidly ‘and centralist’ attitude⁷. That explains the particularity of the Austrian federalism based on a constitutional system of close intra-governmental relations – “co-operative federalism” – consolidating the legal weakness of the states’ political power and coordinating state administration in order to prevent overcentralisation. By formal public law treaties between state and federal governments or among the states themselves (art. 15a B-VG), by private law agreements and corporations among all three levels of government, and by political agreements, a great number of programs for special public tasks have been launched (hospitals, highways, education, traffic systems, etc.).

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The federal Austrian Constitution regulates certain functions of infra-national administration. The tasks are not listed but generally described since the functions of the municipalities are determined by the needs of their inhabitants and the personal and financial resources of municipalities that are constantly subject to change. The municipalities have the right to govern their local affairs under their own responsibilities within the limits set by the law and guaranteed by the constitution (local self-administration - *kommunale Selbstverwaltung*)⁸. The tasks

¹ When not specified, data represent the total average population in 2011 (source Eurostat).
² All laws edicted by federal states, except in Carinthia, have restricted public activity to tasks which are in public interest. Michael Klein, « Water Services in Austria», CIRIEC International Working Paper n° 2009/09.
³ Paragraph (3) of Article 118 of the Federal Constitution provides for a non-exhaustive list of such tasks. http://www.ris.bka.gv.at/Dokumente/ErV/ERV_1930_1/ERV_1930_1.pdf
⁴ With regard to delegated functions, municipalities have not the right of self-government; they serve as mere administrative units.
⁵ Article 2 of the Federal Constitutional Law – B-VG 1920/1929
⁶ Peter Pernthaler, « Austrian Federalism», in Jürgen Rose, Johannes Ch. Traut (eds.), *Federalism and decentralization*, George C. Marshall European Center for Security Studies LIT Verlag Berlin-Hamburg-Münster, 2001, p. 137, 138. See also, Anna Gamper in Katy Le Roy, Cheryl Saunders (eds.), *Legislative, executive, and judicial governance in Federal Countries*, McGill-Queen’s Press-MQUP, 2006
⁷ John Loughlin, Eliseo Aja, *Subnational democracy in the European Union. Challenges and opportunities*, Oxford University Press, 2001 p. 125, 127
⁸ In the current sense of the term, the Austrian self-government as a long history, that goes back in the medieval ‘free cities’. The present-day Austrian local authorities were set up on the basis of a Provisional Local Government Act of 1849. Effectively, the self-government was introduced after the establishment of the constitutional monarchy (1860-1861), under which a Local Government Act was adopted in 1862. From the final quarter of the XIXth century onwards, the political importance of local authorities increased considerably as a result of economic development and immigration. In particular,



assigned to the regional and local level of government have been expanding since the mid 1970s⁹. As part of their autonomous powers, local government bodies implement measures enacted by the federal government and the Länder (e.g. the inspection, at local level, of safety, public health, and building provisions or by setting up local government bodies or other bodies to carry out local government tasks).

Municipalities may be obliged by law to deliver public services that are of essential interest to the local community, such as sewerage systems, energy supply (the Länder being responsible for electricity production and transport), waste disposal. Municipalities are also responsible for the local public transport of passengers. Regional transport of passengers, childcare services (0-6 years) and elderly care are responsibilities of the Länder.

In Austria, the main legislative competence as regards **water** supply and **sewage** disposal falls within the federal states and the organisation of services lies on the municipalities. According to the Federal Constitution (Art. 10(1)§10), the water competences of the federal state are limited to “water rights; control and conservation of waters for the safe diversion of floods or for shipping and raft transport; regulation of torrents; construction and maintenance of waterways.” Federal states may enact an obligation to connect to public water supply system to “safeguard the interests of a public water supply company servicing the public good” and may further limit the construction of self-supplied installations, if “the construction of new installations could endanger the public water supply conduits concerning economic continuity.”¹⁰

According to the Austrian constitution the responsibility for **waste** management is split between federal and Länder governments. The Federation is responsible for adopting legislation and execution of hazardous refuse. The federal government (Minister for Environment¹¹), as well as the Länder governments, issue waste management plans for their field of competence. Legislation and execution of non-hazardous waste, and the set up of Land waste management plan fall within the competence of the Länder. The Länder plans have to be presented to the Federal Minister of Environment, to take into account their relevant parts into the national plan. All Land Waste Management Acts pass over the responsibility for the collection and management of municipal waste to municipalities. The way municipalities can or have to form inter-municipality waste associations is dealt with very differently. Also further regulations concerning municipal waste collection and treatment vary significantly. In general, for the collection of domestic waste, a public refuse collection service and collection points have to be set. The role of municipal associations is very important in this respect. Municipalities (municipal associations) may be asked to implement or commission the implementation of a separate collection (collection points) of hazardous household waste, with the exception of waste electronic and electrical equipment, at least twice a year. Municipalities are also responsible for waste treatment, often through a municipal association. According to GOLD III project survey¹², waste legislation and regulations are getting more and more complicated and intransparent, which creates problems in coordinating between different levels of government and those responsible for the delivery of services.

In the **transport** field, the legislative and executive powers relating to railway transport (including subway, trams, trolley bus and cable cars) and transport of passengers by road fall within the competence of the federal state. Thus, there are no special Länder laws governing local and regional public transport. Together with municipalities, the Länder are responsible for the provision of local and regional road passenger transport.¹³

Austria’s **energy** policy is simultaneously conducted at two levels, the federal and the joint federal/state levels. The federal Constitution allocates responsibilities either to the federal level or to the joint federal and state level. Energy policy is formulated and implemented in close co-operation with the social partner organisations, which represent important groups of society (employers, employees, agriculture), and in dialogue with non-governmental organisations (NGOs) and the public. At the regional level, the governments of the nine states have responsibility for policy making, setting subsidy levels, and implementing regulatory control of energy companies. Most of the states have energy agencies undertaking activities similar to that of the Austrian Energy Agency.

Local governments are not responsible for **broadband** access and in general there is no legal obligation to public administration to supply Internet access. Still, some municipalities (e.g. city of Wels) operate an Internet self-service station at the town hall that is available to everyone and public Internet stations exist, too.

the capital cities of the Länder and local authorities, situated in the most important industrial areas and at key intersections of traffic routes, set about establishing effective administrations for various services (gas and electricity supply, sewage, road building, education, etc.). (John Loughlin, Eliseo Aja, *op.cit.*, p. 121, 122)

⁹ John Loughlin, Eliseo Aja, *op. cit.*, p. 135

¹⁰ For further details and sources see Michael Klein, *loc. cit.*

¹¹ The first national waste management plan was issued in 1992. Until 2001 the plan was updated every three years. From 2001 the updating period was extended to five years (2001-2005; 2006-2011).

¹² GOLD III survey was not meant to be a representative sample.

¹³ Philipp Loser, “Austrian Local and Regional Public Transport”, CIRIEC International Working Paper N° 2009/08.



2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In addition to fulfilling their autonomous roles, local authorities are extensive providers of public services (*Daseinsvorsorge*): as ‘independent economic bodies’ or through private enterprise bodies. Such services, some of which are mandatory, include the establishment and running of kindergartens¹⁴, schools¹⁵, adult training facilities, public utilities, and waste disposal systems.¹⁶

A part of these tasks of provision of services of general interest are handled by outsourced companies. According to assessments¹⁷, the management of local public services in Austria is provided by around 1200 local companies. Yet the division of competencies between the public and private is not rigid. In general: water supply and sewerage are provided by municipalities while waste management is least organised and charged by them. Child care services are partly provided by municipalities, partly by public utility organisations. Only in big cities public transport is provided by public transport companies.

As the Austrian municipalities are relatively small (3500 inhabitants on average), and in order to meet the needs of citizens more profitably, several municipalities joint themselves in associations (*Gemeindeverbände*). In 2002 there were 1400 companies mainly owned by municipalities and intermunicipal associations (for more than 1000 intermunicipal associations), whose main activities are the supply of energy, water, wastewater management, waste disposal, operation of entertainment and conference centres, but also the management of schools and administrative tasks as, for example, the registry offices.¹⁸ In 2005, 1413 intermunicipal associations were identified: 32 percent in the field of education, 28 percent in the field of environment, 7 percent in water, 4 percent in health services, 3 percent in social services, the other performing various functions.¹⁹ The most recent federal constitutional amendment (BGB1 I 2011/60) enables municipalities to join inter-municipal associations that transgress *Land* borders, if the concerned *Länder* formally agree on such association.²⁰

There are several public law or private law organisational forms for the provision of **water** services in Austria: municipal undertaking, water cooperatives (for major water management tasks and sparsely populated areas) and water associations (for more than one municipality, important in some federal states), corporatised public companies (a trend in the last years), private sector participations, PPP. The predominant majority of private law enterprises providing water service are held exclusively by territorial corporate bodies and they are the main providers (1,900 entities representing 76 percent of water services are provided by municipalities, against 8 percent provided by 165 associations and 12 percent by 5,800 cooperatives – data 2003). Private participation is rare (e.g. EVN, Salzburg AG – on average, 4 percent of water service provided)²¹.

The **sewerage** service (canal system and sewage plants) has a similar organisation and is managed mainly by municipalities (74 percent of sewerage services provided by 491 municipal entities), associations (19 percent provided by 109 associations) and cooperatives (5 percent provided by 32 cooperatives) (data 2003). The six private operators play even a less important role than in water sector (2 percent). Operators can voluntarily group themselves in “sewer and waste water treatment neighbourhoods”. In 2002, most municipalities offer the whole

¹⁴ The *Länder* are responsible for childcare. Therefore fees and availability vary from *Land* to *Land*. Privates, NPOs, religious organisations can run kindergartens as well. Day mothers are common outside cities in some *Länder*, *Länder* can support this. There are about 360 kindergartens and day nurseries in Vienna run by the municipality; about the same number is run by privates. Day nurseries are not that common. In municipal kindergartens the offer is non-contributory for children up to six years. The majority of private ones also offer non-contributory places and receive municipal funding.

¹⁵ Federation, *Länder* and municipalities run different kinds of schools and kindergartens. Financing and administration are very complicated (due to politics of the interwar period). Privates, NGOs and religious groups may run schools as well. There are 3351 *Volksschulen* (primary schools, for children from 6-10 years), of which 2,7 percent are run by privates. In 2003 there have been about 11.500 *Hauptschulen* (lower secondary school, 10-14 years), none of which were run by privates.

¹⁶ John Loughlin, Eliseo Aja, *op. cit.*, p. 128, 129. See also B. Raschauer, *Allgemeins Verwaltungsrecht*, SpringerWienNewYork 2003, recital 322 – *Daseinsvorsorge: Wasserversorgung, Abwasserentsorgung, Abfallbeseitigung, Straßeninstandhaltung, öffentliche Beleuchtung, Schulen und Kindergärten, Krankenanstalten und Fürsorgeheime, Friedhöfe, Feuerwehr und Rettung, Kultur- und Sporteinrichtungen* (water supply, sewage disposal, waste disposal, road maintenance, street lighting, schools and kindergartens, hospitals and other health institutions, cemeteries, fire brigades and ambulances, culture and sports)

¹⁷ *Idem*, p. 187

¹⁸ Erich Pramböck, Association des villes autrichiennes, *Structures communales et système financier des communes d’Autriche*, www.staedtebund.at

¹⁹ Dominique Hoorens, *Les collectivités territoriales dans l’Union européenne. Organisation, compétences et finances*, Dexia, 2008, p. 188

²⁰ Anna Gamper, « Local Government in Austria », in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 20.

²¹ For further details and sources see Michael Klein, *loc. cit.*



package of services related to water distribution (carriage, transport, delivery, settlement – 60 percent of municipalities) and waste water disposal services (collection, transport, cleansing, settlement – 73 percent of municipalities) for the whole municipal area. For the rest, they provide either a partial service, or establish cooperations²².

In the field of **waste** supply, there are about 1,100 companies some of them publicly owned companies under private law (owned by municipalities or waste disposal associations). Compared to water and waste-water sectors, many waste disposal companies display mixed or private ownership structures, some of them having a preeminent role on the market (e.g. Saubermacher AG which provides service for about 1,600 municipalities throughout Central and Eastern Europe). Some important multinationals companies are active in Austrian waste market (e.g. RWE Umwelt)²³.

Local and regional public **passengers transport** is organized into eight transport associations (usually covering an entire Land or beyond the borders of a Land), contractual, supralocal cooperation of territorial corporate bodies and transport companies aiming at the integration of different transport means. Territorial corporate bodies bear responsibility for the provision of local and regional public transport. In 2003, there were 667 companies in Austrian local and regional public transport, the largest being owned by municipalities. Outside urban centres, ÖBB Postbus GmbH, a federal state owned company dominates local and regional public transport by road (about 20 percent of local market, more than 70 percent of the regional market). Multinational companies have thus far not involved themselves in Austrian local public transport²⁴.

Electricity companies were founded 90-110 years ago and were run mainly as part of the public administration. In the 1990s, they were spun off into public companies owned by the Länder. In the 2000s, most of these companies created separate subsidiaries (mostly due to EU law requirements), which deal with the transport-distribution and marketing of electricity. The largest producer and transporter of electricity (Verbund – Österreichische Elektrizitätswirtschafts AG) is owned 51 percent by the Federation, about 25 percent by various Länder electricity companies and 24 percent are private. The electricity market was liberalised in 2001 and now consumers can choose to buy electricity from other suppliers (on average, among 10 different suppliers, according to E-Control agency). To date, there are more than 130 electricity suppliers, some of them acting across the country, others only at a local level.

The ownership of integrated electricity companies is often in the hands of the regional or municipal government of the area the company serves. Six of the suppliers sell more than 5 percent of total Austrian supply volume each. Supply companies normally own the local distribution network.

The financial structure of water, sanitation, waste, electricity and local public transport provision rests mainly on direct tariffs or fees. Local public transport is supported by public funding (partly by the federal state and the Länder).

In the field of waste the costs - depending on the specific waste at hand - incurred for the management of municipal waste are paid for as follows: municipal “residual waste charge”; separate municipal biowaste charge; disposal contributions by the citizens when providing their waste; proceeds generated from the marketing of recoverable; funds from the general budget of the municipalities; amount paid by the marketers in collective systems (licensing fees).

Childcare public services are mainly provided free of charge but financial problems appears to be a challenge for the coordination between different levels of governments and a similar finding appears in the sector of the elderly care. Elderly care funding mainly rests on taxes and social assistance benefits, as well as fees from users.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In some sectors and municipalities, financial mechanisms are used to provide services for low-income or other categories of users. They take the form of low or reduced fees for sanitation and transport, (higher) subsidies for

²² For further details and sources see Michael Klein, *loc. cit.*

²³ For further details see Michael Klein, Philipp Loser, « Austrian waste sector», CIRIEC International Working Paper N° 2009/10.

²⁴ Philipp Loser, *loc. cit.*



elderly, transfer payments and single measures in electricity, as well as the creation of Ombudsmen within electricity municipal operator (Vienna case²⁵) and a pilot project energy consultancy for low income households²⁶.

Users' participation to the governance of local basic services is mainly ensured by representative authorities, and, in social field, by participative budget and cooperative management. Their voluntary participation in activities is admitted in some cases (waste, actions against littering). In some municipalities, customers are consulted as regards service extent, cost and duration (elderly care).

As regards users' complaints, operators ensure the main contact point for their collection and treatment for economic services. The mechanisms are more complex in social field where citizen contact points, independent advocacy, quality inspections are organised. To date, no schemes for the compensation of users in case of service failures exist but compensation payment schemes are planned to be developed in Vienna electricity service.

Employees seem not to play a specific role in the governance of services (other than by the accomplishment of their work obligations and usual work consultative framework – e.g. staff meetings, representation in the supervisory board). In electricity sector, an institutionalised participation is ensured (in Vienna through representation of employees in the Supervisory Board of Wien Energie), pursuant to the criteria of Article 29 of the Austrian Companies Act (GmbH Gesetz).

4/ The future of basic public services: key challenges existing and emerging

Some of local basic services were financially affected during the current crisis. Thus, GOLD III survey reveals the stagnation or decrease of revenues in waste field (revenues from recycled materials), low interest rates (necessitating significant additional allocations to pension funds), tightened accounting policies driving depreciation policy and the limitation of manoeuvring room for electricity supply companies; together with the necessity of maintaining the high quality of service, higher investments needs to address climate change related policies and the "energy transition" to sustainable energy provision, the unstable energy policy environment making difficult long-term investment decisions, the necessity of an appropriate allocation of social funds and the need to ensure sufficient qualified staff. These are considered to be the main challenges for financing local basic services and guaranteeing universal affordable access. The incorporation by higher levels of government of experience of the providers (in elderly care) is also at stake.

5/ The EU impact

A real impact of the EU law is noted by GOLD III survey whilst slightly different, according to sectors.

In water and sanitation, EU quality exigencies require appropriate investments (financed also by loans and specific public subsidies) and EU procurement rules increased administrative procedures and costs. In exchange, EU impact is felt as rather positive in waste sector although statistics also show significant increase of fees following the implementation of EU exigencies.

Electricity supply also faces higher costs because of public procurement rules and in addition difficulties to develop local strategies in a complex environment with various interfaces (emergency planning and intervention, unbundling) and multiple local objectives (e.g. security of supply, electric mobility, poverty reduction).

In some cities, early childhood care services particularly benefited from EU Barcelona objectives. Thus, Vienna improved the number of kindergarten-groups and now all children between 3 and 6 years, and more than 33 percent of children between 0 and 3 years can be offered a place in a kindergarten. However, a similar impact was not underlined by other Austrian municipalities participating in GOLD III survey.

The elderly care sector was mainly affected by the application of EU free movement fundamental principles and the rights granted to other European citizens.

In the field of Public Transport, the 4th Railway Package, the PSO-Regulation as well as the White Paper on Transport particularly imply challenges for Austrian public transport system.

²⁵ In February 2011 a team of ombudsmen has been set up at Wien Energie to assess cases of social hardship and to act as a contact point for all welfare institutions. The main objective is to protect people, whose lives have been affected by severe circumstances, from so-called 'energy poverty'.

²⁶ For more information about fuel poverty in Austria see www.fuelpoverty.at (in German). Further details about energy subsidy in Vienna can be found under <http://www.wien.gv.at/gesundheit/sozialabteilung/energieunterstuetzung.html>



BELGIUM

Area	30,528 sq km
Population	11,047,744 inhabitants
State structure	Federal
Local self-government – constitutional provisions	“The law guarantees the application of the following principles: ... 2° the attribution to provincial and municipal councils of all that is of provincial and municipal interest, without prejudice to the approval of their acts in the cases and in the manner that the law determines. 3° the decentralisation of competences to provincial and municipal institutions.” “A charge or tax can only be introduced by the metropolitan districts, federations of municipalities or by the municipalities by a decision of their council.” (Art. 162 and 170§4 of the Constitution)
Politico-administrative division – 3 tiers of local self-government	3 Regions (Walloon, Flemish and Brussels; In Flanders, Region and community have merged into one single structure) 3 linguistic communities ²⁷ (French, Flemish and German) 10 Provinces (5 in the Walloon regions and 5 in the Flemish region) 589 municipalities
Average density of population Population disparities between municipalities	Average density of population: 17,400 inhabitants <ul style="list-style-type: none"> - the smallest municipality has 100 inhabitants - the largest municipality has more than 450,000 inhabitants - 57 percent in densely populated areas (at least 500 inhab./km²) - 39 percent in intermediate urbanised areas (100 - 499 inhab./km²) - 5 percent in sparsely populated areas (less than 100 inhab./km²)

Belgium was born as independent state after the Revolution of 1830, which led to the division of the Kingdom of the Netherlands that earlier gathered in one state Belgium and Dutch provinces.

The structure of the Belgium State was defined by the Constitution enacted on 7 February 1831 and it has been revised in 1970, 1980, 1988-1989 and 1993. It set up a constitutional monarchy, in the form of a federal state, community and regional since 1993, with four linguistic regroupments (French, Dutch, German and bilingual in Brussels-Capital).

The structure of the federal state and the levels of power can be seen in a shape of a pyramid with three levels. The upper level is occupied by the federal state, the communities and regions that are all equal before the law. They act on an equal footing but in different fields. Thus, the federal level has competences in the field of external affairs, justice, finance, defense, internal affairs and social security. The communities (*gemeenschappen*) address cultural affairs, education, tourism, health and social affairs. The three regions (*gewesten*) are responsible for territorial matters, household, environment, employment, economic development, transports, agriculture, external trade, international cooperation, etc. They are competent for deciding the organization and the legal regime of municipalities and provinces that, consequently, may be differently organized in the three regions.

The level immediately lower is occupied by the provinces (*provincies*). Belgium is divided into ten provinces, the survival of the French counties of 1975. They act in the framework of federal, community or regional competences while at the same time being subordinated to all higher authorities. Provinces, as municipalities, perform decentralised and devolved missions, and may also act on their own initiatives, according to the possibility offered by the Constitution. Provinces predominantly act in the field subject to the competence of communities (person-related matters: education, health, social, sport, youth, etc.).

At the base of the pyramid, municipalities are the power places closest to the citizens. Belgium has 589 municipalities (*gemeenten*) which are, as provinces, subject to higher authorities. According to their competences, they are either subject to the federal state, to the community or to the region. They are receiving finance from the regions and to a lesser degree from the federal state, but they also have their own financial means through taxes and own income. The legislation concerning local authorities may differ between Brussels, Flanders and Wallonia.

Therefore, Belgium has a rather complex political organisation, which is partly impacting the organisation of public services. These can be either subject to the federal, regional or community competence; the latter articulate sometimes in a complex manner.

²⁷ The linguistic frontier was created in 1962.



The most recent reform of the state (More effective Federal State and more autonomous entities – institutional agreement on the 6th reform of the state, 11 October 2011) is beginning to take shape. It aims among others transfers of competence from the federal state to federated entities.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

According to the Constitution, “Interests which are exclusively of a municipal or provincial nature are ruled on by municipal or provincial councils, according to the principles laid down by the Constitution” (Article 41). But the legislator has not clearly defined their competences.

Provinces exercise a relatively broad scope of activities, in particular education, social and cultural infrastructure (centres of vocational training, elderly centers), preventive health care, tourism.

Compulsory responsibilities of municipalities cover urban passenger transports, education, health and social action (while some social services are also organized by municipalities on a voluntary basis).

In many areas, in order to satisfy certain specific needs, organic public services are created, such as municipal/provincial *régies* (Wallonia) or internal/external autonomous agencies (Flanders).

The Belgian situation is very complex and the level of competence is often share between various levels of power: municipalities are responsible for water (including the management of small watercourses – category 3, while provinces are responsible for 2nd category of watercourses) and waste water; regions are responsible for water, waste water, waste management, regional transport of passengers (excepting rail), marketing of electricity, urban renewal, health (some aspects are owned by the federal state), social services (public social assistance centres), care of the disabled, elderly care.

From 2014 on, the institutional agreement on the state reform, validated in October 2011, would be translated, into the transfer of competencies from the federal government and social security towards the communities and regions in four main areas: employment, health care and social assistance (elderly and disabled persons), family support and justice. In addition, a reform of provinces has begun in Wallonia and Flanders consisting in transfer of competences towards regions, municipalities and inter-municipal cooperation structures.²⁸

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In the field of the **social action**, there is a particular model of public bodies (*centres publics d'aide sociale/openbare centra voor maatschappelijk welzijn*) and parochial associations (*fabriques d'église/kerkfabrieken*), which are public bodies. Intermunicipal cooperations are also active in this field. They can be constituted either exclusively by public authorities (public-public cooperations) or both by public authorities and private actors (public-private - joint stock companies – *sociétés d'économie mixte/gemengde ondernemingen*).

Specific services that are standard tasks for municipalities are organised together through associations of municipalities (*intercommunales*, Article 162 of the Constitution). These services are provided as local monopolies. They are important in Belgium in terms of size and also in terms of services provided. Most of these *intercommunales* are operating in several fields such as water and waste water management, distribution of water, inhumation, distribution of electricity, economic development, distribution of gas, distribution of TV and sometimes Internet, social services, public health laboratories, public transport (only for Brussels), etc. They can take the form of a limited liability company (*société anonyme*), limited liability cooperative (*société cooperative à responsabilité limitée*) or not-for-profit association. They can also associate with private partners (mixed intermunicipalities). In Wallonia, municipalities may be asked to create municipal communities to manage certain competencies at the municipal and provincial level.

As underlined by the Association of Flemish Cities and Municipalities, the Flemish context is specific. Flemish law provides four different forms of intermunicipal cooperation, going from very low cooperation (contract between two or more municipalities) to very intensive cooperation. *The Interlocal Association* is a form of cooperation without a real juridical form. It consists of a contract between different municipalities in which the basics of the cooperation are stipulated. Besides municipalities, other authorities and companies are allowed to participate (with respect for all other laws concerning contracting). The cooperation-contract must stipulate: the duration of

²⁸ Dexia – CEMR, *Subnational public finance in the European Union*, summer 2012.



the cooperation, way of continuation, the contribution of each participant, organization, the way of yearly evaluation by all participants (especially the municipalities), etc. An Interlocal Association is unable to recruit personnel, but one participating municipality has the possibility to put municipal workers at the disposal of the Interlocal Association. A management board ensures the control over the association. All municipalities are present in this board (one member per municipality). In a *Project Association*, the goal is the implementation of a very concrete intermunicipal project or plan. A Project Association is able to recruit personnel. The duration consists of 6-year periods. This way, every legislative power has the opportunity to evaluate the results of the association (and to end them). This association also only has a management board, in which all municipalities are present. Participation of private partners is excluded.

Furthermore, the Flemish legislation provides two structures: *Service Providing Association (SPA)* and the *Association with a Clear Assignment (ACA)*. These two forms of association are quite similar in structure and organization but have different goals. A Service Providing Association can have more than one objective, but participating municipalities are not obliged to use all the services delivered by the association. An Association with a Clear Assignment can only have one objective (e.g. waste management), and participating municipalities choose which competences in that matter they transfer to the association. In both associations, private companies are not allowed to participate. Provinces can participate to a maximum of 20 percent of the capital of the association. A concertation committee of the interested municipalities has to agree on the terms of the cooperation. They have one year for these preliminary activities. Within that year, the committee has to make a proposition to all municipalities of a business plan, containing the organization of the association, the financing, etc. Municipalities then have the opportunity to give remarks on the proposition, after which the committee can work out a second proposal. Based on this document, municipalities decide whether or not they participate. They cannot be obliged to participate. If municipalities decide to associate, they really are committed for the duration of the intermunicipal association: they lose the right to act solely or in cooperation with other companies. The duration of cooperation is of maximum 18 years, which can be prolonged (if $\frac{3}{4}$ of the participants agree). The objectives of the intermunicipal association have to be clearly defined. The by-laws of the association mention at least the following: the name of the association, the objectives, the location, the duration, the financial contribution of each participant, the composition of all administrative bodies, the way of accepting new participants, the organization of information exchange between the association and the participating municipalities. The Association has a General Meeting (twice a year), in which all members are present. The representatives of the municipalities in the General Meeting have to be appointed by the city council before every meeting! This way, the law ensures that each agenda of each General Meeting is discussed on all town councils of the members. The General Meeting decides about business plans, by-laws and budgets. A Board of Directors meets more regularly and is responsible for the execution of the business plan. In the Board of Directors we find representatives of most of the participating municipalities, both from the political majority and opposition. The associations have the right to set up a Management Board in order to organise the daily working. This Management Board may decide on personnel issues. Important decisions (e.g. on large investments) still require an agreement of the municipalities (city council). Every member of any town council, involved in the Association, has access to the decisions of the Association. The representative of the municipality has the obligation to report twice a year to the town council. Private companies cannot participate in these associations, but the association can participate in a private company, on condition that the objectives of the association and the company are the same, that the intermunicipal organisation is represented in the Board of Directors of the private company, and that all legislation on contracting is honored.

Traditionally, **water** and **wastewater** services were managed by public entities (regional or intermunicipal public enterprises, some municipal *régies*). Delegated management has developed in the 1990s, but it is not very spread (for example, in Brussels North, West Flanders and Flemish Brabant)²⁹. The entities in charge of the distribution of water are usually also responsible for the production of water, although they sometimes also produce for other regions or buy water from regional producers. Water distribution and sewerage are organised in regional groupings. The collection of waste water via sewerage is a municipal task which sometimes is organized via intermunicipal cooperation.

In Flanders water supply is operated through De Watergroep, 8 intermunicipal consortiums and 2 municipal organizations. Sewerage is run by 99 municipalities, 5 intermunicipal consortiums that also supply drinking water and 4 intermunicipal consortiums that are also active in the distribution network for energy, De Watergroep and Aquafin. The transport and purification of water is a regional task of Aquafin. Aquafin also runs collectors and wastewater treatment. 49 percent of Aquafin's equity was held by the private sector (Severn Trent was the major

²⁹ Attempts of public-private partnership in Flanders, then re-nationalisation. Partial delegation of wastewater treatment to a private operator in Brussels (BOOT contract).

The Belgium state has organised systematic competition between public and private sector in non-market fields, such as education and audiovisual, and it commit to comparable treatment of both types of entities: the former as an organic public service, the later as a functional public service. Missions regarding the distribution of energy (electricity³¹ and gas), social action, health, culture, education, etc. are not considered to be a state monopoly.

In the field of social services, in particular, the structural cooperation between public and private is a historical tradition in Belgium. Belgian municipalities continue to have very large margin of autonomy and to work closely with private institutions (e.g. concessions to private companies, cooperations with not-for-profit organisations), including through public subventions. Private education network is financed on equal basis with public school. Private hospital network represents a significant part of the hospital offer.

In practice, particularly for services subject to the competence of intermunicipal authorities and managed through public companies with or without the participation of local authorities (water, sanitation, public transport and electricity), according to GOLD III survey, (some) local authorities consider having little influence on these providers. They become “too big - with their own policy - to take proposals in consideration”; “contacts on a law level” have been also noted by the survey led in the framework of GOLD III project. The lack of influence is much more important in the field of broadband access, where municipalities are only involved in the exploitation of network. In exchange, in the field of waste, in case of intermunicipal cooperations dealing with waste management, they are controlled by the municipal councils that decide upon the waste collection by a local police regulation. Each participating municipality has one representative in the board of governors of the intermunicipal cooperation. In this case there is coordination at local level.

The missions of the provinces (here after, as concerns Walonia-Brussels) are mainly focused on fields such as education, culture, social, health. In these fields, they act through their own services (health: sanitary analyses, awareness campaigns, screening programmes, etc.; social: management of medical-institutional institutes – services for disabled, elderly care; coordination of social cohesion plans, culture and youth). In the fields of wastewater and waste treatment, provinces do not intervene, except through the funding of intermunicipal associations such as, in Walonia-Brussels, the *Bureau économique de la Province de Namur, Idélux*, intermunicipality of Brabant Wallon, which have activities in particular in these fields but not only. In the field of passengers transport, provinces are specifically excluded. In the field of energy, provinces grant subventions for the installation of solar panels, etc. These are grants aimed at the general public. They also run awareness campaigns to target audiences: schools, etc. As regards early childhood services, the provinces take limited action, particularly through the funding of intermunicipalities.

Users’ access to local services is generally conditioned by the payment of a tariff which covers the essential part of costs of operation and investments. In some sectors (sanitation, early childhood care, waste, public transport, elderly care) local authority, or other public authorities, intervene with complementary subventions meant to cover a part of costs of operation or investment, or losses occurred during the operation of the service. European rules clearly impacted the financing of these services (mostly indirectly) by establishing high quality exigencies to be meet in a certain deadline (water, wastewater, waste, broadband access, energy) and, as a consequence, very important investment levels.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

For low-income users, specific tariffs/exemptions exist in some sectors (e.g. water supply, sewerage, public transport). In public transport field, several categories of users benefit from a specific financial access, more affordable (low income users, elderly people, students, etc.) or free. For the access to some social services (early childhood care and elderly care) income level is (sometimes) considered when establishing the financial aid for the user.

In many sectors, users do not seem to participate or to have a decisive role in the current governance of local services. However, they are represented in consultative legal boards organised at the level of electricity distribution and social services. In fact, it is mainly in the framework of the direct relation between user and operator that data collection and the handling of complaints are ensured. Some companies (for instance, in the field of transport) created an ombudsman service or a call centre (e.g. in electricity). According to GOLD III survey, a system of compensation is provided for passengers in the field of urban transport (free transport tickets) in case of service failures or non respect of contractual clauses by the operator.

³¹ The most part of the population is served with electricity by mixed intermunicipalities.



As for the participation of employees to the governance of local services it seems to be limited to those forms exercised in the framework of their employment regime.

4/ The future of basic public services: key challenges existing and emerging

The impact of the current crisis is perceived differently according to municipalities and/or sectors, with in particular, a decreasing amount of investments in some cases. Access to financial loans is also noted sometimes as one of the main challenges for services' financing and for guaranteeing affordable universal access.

5/ The EU impact

The Community directives have played a leading role in the transformation of structures by imposing the liberalisation and the opening to competition in some sectors. Some Community concepts are also integrating Belgium law and are spreading in new sectors on the model of universal service which, beyond its normal sphere of application, enter into the field of cable distribution or local roads.

Some sectors are profoundly marked by their historical organisation and they are less suitable to follow the evolutions for which EU institutions stand: in Belgium, the approach of the liberalisation was easily accepted in networks public services (first, in the field of telecommunications, electricity and gas, currently in postal sectors and railway transport). In exchange, it finds little support in education, social or health sectors or in local public transport (at least in some municipalities).

In water and wastewater fields, European policies and law has influenced, according to their main objective, the exigencies and regulations aiming to attain a higher quality of water.



BULGARIA

Area	111,879 sq km
Population	7,348,328 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“The Republic of Bulgaria shall be a unitary state with local self-government. ...» ; «A municipality shall be the basic administrative territorial unit at the level of which self-government shall be practiced. Citizens shall participate in the government of the municipality both through their elected bodies of local self-government and directly, through a referendum or a general meeting of the population.” “A municipality shall have its own budget. ... permanent sources of revenue shall be established by law. The municipal council shall determine the size of local taxes [and charges] under conditions, by a procedure and within the frames established by law... The state shall ensure the normal work of the municipalities through budget appropriations and other means.” (Articles 2, 136 and 141 of the Constitution ³²)
Politico-administrative division – 1 tier of local self-government	- 246 municipalities (<i>obchtini</i>), divided into sectors (<i>kmeststva</i> – localities with at least 250 inhabitants ³³) or districts (<i>rayoni</i> – in 3 of the largest cities, with populations over 100 000 inhabitants ³⁴) (Law on territorial division of capital-city and major towns, 1995)
Population disparities between municipalities	- 13,5 percent of population in cities having between 50,000 and 100,000 inhabitants - 9,5 percent of population in cities having between 100,000 and 250,000 inhabitants - 4,5 percent of population in cities having between 250,000 and 500,000 inhabitants - 15,2 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants ³⁵

In Bulgaria, the first declaration of the self-government of municipalities goes back to the Constitution of 1879 and the laws on rural and urban communities adopted in 1886. After 1947, and during the Communist regime, municipal councils become bodies of “national self-government”. The Constitution of 1991 put new bases for the re-establishment of the local self-government.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The municipalities are defined as basic administrative territorial units at the level of which self-government shall be practised (Article 136 of the Constitution; Law on local self government and the local administration of 1991, modified in 1995, 1999, 2003).

In Bulgaria, one of the important goals of the local government reforms developed after 1990 was to set the appropriate balance between central state power and the local self-governments with respect to, amongst others, the provision of public services.³⁶ The Constitution gives no indication on competences or rules for the division of authorities’ responsibilities but several rights are explicitly mentioned as fundamental rights of the citizen.

In the context of financial decentralisation, in 2003 the municipal responsibilities have been classified into two categories: *services delegated by the state* (education – preschool education, elementary and secondary education; social action – assistance to families and children, elderly care, health³⁷) and *local public services and distribution networks* (heating, electricity, water supply and waste water treatment, waste collection, urban

³² Amended in 2007 to allow municipalities to establish not only the amount of tariff revenue but also local taxes.

³³ On average, each municipality is divided in 25 sectors. There are 2554 sectors for a total of 5332 localities.

³⁴ In total, there are 34 districts. Almost one quarter of the population lives in one of these cities (Varna, Plovdiv, Sofia).

³⁵ Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

³⁶ Maria Schueler, «Bulgaria», in Markus Krajewski, Ulla Neergaard, J. van de Gronden (eds.), *The Changing Legal Framework for Services of General interest in Europe*, TMC Asser Press, The Hague, 2009, p. 474.

³⁷ The reform of the health system in 2001 has transformed the municipal health institutions into municipal business enterprises.



public transports, construction and maintenance of roads, etc.) and *leisure* (tourism, municipal libraries, cultural activities, sport facilities, etc.).

The Decentralisation Strategy for 2006-2015 and the Action Plan for its implementation during the period 2006-2009 set out guidelines regarding the allocation of powers and financial resources between the central and municipal levels, aiming at more efficient provision and better quality services.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Although the state engages in the financing of a number of different public services, the municipalities are considered as responsible for their actual provision and they enjoy great freedom in deciding the way in which the services should be provided³⁸.

Municipalities may assume the management of local public services directly, by an internal budgetary institution (for administrative and technical services) or a municipal enterprise (whose budget is approved by the municipal council; in general, for the management of municipal infrastructure in areas such as education, culture, sport and public transport³⁹) or by a public company. They can also delegate the management of the service (to private companies, foundations and associations) by concession⁴⁰ or licence. Although municipal privatisation practices vary substantially, Bulgarian municipalities prefer to joint municipal companies and concession contracts as legal instruments for attracting private participation. The municipal enterprise is the commonly used form for delivery of public services, especially in the field of public transport, street cleaning and refuse collection⁴¹.

Intermunicipal cooperation for the provision of public services has been rather encouraged by the central authorities and has emerged in the field of waste but also in sectors such as education, leisure (sport, tourism, and culture), health care, protection of environment, etc. They are mainly financed by membership fees and tariff revenue collected on services provided.

Services delegated by the state are financed by transfers from the state, local services by the resources of the municipalities.

In a relatively short period, between 1998 and 2000, concessions were concluded in the area of water, heating, electricity, and also functions relating to waste treatment and transport. Currently, economic and non economic services of general interest are run by public, private or mixed companies. In the field of services of general economic interest, the involvement of the private sector often results from the privatisation of commercial companies established by the state or municipalities for the purpose of the delivery of public services. Also, the provision of public services by the private sector is governed not only by the concession regime but also by a set of sectoral laws and regulations.

In 2006, an initiative of the Ministry of Finance formally announced the support of public-private partnerships in order to improve the quality of public services and investments in national infrastructure. However, the concept of PPP is not enshrined in the legislation, PPP practices being developed on the basis of concession regime and commercial law.

In the **water** sector, the concession granted for the provision of water supply services in Sofia is the only delegated management (a 25 years water and sewerage concession) in this sector to ViK (Vodosnabdjavane I Kalanizatsia, founded in 1884). In 2000, 51 percent of ViK's equity was sold to International Water and United Utilities, following a EBRD programme. In 2003, International Water's shares were acquired by United Utilities and the EBRD. In July 2010, Véolia Water has acquired 58 percent stakes in the company⁴². In the rest of the country, water supply companies are jointly owned by the municipalities and the state and remain in the majority of cases under state control. About 98 percent of the population is covered by water supply services. In 2009, about 70 percent of the population was connected to sewerage and sewage treatment (25 percent only to sewerage and 46 percent to sewage treatment). The sewerage system covers about half of the total length of cities' streets while in villages this percent represent about 0.6 percent⁴³.

³⁸ Maria Schueler, *op.cit.*, p. 478.

³⁹ Municipal Ownership Act, of 21 May 1996 states the areas in which these enterprises can engage themselves to provide public services.

⁴⁰ Concession Act of 2005.

⁴¹ P. Nenkova, in Maria Schueler, *op.cit.*, p. 479.

⁴² <http://www.veoliawater.com/media/news/2010-06-14,united-utilities-europe.htm>

⁴³ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 68. See also, Bulgaria's « National Programme for Priority Construction of Urban Wastewater Treatment Plants» (1999-2014) (for settlements with population equivalent between 2.000 and 10.000).



In the field of **waste**, the Ministry of Environment and Water (MOEW) is the competent authority responsible for the development and implementation of the national waste management policy (drafting and enforcement of the legislation, strategies, programmes - in particular the National Waste Management Programme, international projects, permits for activities with hazardous wastes, etc.). The MOEW performs some of these activities by the Executive Environmental Agency (EEA) and a network of 16 Regional Inspectorates of Environment and Water (RIEW) that are specialized control bodies of the Ministry. Municipalities also play an important role in the management of **waste**. They develop and implement municipal programmes for environmental protection (that include the waste management programme), define sites for the construction and operation of municipal waste treatment and organise the provision of waste services (collection, transportation and treatment). The main source for funding services operation is the waste tax collected from users. In 1997, one quarter of all settlements in the country were covered by waste collection and transportation system. These settlements represent 77 percent for year 2000 of the population, meaning that many villages were not covered by the organised system of collection and transportation of municipal solid waste.

Transportation service is a licensed activity in Bulgaria. The local transportation services are regulated by the law (Ordinance n° 2/2002, as amended). Municipal authorities have organising and planning powers. The urban transport schemes for transportation services within a municipality are approved by that municipality or jointly by competent municipalities, in case the transportation service concerns two or more municipalities. In the second case, transport schemes are approved by the regional governor. The municipal transport lines are contracted by municipalities with operators for a period which, as a rule, cannot exceed ten years. The contract can be award either after a public procurement procedure under the Concession Act or the Public Procurement Act, or by directly awarding the contract to an internal operator.



Area	56,538 sq km (land area)
Population	4,405,144 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“In the Republic of Croatia government shall be organized on the principle of separation of powers into the legislative, executive and judicial branches, but also limited by the constitutionally-guaranteed right to local and regional self-government.” “Citizens shall be guaranteed the right to local and regional self-government.” “Municipalities and towns shall be units of local self-government ...” “Counties shall be units of regional self-government...” “Units of local self-government shall administer affairs of local jurisdiction by which the needs of citizens are directly fulfilled, and in particular affairs related to the organization of localities and housing, zoning and urban planning, public utilities, child care, social welfare, primary health services, education and primary schools, culture, physical education and sports, customer protection, protection and improvement of the environment, fire protection and civil defence.” “Units of regional self-government shall administer affairs of regional significance, and in particular affairs related to education, public health, zoning and urban planning, economic development, transportation and transportation infrastructure and the development of the network of educational, health, social and cultural institutions.” “Units of local and regional self-government shall be entitled to their own revenues and to dispose of them freely in the performance of the tasks under their purview. Revenues of local and regional units of self-government shall be proportional to their powers as envisaged by the Constitution and law. The state shall provide financial assistance to weaker units of local and regional self-government in compliance with law.”(Article 4, 133(1), 134, 135, 138 of the Constitution)
Politico-administrative division – 2 tiers of local self-government	20 counties (<i>zupanijas</i>) 126 cities, 429 municipalities and the city of Zagreb
Population disparities between municipalities	Zagreb 779,145 inhabitants - 71.3 percent of population in municipalities having less than 50,000 inhabitants - 3.9 percent of population in cities having between 50,000 and 100,000 inhabitants - 7.5 percent of population in cities having between 100,000 and 250,000 inhabitants - 17.3 percent of population in cities having between 500,000 and 1,000,000 inhabitants ⁴⁴

Croatia was part of the former Yugoslavia, which ceased to exist on 8 October 1991⁴⁵. Its recent history is both marked by the transition from a republic part of a federation, to a sovereign state, and the process of accession to the EU. Croatia expressed the official request to become member state of the EU in February 2003 and it got the official statute of candidate state for accession on 18 June 2004. Accession negotiations begun in 3 October 2005 and they were officially concluded on 30 June 2011. Croatia joined the EU in 2013.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In Croatia, many basic services fall under the competence of municipalities. Until 2001, counties were primarily responsible for performing delegated tasks from the central government level. The strategy reforming the public administration led to the Constitution revision of November 2000 which has not only defined and extended the competences of municipalities and counties but has also introduced the obligation of the state to offer financial help to the poorer territorial units; it has also introduced the concept of county self-governance. On that basis, in July 2001 a new Law on Local and Regional Self-Government was adopted together with a series of other legislative Acts concerning the local and county administration, funding and election.

In 2005, new legislative amendments introduced the concept of “large cities”, which are allowed to take over functions of counties if they are financially and technically capable to provide higher level of local public service.

⁴⁴ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

⁴⁵ The formal acts in Croatian and Slovenian parliaments were passed on June, 25 1991, but there was a moratory of execution of these acts till October, 8 1991.



However, in spite of the formal efforts toward a higher level of decentralization, some authors observed that sub-national government budgets (the regional and local government units) amount only 15 percent of the total consolidated government revenues and the financial capabilities are very different. Nevertheless, sub-national governments finance a larger share of government investments (on average, about 30 percent of the budget of municipalities, 17 percent of the budget of counties). Counties have a wide responsibility but their fiscal capacity is often much smaller than the capacity of cities within their borders.

Sub-national expenditure in Croatia represented 4.6 percent of GDP and 10.5 percent of total public expenditures in 2009, and the share of sub-national investments 0.6 percent of the total investments and 28.1 percent of the overall public capital expenditure⁴⁶.

In March 2008, the central government has launched a new strategy for public administration reform for 2008-2011 ('Public Administration Reform Strategy'). The reform plan included the following objectives: increasing competence and effectiveness of public administration, increasing expertise, professionalism, knowledge and transparency, development of electronic administration, reduction operational costs and simplification of regulations⁴⁷.

During 2010, the Croatian government set up an inception phase of the reforms of administrative-territorial government. A working group was established with the objective to define criteria for local government amalgamation and to develop an action plan of implementation in further period.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

At central level, **water** management falls within the competence of the Ministry of Regional Development and EU Funds, the Minister for Environment and Nature Protection and the Croatian Waters (*Hrvatske Vode*). In addition, a National Water Council (body of Parliament) established by the Water Act of 1995, discuss policies, strategies and the implementation of specific task. The Water Act of 2005 created four water districts for water management purposes; the city of Zagreb remains an independent unit. According to the law, the provision of drinking water to the population has absolute priority over any other water use. Municipalities are responsible for ensuring water provision and sewerage services. At present, water operators, mainly located in larger urban areas, provide water supply and waste water treatment services. Some of them has emerged in the process of transformation of former public enterprises (local units of municipalities) under the Municipal services Act of 1995; other were set up by municipalities. Most of these are limited liability companies whose major part of the capital is owned by local authorities (participation of private capital in these companies may not exceed 49 percent of shares). Water supply penetration through public networks increased from 53 percent in 1991, to 68 percent in 1995, 73 percent in 2000⁴⁸ and 90 percent by 2005. During the 1991-1992 war, about 15-20 percent of the water system was destroyed. As regards waste water, in 2009, service coverage was estimated at about 52 percent of the territories, with considerable territorial variations⁴⁹.

In the field of **waste** management, the system of governance is complex, too. At central level, the Ministry of Environmental Protection, Physical Planning and Construction is responsible for the general policy, horizontal legislation, waste, air and industrial pollution, inspection, permits for hazardous waste incineration. The Croatian Environment Agency has information responsibilities (data, information, system, reporting). It cooperates with the competent authorities in counties (Departments for environmental protection) and municipalities. The Environment Protection and Energy Efficiency Fund manage in particular the co-financing of waste projects. Counties are responsible for the adoption of county (regional) waste management plans, delivery of permits for landfill sites (non-hazardous and inert). Municipalities are responsible for the adoption of local waste management plans (for a period of eight years) and for their implementation, and they organise the waste collection and the disposal of municipal waste. The current Waste Management Plan for 2007-2015 aims at developing regional and county waste management centres, as well as integrating waste management,

⁴⁶ Uros Pinteric, Daniel Klimovsky, Sasa Drezgic, « Fiscal rules and fiscal sustainability at sub-national government level : experiences of Slovakia, Slovenia and Croatia» in L. Matei, D. Vasicek, M. kastelan Mrak, *European Administrative Space – Balkan realities*, Ed. Economica, Bucuresti, 2011.

⁴⁷ V. Kandžija, D. Mance, Z.T. Godec, "A review of Croatian public administration reform", in L. Matei, S. Flogaitis (eds.), *Public Administration in the Balkans from Weberian Bureaucracy to New Public Management*, 2010, pp. 105-118.

⁴⁸ Dubravka Mokos, Ivan Klakocer, Assessment and Development of Municipal Water and Wastewater tariffs and effluent charges in the Danube River Basin, September, 2004. <http://projects.csg.uwaterloo.ca/inweh/display.php?ID=2836>

⁴⁹ In 2009, there were 81 municipal wastewater treatment plants. See Dragutin Geres, « Water Management in Croatia», in Tissa H. Illangasekare et al., *Decision Support for Natural Disasters and Intentional Threats to Water Security*, Springer, 2009, p. 165.



remediation and sloshing landfills, remediation of «hot spots», self-sustainable financing of the municipal waste management system, etc. In 2007, about 92,8 percent of the population was covered by the organized collection of municipal waste⁵⁰ (compared to about 60 percent in 1995 and 80 percent in 2005, but with variations between counties – e.g. 75 percent in Koprivnica-Krizevci and 100 percent in the city of Zagreb). Waste is most often collected and transported by municipal companies⁵¹. In 2007, disposal of municipal waste was carried out by 199 utility companies and concession holders which often operate in several municipalities. In the majority of counties, only expenses of waste collection are included in the price of municipal waste disposal.⁵²

Compared to other countries of the Western Balkans, Croatia has a rather high expenditure on social security and **social** protection (in 2006, about 21,5 percent of the national GDP). At the same time, social reforms in Croatia seem to focus, in general, on reducing the responsibility of the state, and increasing the responsibility of the individual, the market, the family and the civil society while guaranteeing the basic social security remains the responsibility of the state. The “3D” reform approach consists of: de-étatisation, de-institutionalisation and decentralisation⁵³.

According to the Constitution, **child care** is a compulsory task of Croatian municipalities, which shall organise and finance them. In practice, the delivery of some decentralized functions has been taken only by local governments that had highest level of fiscal capacity.

Inter-municipal cooperations are also developing in Croatia. Currently, a fifth of Croatian municipalities share joint utility companies⁵⁴.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

According to Article 133 paragraph 3 of the Constitution, “Citizens may directly participate in the administration of local affairs, through meetings, referenda and other forms of direct decision-making, in compliance with law and local ordinances”.

4/ The future of basic public services: key challenges existing and emerging

The effects of economic crisis on local governments in Croatia were firstly observed in the fall of revenues and expenditures. Thus, in 2010, total local government revenues fall by more than 7 percent. Particularly significant reductions were observed in term of capital expenditures and grants from the central government whose decrease amounted to about 30 percent. However, in many local governments tax revenues did not fall significantly. In some cases the wages of local government employees are decrease.⁵⁵

⁵⁰ Municipal waste is waste from households, waste from production activities and/or services when the waste is by its properties and composition similar to waste from households.

⁵¹ According to the Strategy of Waste Management in the Republic of Croatia, of 14 October 2005, p. 33

⁵² The Strategy of Waste Management in the Republic of Croatia for the period from 2007 to 2015 of 19 July 2007, p. 11 [http://www.mzopu.hr/doc/WASTE percent20MANAGEMENT percent20PLAN percent20OG percent2085-207.pdf](http://www.mzopu.hr/doc/WASTE%20MANAGEMENT%20PLAN%20OG%2085-207.pdf)

⁵³ The priorities aim to increase the effectiveness of social assistance, to implement the decentralization of social welfare, to increase the availability and quality of social services to the regional uniformity, to stop the trend of institutionalization and encourage deinstitutionalization of conduct and transformation of social welfare and other legal entities, to implement computerization of the social welfare system, to improve the foster-care system in Croatia, to enhance cooperation with civil society organizations, to strengthen the preventive role of family and legal protection, to ensure the requirements for continuing professional education of employees in the social policy area, to strengthen the role of local authorities and community in the planning of services at local level, to improve the level of integration of various social services, to increase the utilization of pre-accession funds, the programmes of the EU and the Structural Funds, to encourage co-operation at national, regional and local levels. See Igor Cvecic, Alen Host, « Adjustment of National Social Systems to the European Union», in A. Matei, C. Radulescu (eds.), *National and European Values of Public Administration in the Balkans*, Ed. Economica, Bucuresti, 2011, p. 135 -144. Government of the Republic of Croatia, *Development Strategy of the Social Welfare System in the Republic of Croatia 2011-2016 (Strategija razvoja sustava socijalne skrbi u Republici Hrvatskoj 2011-2016)*, Zagreb, April 2011.

⁵⁴ Kenneth Davey (ed.), *Local Government in Critical Times: Policies for Crisis, Recovery and Sustainable Future*, Council of Europe, Centre of Expertise for Local Government Reform, Strasbourg, 2012, p. 69.

⁵⁵ Uros Pinteric, Daniel Klimovsky, Sasa Drezgic, *op. cit.*



Area	9,251 sq km
Population	850,881 inhabitants (in Government controlled area)
State structure	Unitary state
Local self-government	(No specific provisions in the Constitution as regards local self-government)
Politico-administrative division – 1 tier of local self-government	39 municipalities (<i>dimoi</i>) and 485 rural communities (<i>koinotites</i>) – last elections: December 2011
Population disparities between municipalities	- 59 percent of population in municipalities having less than 50,000 inhabitants - 41 percent of population in cities having between 100,000 and 250,000 inhabitants ⁵⁶

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In Cyprus, there are two types of local authorities, municipalities and communities, which are governed by separate laws. In principle, municipalities constitute the form of local government in urban and tourist centres while communities constitute the local structure in rural areas. However, there are no significant differences between the competences and powers of municipalities and communities in the fields covered by GOLD III report.

The main legal framework of self-government in Cyprus is the Municipalities Act 111/1985 and the Communities Act 86(I)/1999. A new law on local authorities was submitted in February 2011 (“The Local Authorities and Complexes Act”) and another draft law concerning the creation of District Councils as a second tier of local self-government and pillars of the regional development plan.⁵⁷ The above legislative proposal aims at establishing groups of local authorities as legal entities of public law and merge municipalities and communities. For the moment, the powers and competences of local authorities as regards local basic services were not affected but the process is expected to continue after the presidential elections of February 2013.

Statutory responsibilities of municipalities (urban and tourist centres) and rural communities include water supply and sewerage, waste management (collection and disposal), street lighting. In addition, municipalities are responsible for waste treatment and social services (kindergarten, nurseries, elderly care). Local authorities in Cyprus have no responsibilities as regards local transport.

The **water** supply in urban areas is the responsibility of the Water Boards and not of municipalities as such. In certain cases where no Water Board exists, the municipality has the responsibility for the water supply. In urban areas the **sewerage** is provided by the relevant Sewerage Boards. In communities where the distances and served population do not allow central sewerage systems, the sewerage is provided by the community.

The most frequent problems in coordinating with other levels of government that were mentioned by some municipalities participating in GOLD III survey concern the centralized decision making (in SGEI areas of this report) and the reduced funding (of social services in particular). Others consider that in sectors that fall under the competence of other level of government no coordination is applicable or that no basic problem occurs.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In Cyprus, the main local public services are provided by different type of agencies/organizations. Cyprus Local Authorities provide waste and sanitation services as a main responsibility (the term sanitation used by municipalities does not include sewerage).

Water supply and waste water are principally provided by relevant boards which are formed as Inter-municipal entities. Water supply is managed through specialised boards (water supply councils) and distribution network is managed by the Water Boards. The same goes for **wastewater** supply (sewerage and drainage) and networks (construction, supply, maintenance, expansion and operation) which fall under the responsibility of Sewage Boards. A public-private partnership has been concluded for water desalination⁵⁸. Four municipalities (Nicosia, Limassol, Larnaca and Paphos) have been also granted planning powers while for the rest of local municipalities

⁵⁶ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

⁵⁷ George Coucounis, « Local Government in Cyprus», in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011.

⁵⁸ See *Mapping of the public services in the EU and the 27 Member States*, 2010.

and communities this competence is exercised by the government through the Town Planning and Housing Department.⁵⁹

Waste services – that is collection and disposal of household and industrial waste – are funded by tax collected by residents. Private companies intervene in waste treatment (in certain cases, like recycling) and municipalities collect and dispose waste.

Local public transport it is the responsibility of the national Government.

According to the Municipalities Act, municipalities may enter into contracts with another local authority, to carry out projects for the common good and undertake jointly to provide services.⁶⁰ Inter-municipal organizations provide services such as water supply and sewerage; mixed operators (through concessions) and NGOs also operate in this field.

Childcare is not a mandatory service for municipalities and rural communities, it depends on the local councils so that their development and national coverage is not uniform. Their main management modes are based on guidelines from the Ministry of Education and their funding is ensured by municipality's budget.

The annual budgets of municipalities (excepting rural communities) are approved by the national government.

In general, as concerns services provided by municipalities, the financing comes from the municipality's budget and by government contribution.

According to GOLD III survey, local basic services are not considered to be universally affordable in all sectors.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In Cyprus, different formal and informal arrangements exist to allow citizen participation in decision-making: open meetings of local councils, referendums, websites, public meetings, public consultations, etc. However, it seems that in practice, the representative forms of citizens' participation continue to play a very important role in some sectors (for example, the participation of municipal councillors in Water Supply Councils, in the Sewerage Boards). On the contrary, in the social sector, it is mainly the participation of parents in school councils or the participation of volunteers in elderly care centres that would be representative for users' participation in the governance of these local services, even if we cannot evaluate to what extent it exerts an influence in the decision-making process.

Within the group of local services covered by this report, it seems that special financial mechanisms for some categories of vulnerable consumers exist only for waste (disabled people, pensioners, families with more than 3 children) and early childhood care (families having a low socio-economic standard).

As for users' complaints and local authorities' response, there are either direct complaint to the management of the operators or by public administrative procedures (municipality's complaints department or "Citizen's Service Bureau" or the mayor) and departments that produce annual reports of complaints regarding number, type, solutions etc. One municipality mentioned that the standards of ISO 9001:2008 are used to treat users' complaints in sanitation and waste fields. There seems to be no schemes for the compensation of users in case of service failures or the non-respect of the contractual clauses by operators.

The participation of employees in the governance of basic services is direct, in the framework of their work relations and through meetings or suggestions, trade unions usually involved in terms of work conditions and employees rights. However, one municipality is in the process of certification for "**Investors in People**" framework which promotes employee participation and social dialogue.

4/ The future of basic public services: key challenges existing and emerging

The actual crisis led, in some sectors, to reduced financing for local basic services. The payment and collection of fees and taxes (but also increasing some fees concerning vulnerable users— e.g. the elderly) appear also to be difficult in some municipalities, which indirectly affect local services funding. It is considered that some of them could not be financed without support from the central government (e.g. municipal kindergartens).

Particularly in the social sectors, improvements and new infrastructure are needed to meet basic needs and a minimum quality (e.g. increasing kindergarten building safety, increasing space for elderly care). In exchange, it is

⁵⁹ George Coucounis, *op.cit.*, p. 92.

⁶⁰ *Idem.*



considered that waste and sanitation sectors provide sufficient and good quality infrastructure (no information was provided for other sectors).

In some municipalities, the measurement and assessment of services performance is based on sectoral regular surveys (once a year, in waste and sanitation) conducted by an external private organization, or on the basis of users' complaints. In the field of social services, the role of the management of the public operator seems to be essential.

5/ The EU impact

The most evident effects of EU law stressed by local municipalities concern sanitation and waste services. In some cases, this is due to the improvement of existing services. Other emphasized a better control of waste water and recycling, the implementation of a "Pay-as-You-Throw" program (Aglantzia municipality), in which residents are charged for the waste service according to the quantity of garbage. The increase of costs for improved services is also to be noted.

In the field of elderly care, apart from financing new programs, EU is considered by some municipalities as an incentive for exchange of good practices and improvement of services, enhanced active participation of users (elderly people) in the community, voluntary work, entertainment and lifelong learning.



CZECH REPUBLIC

Area	78,864 sq. Km
Population	10,496,088 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	«Self-government of territorial self-governing units is guaranteed» . «A community assembly shall decide on matters of community self-government save in cases where these matters are entrusted to the assembly of a superior self-governing territorial division.» [Article 8 and 104(2) the Constitution of 16 December 1992]
Politico-administrative division – 2 tiers of local self-government	<ul style="list-style-type: none"> - 14 regions (<i>regiony/kraj</i>) «superior self-governing territorial divisions». «independently administered by an assembly of representatives» (4 years mandate – current mandate: 2012 – 2016) - 6 250 municipalities (5447 common municipalities – <i>obce</i>, 206 market town – <i>městyse</i>, 569 cities – <i>města</i>, 23 statutory cities – <i>statutární města</i> – which may have smaller self-governing units. the capital city of Prague) «fundamental self-governing territorial divisions», «independently administered by municipal assembly» (4 years mandate) (Chapter 6, Constitution) * The city capital – Prague - is at the same time municipality and region – its competencies are specified in a special Statute.
Average density of population Population disparities between municipalities	<p>Average density of population: 133 inh./ km²</p> <ul style="list-style-type: none"> - 56 percent of municipalities have less than 500 inhabitants (24,7 percent have up to 200 inhabitants, 31,7 percent from 200 to 499 inhabitants) - 78 percent of municipalities have less than 1,000 inhabitants (of which, 21,5 percent of municipalities have from 500 to 999 inhabitants) - 17,7 percent of municipalities have from 1,000 to 4,999 inhabitants - 2,3 percent of municipalities have from 5,000 to 9,999 inhabitants - 1,1 percent of municipalities have from 10,000 to 19,999 inhabitants - 0,7 percent of municipalities have from 20,000 to 49,999 inhabitants - 0,2 percent (15) of municipalities have from 50,000 to 99,999 inhabitants - 0,1 percent (6) of municipalities have over 100,000 inhabitants⁶¹ - 24 percent in densely populated areas (at least 500 inhab./km²) - 48 percent in intermediate urbanized areas (100 - 499 inhab./km²) - 28 percent in sparsely populated areas (less than 100 inhab./km²)

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

After the fall of the Communist regime in 1989 and the dissolution of Czechoslovakia at the end of 1992, significant changes occurred on the division of powers and responsibilities for the provision of public services through the decentralisation and the deconcentration of services provided by the state. The regional reform of the public administration and the creation of regions as of 1st January 2000 have been crucial for public services. Since 2003, there is no level of deconcentrated state administration (administrative districts - *okres*), a large part of their competences being transferred to a group of 205 “municipalities with extended powers”, which exercise delegate competences for several municipalities.

Municipalities have compulsory responsibilities as regards water supply (Act on water), sanitation (Act on sewerage), waste management (Act on waste), and early childhood. Municipalities may organise, on a voluntary basis, public transport services, electricity supply (public lighting, distribution of electricity), elderly care and broadband public service. In some sectors, inter-municipal entities are organising authorities for the provision of local basic services (in particular for water, sanitation and waste).

The regions have specific responsibilities in the field of public transport to ensure the regional, intra-municipal public transportation by bus, and elderly care (funding, direct provision of the service). The state organises in particular electricity supply, rail transport and it has also responsibilities in the field of early childhood care (funding) and elderly care (e.g. funding).

According to GOLD III surveys, problems invoqued by local authorities as to the coordination with different levels of government as regards the delivery of local basic services have a different nature:

⁶¹ Stanislav Kadečka, « Local government in the Czech Republic», *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 105.



- first of all, financial difficulties are mentioned: the costs of water service delivery and local (and intermunicipal) public transportation, the limited cost for waste collection set by the state and the high fees for depositing the waste in the disposal sites, lack/limited financial resources to build new school facilities and to maintain an appropriate level of increasing operational costs in schools and social care facilities, the price level for consumer;
- secondly, the insufficient provision of some local public services due, for example, to reductions in regional public transport and the cancelation of many loss-making, small-scale railway transit line by the state railway company, insufficient subsidy for providing local transport services (no support from the state), high consumption tax on fuel, but also the lack of capacity in kindergartens whilst the number of newborn children increased, strict quality and health protection requirements for social facilities, the quantity of places in premises (for elderly care);
- problems regarding the volume of waste collection and its dispatch to other use were also noticed, as well as the financial division of municipal from industrial waste, the identification of sources of drinking water, the separation between sewage and rains sewage system;
- the unclear division of competencies between self-government and state administrations (elderly care, custodial care).

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In the sectors covered by this report, different modes of organisation of local basic services can be observed. In general, in the Czech Republic, smaller municipalities (below 5 000 inhabitants) frequently use *direct production and external contracts*, while larger municipalities rely on municipal companies.⁶²

The in house provision through local public joint stock companies dominates in the delivery of water, sanitation, waste, local public transportation and public lighting. In some cases, a local public company of private law provides water service. Pre-schools (attendance is non compulsory) and elderly care facilities are public organizations established and funded by municipality (although, private kindergartens appeared after 1989), which cover their operational costs and investments (excepting staff costs in education).

Broadband access, when public service obligations are defined by local authorities to guarantee the access to service for all its inhabitants, is also provided by private operators. For example, in city of Chomutov there is metropolitan broadband network under the preparation. The town will conclude lease contract with the future operator. In this case, the operation of the network will be under the control of the owner (town).

Intermunicipal cooperatives mainly operate in the field of water supply (69 percent) and some of them in public transportation⁶³, waste and to ensure broadband access to their inhabitants. In the fields of water and waste water/sewage, waste collection, many operators are private companies (private capital - European companies).⁶⁴

Regional waste management plans serve as a basis for conceptual activities conducted within regions and they must be in accordance with the binding part of the Waste Management Plan of the Czech Republic (2003-2013). Municipalities are responsible for the organisation of waste collection, transport, separation, recovery and disposal. In some cases, municipality operates collecting waste sites. Municipal waste costs are covered by users (either local fees, or tariffs based on a contractual relation between the municipality and each inhabitant). Pay-as-you-throw systems are introduced in some cases.

NGOs operate particularly for the provision of elderly care services, often in cooperation with municipalities.

As regards the financing methods for operation, fees paid by citizens aim to cover the costs. For waste services, for instance, this objective was to be met as from January 2013. Until then the situation was very different: in some municipalities about 75-70 percent of costs were covered by users' fees, the difference coming from the local budget; NGOs participated with funds in some cases; in other municipalities about 90 percent of funds were ensured by local budget and the difference from users' fees. Municipalities subsidize other services, too (e.g. public transportation and broadband). Early childhood services are usually financed by local budget; in some municipalities a direct contribution from users is required (about 5 percent of costs). Local elderly care services seems to be mostly subsidized by municipalities (in some municipalities they ensure about 80 percent of

⁶² Markéta Fantová Šumpíková, František Ochrana, Beáta Meričková, "Local public services delivery arrangements – evidence from the Czech Republic", paper for Nispacee annual conference, 2007.

⁶³ See *Mapping of the public services, 2010*, p. 138.

⁶⁴ Markéta Fantová Šumpíková, František Ochrana, Beáta Meričková, *loc.cit.*



operational funding; direct public payments to NGOs are also provided), users are paying a small part of the service provided. But in some cases important state funds are also awarded (e.g. covering 40 percent of costs).

Investments costs for local service provision come exclusively from the operation of the service in water and sanitation while for early childhood and elderly care investments are fully covered by subsidies from the local and regional and/or national budget. No loans or other funding means (e.g. donors) ensure such costs in the municipalities covered by this survey.

As regards the main challenges for financing services and guaranteeing universal affordable access, according to respondents to GOLD III survey not all services would be concerned. Where such challenges exist they are different from one sector to another. In some cases increasing the payments for the service (social services) appear to be problematic, while the grant tenders are announced only occasionally and are limited (for example, focused on distinctive target groups, such as Roma population). In other cases having competitive prices (water, sanitation, waste, but also for early childhood care) would be the main challenge. Other respondents noted the insufficient respect of service operation requirements by users (the need to improve separation of waste and to extend the collection of biowaste) but also the potential decreasing of service quality. In transport sectors, some municipalities stress sustainable urban mobility plans and conversion to alternative fuels.

Different public mechanisms are provided to guarantee access of low-income users or households to local basic services, such as housing allowances (water supply, sanitation, electricity supply), financial contributions (waste), price reduction for some categories of users (elderly and disabled for public transport, lower rent of social housing to old people with low earning), free access (to early childhood care for low-income/economical poor families based on a decision of the municipality and to social services when payment is ensured by public budget). However, such mechanisms do not cover all sectors (for example, no such mechanisms exist in broadband). They are not always established on a sectoral basis (for example, the provisions of the Law on the assistance in poverty n°111/2006). Differences may also exist between municipalities; for example, in waste, some municipalities offer no support while other offer contribution to those in material need. There is also private support available in some fields and areas, such as NGOs active in elderly care domain. Overall, it is considered that less than 5 percent of the population has a limited or no access to basic services. Some municipalities could not provide such data. Other respondents have noticed higher limited access to some services (broadband).

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Regular meetings of the Government with the Confederation of employers and the Confederation of employees are considered one of the main formal frameworks for services' employees' participation in the governance of local basic services. Trade unions don't exist in some sectors (early childhood and elderly care) or are not active in some municipalities. Some respondents noted that the role of employees in the governance of local basic services is mainly ensured by the fulfilment of their contractual duties.

Citizen participation may take the form of opinions expressed by their own initiative (e.g. water, waste collection) and registered by municipal office then discussed by town council, or communicated directly to service's employees, or by participating in formal evaluations (questionnaires, surveys e.g. elderly care). Public meetings, discussion forums, "school councils", "club of parents" and other similar structures are organised in some services or municipalities. In some communities, the participation of municipal representatives in the statutory bodies of the service operator (company), or the approval of the service budget by the town authorities are considered the main form of (indirect) participation of citizens in the governance of local services. In some sectors and/or municipalities no direct mechanisms seem to exist (e.g. broadband, electricity, social services) or they are not used. However, we cannot assess the importance of citizens' participation in the governance of local services on the basis of limited data gathered by GOLD III survey.

Users' complaints are treated according to the legislative or internal municipal provisions or contracts with operators. Depending on sectors, they may be dealt directly by the operator of the service (e.g. director of kindergarten, water company), departments of the city hall and the local council (e.g. waste service). In some sectors, targeted local surveys and special meetings of municipal working commissions and committees may be used to gather user's complaints (waste, social services). In cases of service failure re-establishment of services provision prevails on schemes for the compensation of users.

4/ The future of basic public services: key challenges existing and emerging

The current crisis led to several constraints for the provision of local public services in the Czech Republic. Even if overall data could not be provided by the survey, answers mentioned the increase of costs (operational costs for



early childhood and elderly care and of VAT for waste provision), whilst municipalities face problems with lack of financial resources and have to ensure mandatory expenses. In this context, insufficient (sometimes decreased) subsidies from state level were also mentioned as one of the main challenges for services financing and guaranteeing universal affordable access of quality. Lower consumption of services (water, sanitation) by users and pressure to price climbing also appear during this period. In some sectors (waste, social services), some municipalities perceive no effect of the crisis on the financing of services, in the sense that the budget is more or less the same. Others were not able to provide data.

5/ The EU impact

For some respondents, the implementation of EU law had an evident impact as regards local services facilities and the costs supported by municipalities due to, for instance, the obligation to build new water cleaning stations, sewage disposal plants and to close waste disposal sites which do not fulfil EU conditions, support for ecological treatment with waste (composting, production of biogas) and for the introduction of ecological public transport, high sanitary requirements set by the state. It also imposed specific rules as regards contract conditions for (water) service delivery (lengths of contract), public procurement rules (social care facilities), public aids regime (water, waste, public transport) and anti-discrimination principles (mentioned in particular as regards child day-care and elderly care activities). European legislative framework on transport is perceived by some respondents as a complicating factor in the management of transport basic services, while others noted rather an overall positive impact (excepting the economical situation of the actors). EU also contributes in the construction of sewerage system in town suburbs, separation of waste and the monitoring of (air) pollution. In the social area, regulatory measures (efforts to unify legislation), the reduction or even abolition of special schools and the reduction of subsidies are mentioned as results of the implementation of EU law.

Some municipalities noted that EU law did not influence the governance of local public services (waste) or the public aid regime, others are not aware about any impact.



Area	43,098 sq. km
Population	5,570,572 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“Municipalities’ right to manage their affairs autonomously under the supervision of the state is regulated by law.” (Article 82 of the Constitution)
Politico-administrative division – 2 tiers of local self-government	- 5 regions (<i>Regionerne</i>) ⁶⁵ - 98 municipalities (<i>Kommunerne</i>) ⁶⁶
Average density of population Population disparities between municipalities	Average density of population: 128 inhab./ sq. km - average population per municipality: 55,000 inhabitants - 504,000 inhabitants in Copenhagen - 2,050 inhabitants in Laesø - 66.3 percent of population in municipalities having less than 50,000 inhabitants - 3.6 percent of population in cities having between 50,000 and 100,000 inhabitants - 8.9 percent of population in cities having between 100,000 and 250,000 inhabitants - 21.2 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants ⁶⁷

Denmark has a long history of local self-government that stem from the Middle Age. The autonomy of local governments was proclaimed by the first democratic Constitution in 1849 and is regulated by law, which progressively increased municipalities’ area of statutory responsibility. Since the 1860s the municipalities have been undertaking tasks without statutory activity, which evolved into the customary “local authority mandate”⁶⁸. Local government position is consolidated in the 1970s by the reform of decentralisation. At that time, a number of public sector areas were transferred from central to local government authority. That reform has been also reduced the number of local authorities. Recently, in 2007, the second local government reform has changed the distribution of powers between the central government and local authorities, and between local authorities. The number of municipalities (from 271 to 98) has been also reduced and five regions have been created by replacing counties. The majority of former county authorities’ tasks have been transferred to municipalities and the new created regions were given the administration of the health sector as their main tasks, financed by a state hospital tax; unlike former counties, they do not have been recognised a local authority mandate or taxing authority⁶⁹.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The Constitution of 1953 guarantees the autonomy of local governments. The increasing role of local government has taken place in areas where traditionally local governments were the main public provider, for example in education (primary and special education, adult education, language education), social (financing, provision and administration of elderly care, pensions, etc.) and some health care services (prevention, care and rehabilitation not provided by hospitals, treatment of substance abusers, dental care and social psychiatry), but also in other areas, such as employment, environmental protection (water, waste water and waste planning) and electricity, etc. The regions are mainly responsible for health care, as well as for social work, regional transport, etc.⁷⁰.

Norway and Denmark were forerunners when it comes to social policies. During the first decades of the 20th century Danish cities accomplished far-reaching reforms of elementary schooling, health care, social support and housing conditions and thus were preceding the forthcoming building of the Danish welfare state after 1945. They

⁶⁵ They were created in 2007, by replacing the 14 counties to take on the bulk of health responsibilities.

⁶⁶ They were issued by the mergers en 271 municipalities into 98, by 2008.

⁶⁷ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

⁶⁸ See Emil Greve, « Local Government in Denmark», in in Angel-Manuel Moreno (ed.), *Local Government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 123.

⁶⁹ *Idem*.

⁷⁰ Ministry of Interior and Health (2008), *The Local Government Reform – In Brief*, http://www.sm.dk/data/Lists/Publikationer/Attachments/291/Kommunal_UK_screen.pdf. See also Ulrik Bundgaard, Karsten Vrangbæk, “Reform by Coincidence? Explaining the Policy Process of Structural Reform in Denmark”, *Scandinavian political studies*, 30(4), 2007, pp. 491-520.

can be seen as a form of municipal socialism (defined as socialism in the local setting but not nationally)⁷¹. The second local government reform of 2007 has increased the amount of welfare services provided by municipalities. The law may specify the extent of services to be provided by municipalities and/or it may allow municipalities to determine it (discretionary power) so that differences may exist between them (for example, the number the institutions to provide a service, decisions on the allocation of service). Local authority also decide local tax rate (the actual highest level rate is 27,8 percent, the lowest is 22,8 percent⁷²). This is an important power as local taxation constitutes about three-quarter of their income. In addition, they may receive an annual block grant from the central government, which municipalities may distribute different task areas, as well as reimbursements and user payments.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In the past, public ownership was an integral part of Nordic industrial policy. From the post-war period, the Danish public enterprise sector was extremely small. The public ownership has been prevalent in infrastructure industries (transport, water, and telecommunications) and also in banking (GiroBank). In the post-war period, the nationalisation of industrial enterprises was not seriously considered but, until the 1980s, a broadly developed social welfare state was supported.

In the early 1990s, the government began to change the legal status of public enterprises to limited liability companies and later it sold shares in some of these companies. Privatisation really started to be taken more seriously in 1993 and evolved gradually since then.

Municipalities and regions can create local public companies on its own, in cooperation with other local authorities or in partnership with private shareholders⁷³. Public service enterprises such as water, electricity and waste have been managed by the local and regional authorities or user cooperatives. Since 2006, the level of a local authority participation in the capital of a local public company is limited to 49 percent whatever the company form. The local authorities who hold the majority in the existing companies had to sell their shares before 1 January 2012⁷⁴. In the water sector, public sector supply drinking water to about two-third of the population while private companies (e.g. Krüger-Véolia) cover a quart of the population. The subsidized private sector plays an important role in education, social and health care services. For their part, the units of municipal administrations have direct social responsibilities (day-care centre, nursery, social security).

Traditionally, municipalities operate independently of each other but cooperations between them may be set up, under various structural forms, most often in a private law form (excepting limited company).

The municipalities cooperate according to the law in the field of employment, rehabilitation, environment, social matters and special education. Furthermore, municipalities cooperate informally on efficiency improvement and streamlining on public procurement and IT.

Energy. In Europe, Denmark was one of the few countries rejecting nuclear power as the alternative to fossil fuels. Therefore, it early developed ambitious goals towards renewable energy generation⁷⁵ and energy efficiency and it has become a world leader in windmill production⁷⁶. Moreover, Copenhagen City plans to become the world's first carbon neutral capital by 2025 by ensuring: a carbon neutral district heating system, electricity production based on wind and biomass, the separation of plastic from waste to increase recycling, 20 percent more passengers in public transport and new fuels in vehicles, increasing active transport – bicycling and walking, improved energy efficiency in buildings and support for behavioural and social change programmes in households and businesses.⁷⁷

⁷¹ Lars Nilsson, *Local self-government in northern Europe in the 19th and 20th centuries*, Conference paper 2009, International Commission for the History of Towns.

⁷² Skatteministeriets (Ministry of Taxation) http://www.skm.dk/tal_statistik/kommuneskatter/8328.html.

⁷³ On the basis of the Law n° 548 of 8 June 2006 on municipalities undertaking tasks on behalf of other public authorities and participation in undertakings by municipalities and regions.

⁷⁴ Dominique Hoorens, *Les collectivités territoriales dans l'Union européenne. Organisation, compétences et finances*, Dexia, 2008, p. 266.

⁷⁵ Which now accounts for 19 percent of total gross energy consumption.

⁷⁶ In the 1970s, more than 90 percent of all energy supply in Denmark was imported oil. In the meantime, the country became a net exporter of electricity and energy technology.

⁷⁷ For developments see C. Martinez-Fernandez et al., "Measuring the Potential of Local Green Growth: An Analysis of Greater Copenhagen", OECD Local Economic and Employment Development (LEED) Working Papers, 2013/01, OECD Publishing, p. 35, 36.



In Denmark, **district heating** was gradually rolled out across Denmark's municipalities in the 20th century. In the capital city, 98 percent of heating demand is ensured by Copenhagen Energy Ltd., owned by the City of Copenhagen, the largest Danish multi-utility (it provides gas, heat, water and waste removal). Its water services serve not only the capital city but also 17 other municipalities in the metropolitan region (from a total of 29 municipalities). In 2005, DONG Energy company was created. It is owned by the city of Copenhagen and it is the leading actor within energy supply and energy efficiency initiatives⁷⁸ while Copenhagen Energy develops resource efficiency in energy, waste and water. Heat and power district heating is now being complemented by the introduction of a novel district cooling system in Copenhagen⁷⁹.

Urban transport. In the capital-city, there are various forms of public transport, which include buses, trains and a relatively new subway metro system. As many other Danish towns, it has a long tradition for cycling policies. In Copenhagen, about 35 percent of the residents are cycling to and from work or school regularly and the 2009 city climate strategy aims by 2015 to have 50 percent of its citizens commuting by bicycle on a daily basis. To facilitate this goal, "cycle super highways" to and from Copenhagen are planned to be build⁸⁰.

In general the municipalities finance both operation and investments via taxes and block grants. The municipalities have the possibility to loan, but the rules are very restrictive and only certain investments can be financed via loans. Large investments such as construction projects should in general be financed via taxes and block grants.

Water costs are almost all covered through water charges, water pricing policy being designed to ensure that the total revenue from water charges does not exceed total costs, including appropriation for investments. The rest of costs are covered through taxes (tax on drinking water for households and tax on wastewater). Water prices have quadrupled in the 1990s. From 2007 to 2008, water expenditures as a percent of the household budget was up just over 6 percent while water consumption has diminished⁸¹.

The coverage of local services is high when considering access to water services. Thus, 90 percent of the population is connected to piped water services. The rest of households are being self served with water but are usually connected to the municipal sewerage network.

In recent years, efficiency potential gain has been seriously addressed. In all municipalities extensive structural changes and efficiency measures have been implemented in recent years.

Recently, the state has tightened control over the local economy, including through tighter sanctions when the agreed framework have been exceeded.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Election participation. Denmark has a tradition of having a high turnout in municipal elections. Thus, turnout for local elections in Denmark is significantly higher than in other European countries. However, it is lower than the parliament elections. In the last municipal elections, the overall turnout has decreased by approximately 4 percent-points. This is the lowest level in a municipal election in Denmark for over 35 years. There is also considerable geographical variation in turnout across the municipalities ranging from 54.4 to 81.1 percent.

Citizen participation. One of the major challenges of the large municipalities is to maintain the high degree of citizen participation and close contact with citizens. GOLD III survey revealed the very importance of the close link with citizens in municipal politics is a very important element in democracy.

Citizen participation remains high, and municipalities do much to involve citizens in decisions. In several municipalities (Viborg for example.) democracy committees were set up shortly after the municipal reform to ensure local democracy. It had among other functions to attend local public meetings where citizen participation was the subject of the meeting.

Municipalities use the civil hearings, where local citizens have the opportunity to attend the hearings and give their opinions. This happens, for example in urban planning and major construction projects. This is used where local councils want the citizens' suggestions on how municipalities can become a better place to live and work.

⁷⁸ According to Danish Energy Agency, the utilities are today core actors in energy efficiency activities and innovation, being responsible for more than half of the annual energy savings. C. Martinez-Fernandez et al., *loc.cit.*, p. 42.

⁷⁹ C. Martinez-Fernandez et al., *loc.cit.*, p. 42.

⁸⁰ C. Martinez-Fernandez et al., *loc.cit.*, p. 39.

⁸¹ Danish Water and Waste Water Association (DANVA), *Water in figures*, Skanderborg, Denmark, www.danva.dk.



Moreover, municipalities' interest organization, LGDK (KL), has over the past years developed several tools and strategies to address the challenges of increasing citizen support and confidence in municipalities and local councils. Examples include "Young Democracy" to make young people more aware of the importance of local politics, because less than half of young people 19-29 years voted in the last municipal elections, and "Democracy 2020" to kick off the debate to increase the total turnout in municipal elections, increasing the number of candidates and the general interest in local politics.

The technological developments challenge municipalities and their relation with inhabitants and may raise the question of whether new tasks should be carried out by local governments to ensure universal affordable access to new technologies and thus to create new platform for their participation in the governance of local services.

Municipal employees constitute 22 percent of all employees in Denmark and 60 percent of all public employees. More generally, working condition and remuneration are laid down by collective agreements negotiated between trade unions and employers' organisation (the so-called 'Danish Model').

4/ The future of basic public services: key challenges existing and emerging

Municipalities and regions are responsible for many of the public tasks that have most impact on people's daily lives. This applies, for example, for nursing homes, prevention and rehabilitation of hospitals, supply, sewers, traffic plans, local business and employment opportunities.

Local and regional politicians therefore have a crucial responsibility for the direction the welfare state will take the coming years.

5/ The EU impact

An analysis from November 2011 shows that 53 percent of the matters dealt with on the municipal councils' meetings are directly or indirectly affected by EU.



Area	43,698 sq km
Population	1,339,928 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“All local issues are resolved and regulated by local authorities, which operate independently in accordance with the law. Responsibilities may be assigned to local authorities only in accordance with the law or with their consent. Expenditures related to the responsibilities assigned to local authorities by law are financed from the state budget.” “Rural municipalities and cities are the units of local self-government. ...” “Local authorities have independent budgets; ... Local authorities have the right, in accordance with the law, to impose and collect taxes and to impose fees.” (Articles 154, 155, 156 of the Constitution)
Politico-administrative division – 1 tier of local self-government	The local communities are the rural municipalities (193 <i>vallad</i>) and cities (33 <i>linnad</i>). Cities and rural municipalities may be divided into city districts (<i>linnaosa</i>) or rural municipality district (<i>osavald</i>) with limited rights to self-governance.
Average density of population Population disparities between municipalities	<ul style="list-style-type: none"> - 31 percent of the population lives in the capital-city - More than 32 percent of the population lives in 18 municipalities having between 10,001-100,000 inhabitants 19 percent of municipalities have less than 1,000 inhabitants - 35,42 percent of municipalities have between 1,001-2,000 inhabitants (8,5 percent of the population) - 27,87 percent of municipalities have between 2,001-5,000 inhabitants (14,95 percent of the population) - 11,06 percent of municipalities have between 5,001-10,000 inhabitants (12,4 percent of the population)⁸² - 49 percent in densely populated areas (at least 500 inhab./km²) - 2 percent in intermediate urbanized areas (100 - 499 inhab./km²) - 50 percent in sparsely populated areas (less than 100 inhab./km²)

After the proclamation of the Republic in 1918, the Constitution of 1920 regulated local self-government. However, after 1940, under Soviet regime, local self-government was basically abolished. Estonia regained independence in August 1991. The restoration of local self-government was already redefined in Local Government Act of November 1989 setting up primary level local authorities in every town and rural district (village soviet, selsoviet).⁸³ On the basis of a decree of 1989, towns, boroughs and rural districts (village soviet, selsoviet) could achieve self-governmental status if they submitted a social-economic development programme and statutes.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The principle of local self-government is consecrated in Article 154 of the Estonian Constitution. According to the law, local government is based on seven principles: the independent and final resolution of local issues, and organisation; mandatory guarantee of everyone’s lawful rights and freedoms in the rural municipality or city; observance of law in the performance of functions and duties; the right of residents of a rural municipality or city to participate in the exercise of local self-government; responsibility for the performance of functions; transparency of activities; provision of public services under the most favourable terms.

The functions of a local government include the organisation, in the rural municipality or city, of social assistance and services, welfare services for the elderly, youth work, the supply of water and sewerage, waste management, public transportation within the rural municipality or city. Also, the functions of a local government include the organisation, in the rural municipality or city, of the maintenance of pre-school child care institutions (Article 6 of Local Government Organisation Act of 1993, as amended between 1994-2009). There have been some minor changes in the last years but the Supreme Court of Estonia declared these changes ‘illusory’ in a ruling of April

⁸² Estonian Population Registry 01.01.2012.

⁸³ This law provided for a two-tier local authority system. Counties and so-called ‘republican towns’ formed the secondary level and towns, boroughs and rural districts (village soviet, selsoviet) the primary level.

The general plan of economic self-management for Estonia (drawn up in 1987, towards the end of the Soviet regime) had as one of its main tenets a bottom-to-top administrative reform.

http://www.einst.ee/factsheets/factsheets_uus_kuju/local_government_reform.htm



2010. So, no real changes produced so far although a draft of law exists stating that the 3rd level of education (high-schools) will be centralised.

As regards the problems in the cooperation with other levels of government, it should be reminded that Estonia has one-tier local government system. So, the problem 'with the other levels of government' can only be with the central government. To this respect, the main problem emphasised by GOLD III survey is the financing.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

The municipalities are in most cases free to choose the management modes of local services. They can intervene themselves, by an internal municipal body (municipal agency – *hallitav asutus*; in case of nurseries, for example), or by a public limited company (AS), or by becoming shareholder of a private company (OÜ) (public transports, water distribution, health institutions)⁸⁴. For the management of solid waste the municipality has to organise a public tender. Contracting out to private sector is widely used in practice, especially in case of technical tasks.

Municipalities have the right to form associations and joint agencies with other local governments on the basis of and pursuant the procedure provided for in legislation⁸⁵ (e.g. waste water, transports, social care).

In Estonia, a small lowland country with many lakes and two large islands, there are three River Basin Districts. Because of the quite polluted water areas higher level of treatment are needed. **Water and waste water** fall within the responsibility of the local authorities and are mainly provided by municipal companies. Sewage treatment plants were installed in 40 percent of towns during the Soviet period. From the 1990s onward, significant upgrading took place so that about 70 percent of all households were connected to municipal sewage treatment by 2005. Nevertheless, the quality of treatment processes must be improved in most areas and significant reconstruction of old sewer pipelines is needed⁸⁶. In the last twenty years, water consumption has halved and water prices have risen many times. Water and wastewater services account for about 1,7 percent of households income (in 2007). Since the 2000s, the private capital (International Water and United Utilities) is present in the company (AS Tallina VESI) providing water and waste water services in the capital city, Tallin; the city continues to hold more than one third percent of company's capital. The funding is mainly ensured by user fees, but large renovation projects are carried out with the help of EU funds.

Rules for organizing **waste** management within local governments are established by a regulation of the local government council. Local governments also design and adopt waste management plans (part of the local government development plan) which relates to the situation of waste management in their territory, objectives for organisation and enhancement of waste management, and measures taken to achieve the objectives. These plans are published in Estonian States Gazette (Riigi Teataja). At national level, the National waste management plans are established and renewed every five years (the first plan was set for years 2003-2007⁸⁷; the current plan covers the years 2008-2013). Regional pay-as-you-throw systems were also introduced.

Local public transport (within the municipality) is the task of the local authority. The service is in most cases privatised (following public tenders) but some municipal companies exist, too. The main funding comes from municipal subsidies. Inter-municipal public transport is organised by the state through public tenders.

Energy is not local competence in Estonia.

Broadband is not local competence. Unlike energy, this is an entirely market-based service.

Childcare is a local competence. Every child between the ages 1 year 6 months and 7 years (until the school-age) has the right to a place in a municipal childcare service. In some municipalities there are big queues and court-cases pending (parents suing municipalities as the municipality is not providing sufficient number of places). Provision is mainly ensured by municipal agencies; buying childcare service from the market is also common.

Elderly care at home (for the elderly who don't have relatives living close to them) is the competence of the local authorities. Municipal social workers from municipal agency are taking care of the elderly.

⁸⁴ A rural municipality or city may found agencies under the administration of rural municipality or city administrative agencies which are not legal persons for the provision of services may be a partner or shareholder in a company of significant importance in the development of the rural municipality or city, may found foundations and be a member of a non-profit association. (Article 35(1) of Local Government Organisation Act 1993, as amended in 1994-2009)

⁸⁵ Article 12 and 62 – Forms of co-operation, Local Government Organisation Act 1993, as amended in 2005 and Local Government Associations Act

⁸⁶ European Environment Agency, *Territorial cohesion and water management in Europe: the spatial perspective*, EEA Technical Report N° 4/2012, p. 45.

⁸⁷ Until 2007 Estonia had three tiered (National, County and Municipal) system of waste plans.



3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

According to the Local self-government organisation Act, at least 1 percent of the citizens of a rural municipality or city with the right to vote (but not less than five citizens) have the right to initiate the adoption, amendment or withdraw of municipal legislation. Municipalities have the right to organise opinion polls concerning essential issues among its citizens. In general, the results of such polls are not binding.

The role of unions in the governance of local services is very marginal as unions are practically non-existent.

4/ The future of basic public services: key challenges existing and emerging

As regards childcare, it is noted that during the last 10-15 years the younger population has been moving from countryside to cities but some cities do not have sufficient number of places at the childcares.

For the 3rd level education, the state is planning centralisations. The basic education is mostly state financed and the state is proposing new measures in order to have more efficiency in the system. This led to bigger classes and closure of smaller schools.

5/ The EU impact

One clear impact of the EU is the requirements for the drinking water quality which Estonia agreed to adopt when joining the EU. The central government transferred this task to municipalities which had to take out number of loans in order to carry out needed constructions/renovations. As there are limits on borrowing local authorities in many cases are not able to develop other services.



FINLAND

Area	337,000 sq km
Population	5,388,272 inhabitants
State structure	Unitary state
Local self-government (<i>itsehallinto</i>) – constitutional provisions	“Finland is divided into municipalities, whose administration shall be based on the self-government of their residents. ... The municipalities have the right to levy municipal tax. ... Provisions on self-government in administrative areas larger than a municipality are laid down by an Act. In their native region, the Sami have linguistic and cultural self-government, as provided by an Act.”(Constitution, Chapter 11, Article 121 (1) – Administration and self-government)
Politico-administrative division – 2 tiers of local self-government	- 19 regions ⁸⁸ plus the autonomous province of the Åland Islands - 320 municipalities (<i>kuntaa</i> , divided in 107 cities – <i>kaupunki, stad</i> - and rural municipalities) ⁸⁹
Average density of population Population disparities between municipalities	- average population per municipality: 16,000 inhabitants - 14 municipalities have less than 999 inhabitants - 70 municipalities have between 1,000 and 2,999 inhabitants - 55 municipalities have between 3,000 and 4,999 inhabitants - 38 municipalities have between 5,000 and 6,999 inhabitants - 29 municipalities have between 7,000 and 8,999 inhabitants - 26 municipalities have between 9,000 and 11,999 inhabitants - 32 municipalities have between 12,000 and 19,999 inhabitants - 36 municipalities have between 20,000 and 49,999 inhabitants - 11 municipalities have between 50,000 and 99,000 inhabitants - 9 municipalities municipalities have over 100,000 inhabitants (1/3 of the population) ⁹⁰ - 63 percent in densely populated areas (at least 500 inhab./km ²) - 14 percent in intermediate urbanised areas (100 - 499 inhab./km ²) - 23 percent in sparsely populated areas (less than 100 inhab./km ²)

Finland and Sweden was one nation up to 1809 and has a long common history of local self-governing going back at least to the Middle Age. The first legislation on local government was first adopted in the 19th century (laws on rural and urban municipalities of 1865 and 1873) and the first constitutional provisions on municipal self-governments were proclaimed by the first Constitution of 1919. However, municipal functions remained limited during the first half of the century. Most public services related to the welfare society were assigned or transferred to the municipalities after 1950 with the state exercising a ministerial tutelage. Municipalities acquired a predominant role in the provision of public services. After 1989, the autonomy of municipalities was consolidated and enlarged by the reduction of the state regulation and control and the reform of state subsidy system and also by granting wider powers to municipalities.⁹¹

Finland is a composite country: some territories and municipalities are densely populated while others are scarced; there is a dichotomy between the country-side and urban areas, between large and small municipalities - most municipalities are small and about two third of them have very large geographical area.

⁸⁸ The members of the Regional Councils are not directly elected, but by the member municipalities. The competences of the Regional Councils are somewhat restricted and they have no powers over or towards the municipalities, except on regional physical planning, and in the participation to the EU -projects.

⁸⁹ In 2012, the Government proposed to divide by three the number of municipalities between 2015 and 2017 (the programme New municipalities 2017) and to implement municipal organisations with various configurations depending on the urban and rural nature of territories and to promote the creation of an infra-municipal level while strengthening municipal competencies, in particular for social services. In this context, the capital-city Helsinki and its surroundings are to be treated differently. Dexia – CEMR, *Subnational public finance in the European Union*, Summer 2012.

The current pace of mergers, launched in 2007 (PARAS programme of municipal services restructuring), has started to gradually reduce the number of municipalities from 431 in 2006 to 336 in 2011.

⁹⁰ Data on December 31, 2012, www.stat.fi

⁹¹ Olli Mäenpää, « Local government in Finland», in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 172.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In Finland, an integral part of public administration rests on the relations between the state and the municipalities, which largely function autonomously. The Article 121 of the Constitution states the principle of autonomy or self administration (*itsehallinto*). On that basis legislation confers important autonomous powers to municipalities and a significant financial independence⁹².

Apart from the domains subject to special laws (special municipal powers), the municipality is very autonomous in its general competence which is not precisely defined by the law. Thus, a municipality may create and manage any activities which are serving the general interest (*public good*)⁹³.

The provision of basic public services is principally a responsibility of local governments. Finnish local authorities provide basic public services for their residents, most importantly services related to education (comprehensive and vocational schools, adult education) and culture, social welfare (child day-care, elderly care and care of disabled, social housing, income support for vulnerable persons, etc.) and health (preventive primary health care, specialist medical care and dental care), environment and maintenance of the technical infrastructure (street and road maintenance, environmental protection), water (including water protection), energy supply and waste management. The “broadband access for all” project launched by the Ministry of Transport and Communications include obligations for municipalities, too. The project is financed by broadband operators, EU, Finnish state and municipalities. Municipalities may also act as a guarantor of the operator’s loan. The Regional Councils are coordinating the project at regional level. Rural areas still remains less connected than urban ones.

According to Chapter 1 section 2 of the Finnish Local Government Act, local authorities shall perform the compulsory functions either alone or in cooperation with other local authorities⁹⁴. Inter-municipal cooperation, mainly under the form of a “joint municipal authority” (cooperation under administrative contract), plays an important role in the provision of public services. Nowadays, 184 such cooperations exist, in most cases created on the voluntary initiative of the municipalities concerned (cooperations are mandatory in the areas of specialist health care and regional planning).⁹⁵ Their activity (about three-quarters in health services) is financed by municipalities. Municipalities may also develop private law cooperations with (e.g. waste) or without (e.g. water supply) setting up private law bodies (companies, cooperatives, associations, foundations). As a rule, municipalities have a major role in both organizing and producing services and appear as an important employer (in some cases, the largest).

Regional councils are not elected; their members are usually councillors in municipalities. Their role is principally related to EU project funding and spatial planning.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Even if the law enables different modes of organisation and management of “public services”, Finland’s geography, with its long distances and fragmented population make this variety less active in practice⁹⁶.

Municipalities can form their own private corporations (e.g. for energy production and distribution, for water and waste) and become part of private organisations; these are frequently owned together by several municipalities. In the 1990s, new market-oriented techniques (management externalisation, PPP, introduction of managerial models in municipal administration) have become more common in managing municipal functions⁹⁷. Therefore, it seems that municipalities became more and more purchasers (from other service providers, other municipalities,

⁹² See for details Tore Modeen, “L’autonomie locale en Finlande”, in *Annuaire des collectivités locales*, 1998/vol. 18/n°1, pp. 167-176

⁹³ Speculative trading activities are not compatible with the functioning of a legal person under public law. Tore Modeen, “L’autonomie locale en Finlande”, in GRALE, *Annuaire des collectivités locales*, 1998/vol. 18/n°1, p. 170.

⁹⁴ They can enter into cooperation agreements or found a separate organisation - a joint municipal authority - to handle their combined affairs. Many of the services are produced jointly with other local authorities. For example, hospitals and many educational institutions are maintained by joint municipal authorities. Finnish local and joint authorities employ nearly 430,000 people, approximately one-fifth of Finland’s workforce. Hannu Koivurinta, op. cit.

⁹⁵ P. 181

⁹⁶ Arto Havery, Jenni Airaksinen, « Inter-municipal cooperation in Finland : old traditions and new promises”, in Rudie Hulst, André van Montfort (eds.), *Inter-municipal cooperation in Europe*, Springer, 2007, p. 45 About 30 percent of municipal employees work in health care, 27 percent in education and culture, 26 percent in social welfare services, 5 percent in municipal enterprises and services, 4 percent in community planning and public works, 4 percent in general administration, 2 percent in real estate, the rest in public order. Nea Heinonen, op. cit., 2006

⁹⁷ Olli Mäenpää, op. cit.



federation of municipalities, public sector organisations, and private providers) rather than producers of their own services. The recent developments show a tendency to make stronger the private provision of “public services”, in particular in the sectors of energy, public transport, day-care, elderly care. Still, most social and welfare services are provided by municipalities and more than half of municipalities’ staff work in social services and health care, which amount to more than 40 per cent of local authorities’ expenditures⁹⁸.

As regards the operation of **water supply**, all households and premises are required to connect to a water supply⁹⁹ and sewerage system organised by waterworks (*vesilaitos*), which are under the supervision of both municipal health and environmental protection authorities and regional authorities. However, municipal engineering and water supply infrastructure are based on city planning, so that those areas outside planning areas and cooperative waterworks’ concession areas are required to build their own wells. The operating range of each waterworks is established by city boards. Water purification is often organised by private law companies owned by several municipalities. These arrangements challenge decision making process (different authorities involved have their own organisation, governance, competences, priorities) because they complexify the coordination between different levels involved. Water and wastewater costs are covered by charges to users (for operation and maintenance), municipalities (most investments costs) and state grants (for a minor part of investments).

The provision of **waste services** - hiring, transport, treatment, recovery and disposal, recycling, hazardous waste produced by households, agriculture, forestry, as well as advice and communication on waste, follow up of the general waste sorting obligation - are tasks of municipalities. The regions have planning competences (e.g. waste dump) in this field. The provision of the different components of the service is often ensured by different operators. In some areas, side-by-side competition in waste collection is used. Waste treatment is in general managed by private law companies owned by several municipalities. Such companies may provide the service for others municipalities, too. Municipalities have the right to collect a waste charge to cover the costs of waste management and related tasks organised by them. The charge must cover investments in treatment plants and their operation costs, besides waste collection. In addition, the charge must encourage waste producers to reduce the amount of waste, to produce less hazardous waste and to recycle waste. The waste charge is determined on the basis of the quantity of waste and differs according to the quality of the waste. Municipalities can issue local general waste management regulations concerning waste collection, sorting, storage, transport, dealing, recovery or disposal, and the technical requirements for them; measures required to prevent hazard or harm to health or the environment; and supervision of waste management. The Ministry of the Environment (MoE) formulates waste management policies, carries out strategic planning (in particular, the national waste plan – 1998-2002, 2005; 2006-2016) and makes decisions in its own sphere of interest. The Finnish Environment Institute SYKE has to take part in preparing the national waste plan and regulations and directives to be issued under the Waste Act. The 15 Centres for Economic Development, Transport and the Environment (ELY Centres) and the six regional state administrative agencies (AVI) also deal with issues related to environment. ELY Centres draw up regional waste plans concerning waste and waste management either separately covering their own area or in co-operation with other centres covering more extensive areas. Regional State Administrative Agencies (AVI) are giving environmental permit decisions. Other environmental permits are dealt with by the municipal environmental protection authorities.

Energy market is liberalised and several companies may be active on local markets. Moreover, although municipalities have merged, the distribution-connections of electricity and their boundaries have not changed so that several companies continue to operate in a municipality’s area. Generally, the large cities have their own energy authority that distributes power to its areas, and some of the bigger ones also generate electricity. In other municipalities, companies owned by several local authorities or private companies. Municipal energy authorities generally supply district heating¹⁰⁰.

Public transport is often provided through contracts with private companies. Larger towns use financial support from city authorities to maintain a high level transport system, while smaller towns and rural areas have a more basic level funded by the state and local authorities.¹⁰¹ In some municipalities, bus companies take care of special transportation services, too (elderly, disabled, children’s school transport living further away from the school).

⁹⁸ *Idem.*

⁹⁹ In 1950, a quart of households were connected to water service compared to 90 percent by 1980.

¹⁰⁰ Council directive (2003/54/EC) concerning common rules for the internal market in electricity has given Member States the possibility to allow grid and supply activities within the same company on condition that the activities are separated. Finland was the only Nordic country that used this possibility.

¹⁰¹ Olli Mäenpää, *op. cit.*, p. 178.



Routes and timetables are approved by the municipality, which is also responsible for bus stops within the boundaries of the municipality, when the bus route is not that of a countrywide route.

Finland has become the first country in the world to make broadband a legal right for all its citizens, entitling them to a one megabit per second broadband connection now, with a 100-Mbit/s connection to become a right by the end of 2015. From 1 July 2010, all Finns are entitled to a one megabit per second (Mbit/s) broadband connection. In 2009, the Communications Market Act had been amended to include Internet access of 1 Mbit/s as part of the universal service obligations and as a legal right. The amendment has become effective in the summer of 2010. Since then, at least 30 countries worldwide (developed and developing) have included broadband as part of their definition of universal service/access. But Finland was the first to take this one step further by recognizing broadband as a universal legal right, a “guaranteed right”. Broadband access is now included in basic communication services, such as telephone or postal services. An estimated 95 per cent of Finland’s population of around 5.3 million is already online. The law means that telecommunication operators recognized as universal service providers must be able to provide every permanent residence and business office with access to “a reasonably priced and high-quality connection with a downstream rate of at least 1 Mbit/s”. The new service obligation does not apply to summer residences. The Finnish Communications Regulatory Authority (FICORA) designated 26 telecommunication operators across Finland as universal service operators. FICORA has set up a website (www.viestintävirasto.fi) for Finnish consumers to check which geographic areas have been assigned a universal service operator for the provision of broadband subscriptions, which may be implemented via fixed or wireless technology. FICORA monitors compliance with this new obligation.

According to the Finnish government, the one megabit goal broadband connection for all Finns is an intermediary step. The government had already decided to make a 100-Mbit/s broadband connection a legal right by the end of 2015. It has launched a broadband project to connect all Finns, including those living in sparsely-populated areas, to the Internet with fast fibre-optic or cable networks by this target date. FICORA explains that the objective of the project is to ensure that nearly all (more than 99 per cent of the population) permanent places of residence and places of business and public administration are no further than two kilometres from a 100 Mbit/s fibre-optic or cable network. Telecommunication operators are expected to construct fast connections in densely-populated areas, where there is demand, on market terms. But assistance will be needed to raise population coverage from 95 per cent to 99 per cent in rural areas. Telecommunication operators will cover at least 34 per cent of the costs. The rest of the costs will be funded by the state (EUR 66 million for the period 2009–2015), municipalities and the European Union’s Rural Development Fund (EUR 24.6 million). Support will be given to projects that are not commercially viable.

Early childhood care services are provided through different municipal levels and units and individuals may receive service from different locations and service points. From the point of view of the practitioners participating to GOLD III survey, this organisation creates coordinating problems (in particular as regards the protection of personal data and privacy).

In the field of **elderly care** no national legislation exists. Services are provided on the basis of the recommendations of the Ministry of Social Affairs and Health so that there is no uniform nationwide approach. The third sector (associations or similar organizations) is active in providing such services. Sometimes it receives subsidies from the central government. Municipalities usually also participate with funds to the costs of services provided by the third sector. Temporal contracts are used sometimes.

Almost the full cost of local utilities is covered by rates charged to users. However, important subsidies are granted for local transport services (e.g. in Jyväskylän city, 50 per cent of the costs for local transport are supported by the municipality), water sanitation, early childhood care, elderly care and other welfare services, to guarantee both an appropriate operation and affordable prices. Municipal tasks related to welfare state services represent about 70 percent of municipal expenditures. Loans are contracted principally for investment expenditures. Both municipalities and the State have the right to raise taxes; at national level taxes are progressive, at local level they are fixed.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In the field of health care, early childhood care (e.g. temporary home help services for families with children, counselling and therapy services for families with children) and elderly care (e.g. temporary home care for seniors and for chronically ill; support services for chronically ill and seniors as regular home care clients; cleaning services and support for taking care of daily running errands using income limits; supported living at home), electronic service vouchers are in use so that these services are generally free of direct charge. Customer gets the service voucher on the basis of assessment of service needs and award criteria.



Different mechanisms are also used to provide services to low-income users or households or those living in informal settlements:

- universal access;
- social (sometimes complementary - *toimeentulotuki*) benefits (e.g. housing benefit - *asumistuki*) for those with limited financial means (e.g. water, electricity, early childhood care);
- protective agreements with cooperative waterworks;
- free of charge access (e.g. sanitation, elderly care);
- affordable statutory public transport services for elderly and disabled (e.g. special transportation to elderly service points);
- moving or transferable services (e.g. elderly care);
- assisted living facilities (e.g. for alcoholics, shelters for mothers and children), etc.

According to Section 14 paragraph 4 (electoral and participatory rights) of the Finnish Constitution, “the public authorities shall promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her.” In practice, users’ participation in the governance of local basic services may take different forms, according to sectors and municipalities: consultative process, open forum discussions, queries, jury of clients (parents of childhood) developing discussions on service’s quality and providing suggestions, councils for the elderly¹⁰², customers jury of elderly¹⁰³, jury of the veteran affairs¹⁰⁴, representation on the boards of utilities companies and of municipal businesses. Residents have the right to propose initiatives in municipal issues and express their views to those in charge of planning and decisions. The representatives elected by local residents remain an important channel to influence municipal decision making in different sectors and matters (through municipal boards, city council). Local authorities provide information on current issues, their progress, decision reached and their effects. City council meetings are open to public. The notice of meeting and the agenda are published on the official bulletin board of the municipality and on its website. The time and place of the meetings are also announced in local media (newspapers), as well as at all city libraries and municipal service points. The confirmed minutes are publicly displayed. The agendas and minutes of city board meetings are also available on the City’s webpage. Local media may also get the minutes of the city council meeting during the same evening the meeting has been held.

Municipalities also organize events on residential areas around the city in order to enhance dialogue between local actors, citizens and the administration of the city. During these events a broad spectrum of services are discussed, according to the interests of the area. During residential events citizens have possibility to give feedback and make a difference on municipal services provided in their neighbourhood. Jyväskylä, for example, also uses citizens’ juries to produce solutions for complicated public issues. In May 2012 a Plan for participation of children and youth in the city of Jyväskylä was approved that also requires the city organization to develop a method of participation for young children by 2015.

Different mechanisms exist to gather and respond to complaints from users: client panels, electronic feedback systems, service inquiries, feedback boxes. Residents have also the right to make an appeal concerning municipal decisions, to propose initiatives in municipal issues and express their views to those in charge of planning and decisions. Patients may seek a change of decision, file an objection concerning a particular service or treatment procedure to the responsible authority, or complain to the supervising authority. In such a case, complaints and objections are handled by municipal social service ombudsmen or health care ombudsmen and by the social and health departments of the State Provincial Offices. Municipal social service ombudsmen also assist clients in seeking changes to decisions and in making complaints. In other fields (e.g. sanitation and elderly care) authorized agent for patients (*potilasasiames*) are bringing the complaints to relevant officials (*potilasturvalaki ja -asiamies*).

A right for the compensation of users in case of service failures is provided for by law, service provider being liable for compensation. Consumer law doesn’t concern public services when services are directly provided by public authorities; it applies when services are produced by private operators.

Employees’ participation in the governance of local basic services mainly takes place in their workplaces and concerns their status and work conditions.

¹⁰² It acts by handing initiatives, discusses affairs currently in the decision-making process and gives statements on planning of services, monitors on how elderly people see the quality, effects and allocation of the services municipality provides.

¹⁰³ A direct channel for elderly care customers to develop services provided, give feedback and discuss current matters on elderly care.

¹⁰⁴ It initializes local affairs concerning veterans, such as rehabilitation, organization of care and recreational activities.



4/ The future of basic public services: key challenges existing and emerging

From the point of view of the public governance, the main coordinating problems seem to appear when several levels of public authorities and regulations are involved in the organisation and management of services (for instance, in case of EU-funding). GOLD III project survey underlined the need to take more into account local conditions (for example in case of national standardization), the need for more dialogue between different levels concerned and flexibility in the rules.

In general, current economic crisis slowdown the municipality's earnings based on the right to levy taxes (local income tax, real estate tax and share of corporate tax) and determined the degradation of the situation of some services or the decrease of their frequency (e.g. in public transport). In this context, maintaining the current condition of supply, and improving or extending the service may be a challenge in some sectors (e.g. water infrastructure, electricity, social services) and/or municipalities. In electricity sector, the economic crisis has affected on industrial production and hence energy demand. In elderly care, as municipality's tax revenues decrease, non-statutory services are removed, subsidies are minimized, processes are refined more productive. In general, the price of financing has reduced through the decrease in interest rates. On the other hand, the economic crisis has ridden organization's financial expenses. In some social fields, there is a need to work more with families, business, users' organizations (e.g. the number of elderly people is increasing, dependency ratio is high). For some elected officials, "the responsibility of families or people themselves should be told more clearly, now it is too heavy obligation for municipalities to organize many services. Child day-care and elderly care services need much developing work and responsibility for families, too."

Municipalities are also facing with the problems of the poor, health problems, higher, longterm and youth unemployment, and social problems associated with exclusion.

Some GOLD III survey respondents acknowledged that there is still an efficiency lack in some fields (e.g. public transport, elderly care) and that not all needs for services are met (e.g. public transport for some categories of users and on rural areas).

5/ The EU impact

EU policies and law created new incentives in some fields and/or municipalities while in others Finnish services appear to be already in line with EU exigencies or not much affected. Thus, in water sector, even though new European water directives have emerged, the Finnish system easily meets these standards and, in general, no integration problems appear. On the contrary, in the sector of waste, collection and treatment and recycle became more important and regulations concerning landfills have been harmonized. If, in general, harmonizing has resulted in additional costs, it has also made comparability possible.

In energy field, climate action and emission regulations have affected the adverse taxes concerning different source of energies and consequently on prices. But EU law tax treatment of different energy sources and fuels changes rather quickly so that large power plants do not have time to react equally fast with corresponding investments. The EU climate policy has caused greatest need for action at the level of local authorities, too.

EU law has had also an impact on producing, purchasing as well as financing basic services at local level for instance through public procurements law and law on guarantees. European rules on public service compensation (state/public aids) have some impact on state aid terms and conditions, loan guarantees and competitive bidding. Nevertheless, it also determined an improved protection of personal data and privacy and has increased the transparency of decision making.

Some respondents emphasized the need of global and European level coordination while preserving a very high level of autonomy to which Finland municipalities are accustomed with. They also consider that the one size fits all solution is not applicable in a country where there are very prosperous highly densely populated urban areas and poor scarced populated rural area and therefore very different abilities as regards the organisation and provision of services. It is considered as being of major importance that municipal organisations are acting at EU level to present their case, to emphasise differences. It is even more important in Finland because the number of municipalities will be reduced in the next 3 or 4 years (from more than 300 municipalities to around 100) and social and health services will be reorganised to encourage integration of primary and specialised health care and also to produce cost savings due to streamlining.



* Please find the French version after the English one here below

Area	552,427 sq. Km
Population	65,4 millions inhabitants in 2012
State structure	Unitary state
Self-government – constitutional provisions	“France shall be a Republic ... It shall be organised on a decentralised basis.” The law shall fix up the “basic principles of ... the self-government (<i>libre administration</i>) of territorial communities, their power and revenue.” “In the conditions provided for by statute, these communities shall be self-governing through elected councils and shall have power to make regulations for matters coming within their jurisdiction.” “Territorial communities shall enjoy revenue of which they may dispose freely in the conditions determined by statute.” “Whenever powers are transferred between central government and the territorial communities, revenue equivalent to that given over to the exercise of those powers shall also be transferred. Whenever the effect of newly created or extended powers is to increase the expenditure to be borne by territorial communities, revenue as determined by statute shall be allocated to said communities.” “Equalisation mechanisms intended to promote equality between territorial communities shall be provided for by statute.” [Articles 1er, 34, 72(3), 72-2 (1), (4), (5) of the Constitution of October 4, 1958]
Politico-administrative division – 3 tiers of local self-government	The country is organised in three levels of territorial communities: - 36,683 communes which are required (by 2013) to join a public establishment of intercommunal cooperation (<i>Etablissement public de coopération intercommunale</i> - EPCI: community of communes - <i>communauté de communes</i> , metropolitan community - <i>communauté d'agglomération</i> , urban community - <i>Communauté urbaine</i>) - 101 counties (Paris is both city and county) - 26 regions The next municipal elections will be held in 2014 and the county and regional elections will be held in 2015. Deconcentrated services of the state are organised into three levels: 339 districts, 100 county circonscriptions and 26 regional circonscriptions.
Density of population (including disparities between municipalities)	- 14,351 municipalities have less than 300 inhabitants - 20,233 municipalities have less than 500 inhabitants - 27,200 municipalities have less than 1,000 inhabitants - 866 municipalities have more than 10,000 inhabitants - 39 municipalities have more than 100,000 inhabitants - 11 municipalities having more than 200,000 inhabitants - 4 municipalities having more than 400,000 inhabitants (Paris, Marseille, Lyon, Toulouse).

Historically, France has build two main reference «models» of organisation of public services: the model of the large national public services (energy, rail, post, telecommunications, etc.) operated by public undertakings where the state played an important role; and the model of local public services, under the jurisdiction of territorial communities (water and sanitation services, waste management, local transportation, school transport, the management of cultural and sport infrastructures, childcare services etc.); their management is ensured directly (by the local community itself) or in house, or delegated to private enterprises or to not-for-profit associations. The delegated management model has been largely developed in some sectors (for instance in water and waste water, waste management and transport). It made possible the development of two main international groups in these sectors (particularly Véolia and Suez Environment). Even if important reforms have been occurred, leading to hybridizations between these two “models”, we are only presenting here some basic services under local jurisdiction.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

According to the case law of the Council of State (*Conseil d'Etat* - the highest administrative court), municipalities enjoy a general clause of competence to act autonomously in all matters of local interest, as far as there is no legal prohibition or explicit power given to other authority¹⁰⁵. Local public services recover in particular: water distribution, sanitation, garbage collection, funeral services, urban heating, public transport of passengers, the

¹⁰⁵ Robert Herzog, « Local Government in France », in Angel-Manuel Moreno (ed.), *Local Government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 197.

construction and maintenance of pre-primary and primary schools. Municipal social services have responsibilities concerning the elderly, nurseries and poor people. They can be described as urban services or daily life services; they are “proximity services”.

The management of local public services are essentially under the jurisdiction of communes or their associations: communities of communes (*communautés de communes*), metropolitan communities (*communautés d'agglomérations*), urban communities (*communautés urbaines*); the counties are responsible for the management of social and solidarity services, interurban and school transportations; the regions have responsibilities regarding vocational training, as well as regional rail transport and the management of regional airports.

Despite the significant diversity of communes and disparities existing between them, in particular in terms of population, all communes own the same administrative structure and the same legal powers and responsibilities (see table below). There is also an important number of intercommunal regroupings exercising responsibilities transferred from their members. In the beginning of 2013, there were 2,456 regroupings with fiscal powers (*groupements à fiscalité propre*). In 2012, there were 1,377 isolated communes (not part of a regrouping); their number has fall to 614 in 2013. Most of them were already subject to a project joining them to an intercommunal association.

Distribution of EPCI with their own fiscal power (at January 1st, 2013)

Category of EPCI with their own fiscal power	Number of EPCI with their own fiscal power	Total of communes regrouped	Total population (in million inhabitants)
Metropoly	1	46	0.54
Urban community (CU)	15	434	7.24
Agglomeration community (CA)	213	4118	25.54
New municipal union (SAN)	4	23	0.25
Communities of communes (CC)	2223	31428	27.32
Total	2456	36049	60.89

Source: DGCL http://www.collectivites-locales.gouv.fr/files/files/Bis_94.pdf

This traditional division of powers and responsibilities is increasingly questioned. Thus, the organisation and regulation of water remains under the jurisdiction of communes or intercommunal associations (*syndicat intercommunal*), while the production of water and sanitation, as well as the distribution for pumping stations are rarely ensured at communal level. Water issues are more and more managed at basin level. In fact, there is almost no public action domain which could be exclusively conferred to only one level of public authority. Whether it is about water, transport, health, security or social services issues, the division and partitioning of powers and responsibilities appear to be more and more inefficient for taking into account the complexity of issues, to bring adapted answers and define strategies. The identification of “leading” authorities for whatever power and responsibility is at the heart of debates in the reform of decentralisation.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

The mode of organisation of local public services is subject to the competence of elected officials (local authority), which can choose between two main management modes, direct management, that is a *régie* or through a local public company, or delegated management that can take two main forms, both having the characteristics of a public law contract, but with different forms of funding: the *delegation* of the public service through concession or lease, where the contractor is paid by the price paid by users for the product or service provided (the concessionaire has several tasks - to construct, maintain and manage a network; the farmer receives an infrastructure to be maintained and managed); *public procurement*, in which the contractor is directly paid by the authority which granted him the realisation of works or services or the acquisition of supplies. In the case of the delegated management, the choice of the operator is made through a competition procedure but the final choice is made by the public authority according to the *intuitu personae* principle (free choice of the undertaking by the public authority on the basis of “trust” existing between them).

A new administrative contract – the “partnership contracts” - was created by the Ordinance n° 2004-559 of June 17, 2004. It is a long term contract by which a legal public person mandates a third person with a global mission concerning the financing, conception, realisation, maintenance, operation and management of material investments (e.g. construction of buildings) or immaterial (IT services) and, if appropriate, with other supplies of services needed in the exercise by the public person of a public service mission under its responsibility. The remuneration comes from fees or rents paid by the legal public person to the private undertaking.



For example, in the field of **urban public transportation** (out of Paris), the part of direct management tend to remain at about 9 percent. Compared to all public transportation networks, direct management mostly concern small networks (in 2005, the 15 – 19 *régies* concern areas of less than 100 000 inhabitants). The organising authorities of bigger networks tend to make use of specialised private providers. The delegated management is largely used by urban, metropolitan or municipal communities and less by communes and mixed associations (*syndicats mixtes*). In all cases in which the operator's remuneration is not "substantially linked to the results of running the service" (Article L. 1411-1 CGCT), the public procurement procedure applies (in 2010, these contracts represented about 9 percent of all contracts). In this case the operator is remunerated principally by the organising authority, which assumes most financial risk of the operation. The use of PPP contract is possible but not used in practice. The contracts of delegation of the management are awarded for an average period of 8 years. They fall into several categories depending of the type and extent of the risk assumed by the parties. Most contracts (74 percent in 2010) are contracts under which the operator bears industrial and commercial risks and the organising authority pays a financial contribution in the form of a lump sum. The concession contracts, in which the operators finance the investment required and bear the associated risks (including the income and cost risks), represent a small percent of all contracts (3 percent). The other contracts take the form of lease (4 percent), management contracts (4 percent) or *régie intéressée* (4 percent).¹⁰⁶

The two main private operators are Keolis, a SNCF subsidiary operating in 13 countries and involved in all urban transportation sectors, and Veolia Transdev formed in 2011 by the merger of the transport branch of Groupe Veolia Environment and a subsidiary of Groupe Caisse des Dépôts. **Dans un accord passé en octobre 2012, les deux groupes ont convenu une prise de contrôle par la Caisse de Dépôts et Consignations du capital de Transdev. Cette prise de contrôle a été approuvée par l'Autorité de la concurrence le 1^{er} octobre 2013 sous réserve de maintien des engagements pris lors de la fusion de Veolia Transport et Transdev en 2010 de céder des actifs en France, dans des départements où leur position menaçait la concurrence**¹⁰⁷.

The organisation of public transport in Île-de-France is subject to specific regulation, which provides the monopoly of the RATP (Autonomous Operator of Parisian Transport) over the supply of public transport (metro, bus and tramway) in Paris and its inner suburbs. According to the legal provisions, current contracts in Île-de-France will continue under rules applicable until 31 December 2024 for road transport services, 31 December 2029 for tramway services and 31 December 2039 for metro services (Article L. 1241-6 of the Transportation Code). In the last 10 years, RATP Dév, a subsidiary of RATP bid for passenger transport procurement contracts outside Île-de-France, in France and in other 12 countries in the world.

In 2011, the GART (the Grouping of authorities in charge of transport) identified 281 urban transport organising authorities composed by one or more municipalities. Each organising authority is responsible for public transport infrastructure, defining the coverage, the frequency, the schedules and the prices of the transportation service.

There are about **29,000 water services** in France: 12,300 for drinking water distribution and 16,700 for sanitation. Drinking water supply is largely ensured through a delegated management: 39 percent of all drinking water services representing 72 percent of all users served by such services in 2007. Collective sanitation management is also more and more conferred to private operators: 24 percent of all sanitation services representing 55 percent of users served in 2007¹⁰⁸. However, the largely dominant trend towards delegated management tends to reverse.

The service manager, be it a legal public, private or mixed person, enjoy a territorial monopoly (on a certain area) for the management of the service and a temporal monopoly (for a certain period of time), but the public authority remains the owner of infrastructures.

The delegated management of the public service is a French creation, which is spreading in many countries. It was presented by the World Bank as the "French public service". It has several advantages: it allows attracting private investment during difficult budgetary situations; it offers the possibility of integrating the conception, operation and maintenance of an infrastructure or a service; it allows substituting business logic to administration constraints. At the same time, these advantages have negative consequences.

Increased technical degrees, the diversification of needs and the autonomy of elected authorities reinforced by the decentralisation led to a movement of vertical and horizontal integration and the creation of two large groups (*Compagnie générale des Eaux* that became *Vivendi*, then *Véolia-Environnement*, *Société Lyonnaise des Eaux-Suez*, that became *Suez-Environnement*, subsidiary of *GDF-Suez*)¹⁰⁹.

This situation leads to profound asymmetries. Firstly, between these two large groups which have strong technical and financial capacities and the 36,000 communes **dont la plupart** with reduced capacity of control and

¹⁰⁶ GART, *L'année 2010 des transports urbains hors Île-de-France*, www.gart.org

¹⁰⁷ http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=482&id_article=2253

¹⁰⁸ Source « La politique publique de l'eau en France » Ministère de l'écologie 2011.

¹⁰⁹ Pierre Bauby, « Les deux « majors » françaises de l'eau : une « valse à trois temps » (intégration, internationalisation, environnement) », in Graciela Schneier-Madanés, *L'eau mondialisée. La gouvernance en question*, La Découverte, 2010 ?, p. 91-107.



negotiation because of *leur petite taille*, their modest human resources and their financial dependency from the state¹¹⁰. A structural asymmetry of information and competencies is obvious, as well as an unequal balance of powers to the detriment of local authorities. It is in particular this asymmetry and the important concentration of markets that led several territorial communities to consider and lead a return to public management of these services (see focus below).

Inequality also exists between the managers of the services and their clients. The later are a type of captive customers: they cannot choose the provider of the service, the later having a territorial and temporal monopoly leading to rents; they have a very limited capacity to negotiate the price of the service; they can be subject to unfair contractual terms. However, improvements appeared in the last years to reinforce the previous information available to consumers and the readability of invoices.

The service is financed though prices only in the field of water and sanitation (“water pays water”); despite the legal obligation to install individual metering, in case of collective housing the price of the service is part of collective charges and therefore it is difficult to be identified. Other services are either financed through taxes (but, in such a case, only the tax garbage collection is individualised) or through a participation of users, for example for public transportation.

A series of reforms of the delegated management modes have occurred since 1990 to prevent corruption and implementing a public funding of the French political life, which rests on the accompanying of the delegation of public service for a long time. The Sapin law on the prevention of corruption and the reinforcing of the competition and transparency (1993), and Barbier and Mazeaud laws concerning the improving of the transparency (1995), aiming in particular at the development of incentive mechanisms and a reinforcement of the place of users in the mechanisms of regulation, have given more orientation, control and regulation tools to organising authorities, whether it is about reinforcing competition, improving transparency or creating expertise means to their disposal. Nevertheless, the structural asymmetry of information and competencies between delegator and delegate cannot fully disappear. In some cases returns to public management were decided (for water, Grenoble, 1994; Castres, 2003; Cherbourg, 2005; Paris, 2010); in others, organising authorities acquired a critical size allowing them to better exercise their role; the more efficient examples are maybe those where organising authorities have decided to grow their expertise by managing directly the basic services on a part of their territory (e.g. Nantes metropolis).

At the same time, direct management can be subject to asymmetries between the entity in charge of the service and the public authority. The legal and unlimited in time monopoly can also lead to the existence of rents which can be monopolized and diverted by the entity concerned, or its staff, or for other purposes than public services objectives.

There is no systematic proven superiority of one management mode on another. It seems essential to guarantee to each public authority the free choice of the management mode and to allow reversibility.

In France, municipalities and inter-municipal entities (2,599 communities – of 3 types: *communautés de communes*, for rural municipalities and small cities, *communautés d’agglomération*, for larger cities, *communautés urbaines*, for metropolitan cities - and 15,099 *syndicats* – technical unions; they embrace 95,5 percent of municipalities) represent more than 55 percent of the total expenses of local government, while departments amount to 32 percent and regions to 13 percent. All together, the three tiers of local governments represent nearly 22 percent of all public governmental expenses (including central administration and social security) and 70 percent of public investment expenses (46 milliards d’euros en 2011).¹¹¹

Focus on the phenomenon of return to public management. This phenomenon essentially appeared in water and sanitation sectors; it also exists in the field of transportation and the management of cultural equipments. It was initiated in the beginning of the 2000s, and it concerned between 2009 and 2012 more than 2.8 new inhabitants. Between 2004 and 2012, the population served in public management has passed from 28 percent to 34 percent. This trend could be accentuated in the next years. In fact, almost 10,000 contracts of public service delegation in the field of water and sanitation were accounted, representing on average about 800 contracts ending each year. Following the “Oliver” case law of the French Council of State which allow shortening the completion of certain contracts, this number will increase with several hundreds new contracts by 2015. The reasons of a return in public management are often diverse and multiples: political choice, coherence of the management modes, effects of the cancellation of contracts, contentious with the delegate, lack of competition... as well as evolving factors. Commitment to transparency, control of price and quality of the service are sought.

Focus on the development of local public companies. We observe a certain renewal of the modes of public management, influenced in part by European developments, such as the recognition of the in house management (quasi *regie*). It is, for example, the case of local public companies (*sociétés publiques locales* - SPL) whose development rest on the Law of May 28, 2010. The SPL have the statute of a limited company which act for their public shareholders in the framework of integrated supplies and because of that they are qualified as quasi-*régies*

¹¹⁰ Robert Herzog, *loc. cit.*, p. 193.

¹¹¹ Robert Herzog, *loc. cit.*, p. 193, 210.



or, according to the language of the European Commission, “in house”. Their field of intervention is quite large, according to the powers and responsibilities of territorial communities which own them: transport, water, sanitation, funeral services, etc.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

The evolutions that mark French local public services are not only focus on the management modes, already more opened to private operators, but they also concern the modes of operation, financing, cooperation (sharing, relationships with not-for-profit providers) to ensure their implementation and to answer to the needs of the population and other actors of their territory. They are subject to evolutions and constraints which make their implementation difficult: increasing needs of services (e.g. ageing population, high fertility rate), growing budgetary constraints, rise of private operators in some sectors. At the same time, Community rules require clear definition of objectives of each public service and of the public service obligations. Thus, the Europeanization of public services corresponds to a transformation of scale in France, which affects both management bodies, operating and financing modes. The evolution has certainly not come to an end in all sectors, but approaches implemented until now had transversal effect: on the one hand, liberalisation and competition, and on the other hand, the definition of public service or universal service obligations, form the architecture of the new organisation of local public services.

To reinforce the role of users, Consultative Commissions of Local Public Services have been created by the law of 1992; they have been revived by the Law of February 27, 2002 on the democracy of proximity. These commissions should allow public services users to obtain information on the effective operation of public services, to be consulted on some measures regarding their organisation and give opinions on necessary adaptations. On that basis, the communes having more than 10,000 inhabitants, intercommunal establishments having more than 50,000 inhabitants and “mixed unions” (*syndicats mixtes*) having at least one commune having more than 10,000 inhabitants have to create a consultative commission of local public services which must be consulted before any public service delegation, and any project aiming at the creation of an administrative or industrial and commercial public service to be managed either through delegated management or through a *régie* having legal personality and financial autonomy.

More generally, whatever the mode of management (public, private, mixed or conferred to not-for-profit entities) decided by the public authority which defines the objectives and missions of the public service, the question regarding public service evaluation control and regulation is raised.

Despite the existence of bodies and procedures of social dialogue at the level of each enterprise or branch or even, with some specificity, in the framework of the public service branches (state, territorial and hospital public service), social dialogue is not traditionally considered as the main asset of the French system. Its absence, or at least its weaknesses, is on the contrary presented as one of its main deficiencies. It is also true that social dialogue usually intervenes after the configuration of an opposition, in general under the form of a strike and it is difficult to be effectively institutionalised.

Thus, some sectoral texts – the law of August 21, 2007 on social dialogue and the continuity of the public service in the scheduled passengers land transport; the law of August 20, 2008 creating a minimum fostering service in the primary school – created a procedure of social warning, asking unions and public powers to negotiate before the implementation of a strike notice. Still, it is too early to evaluate the effectiveness of such a mechanism, but it does not seem to have radically altered national practices. Progress can still be expected in this field, allowing building a genuine institutionalisation of the social dialogue in public services, with participation of users.

4/ The future of basic public services: key challenges existing and emerging

In the last 30 years, France has faced a real decentralisation of competences that were traditionally under the competence of the state. Consequently, the autonomy of territorial communities has grown. This decentralisation, initiated by the state, resulted in a transfer of powers and therefore in important responsibilities towards territorial communities, in particular responsibilities in the social field towards counties. This has a strong impact on local budgets as the transfers of competences were not always accompanied by the appropriate fiscal transfer. But the decentralisation was led by the state and was based on its will to renounce to some responsibilities, in particular in the social field, by charging territorial communities while favouring the role of elected officials without the significant intervention of citizens and civil society.

A new step of decentralisation (called Act III) was proposed to be adopted between 2013 and May 2014. This reform aims at answering to the multiple current issues: democratic issues, efficiency issues and clarification in the implementation of politics under the jurisdiction of different levels of territorial communities, issues regarding the funding of territorial communities and local policies and the relation with the central state.

Otherwise, this reform is part of a national context aiming at reducing public deficits. Therefore, this new step of decentralisation follows the requirement of greater efficiency of public spending at new local level.



Proposals, included in three draft laws, were presented by the central government on April 10, 2013. The reinforcement of the “blocs of competences” according to the type of communities, the designation of a leading authority in some fields (the regions in the field of economic development and organisation of transportation, the counties in the field of social action and development, digital planning, the communes in the field of air quality, sustainable mobility) figure among the tools which should lead to a better governance between territorial communities, as well as between territorial communities and the state. It is the same as regards the implementation of territorial conferences of the public action in each region, as framework of discussion and reinforcement of the coherence of the action of different levels of territorial communities and the state. A pact of territorial governance will be discussed within the framework of such conferences and then implemented through organising schema which will define the local modalities of exercise of each competence.

5/ The EU impact

The relationship between the European construction and the implementation of public services, in particular local and regional services, became an emblematic as well as sensitive subject of the relationship between Europe and its territories. Many local public services were and continue to be naturally impacted by the application of sectoral European regulations on the protection and improvement of environment. It is particularly the case of directive in the field of drinking water and waste water and in the field of waste management.

Besides, European law evolutions were often sought as questioning principles, such as the principle of free administration of local communities.

After 2004 and the adoption by the European Commission of the White Paper on SGI, the pace of debates on the place of public services in the community law was accelerated as well as its impact on the organisation, implementation and funding of public services at local and regional level. It is in particular the case of the provisions on public procurement, as well as of norms concerning the funding of public service missions impacting traditional modes of cooperation, in particular with the not-for-profit sector.

Several initiatives of the European Commission, such as the calling into question of modalities of the intercommunal cooperation in France in view of rules of public procurement as well as uncertain case law of the Court of Justice of the EU have made more complex this file. They were perceived by local and regional elected as progressively calling into question their prerogatives in the field of organisation, implementation and funding of local public services they are responsible for.

The enter into force of the Lisbon Treaty on 1st December 2009 has relaunched political debates since its provisions recognise the role of public services in the European project, the large discretionary power of local public authorities in the organisation and financing of public services (Protocol 26) and offer a legal basis for the adoption of one or several European regulation (Article 14 TFEU). These provisions as well as those recognising local and regional autonomy and reinforcing the subsidiarity principle should allow ensuring a better balance between European objectives, rules and the principles of competition and the specificities of local and regional public services.

Without having drawn, for the moment, the consequences of the provisions of the treaty, the European Commission has been heard some claims of territorial communities in favour of a simplification of Community provisions regarding the funding of public service missions in the framework the adoption of ‘Almunia package’. Still, the interpretation and the application of these provisions remain complicated for territorial communities and their partners, in particular for the not-for-profit ones.

Local and regional French elected officials call for a more transversal consideration of the place of public services in the European project and of European policies regarding internal market and competitions and more generally in the realisation of the objectives of Europe 2020 strategy which establishes ambitious objectives for the fight against poverty, access to employment, and whose realisation require quality public services, accessible to all. Therefore, this strategy will frame all European policies such as the cohesion policy whose intervention towards local public services should be reinforced.



Superficie	552.427 km ²
Population	65,4 millions d'habitants en 2012
Structure de l'Etat	Etat unitaire
Autonomie locale – dispositions constitutionnelles	“La France est une République ... Son organisation est décentralisée”. “La loi détermine les principes fondamentaux ... de la libre administration des collectivités territoriales, de leurs compétences et de leurs ressources.” “Dans les conditions prévues par la loi, ces collectivités s'administrent librement par des conseils élus et disposent d'un pouvoir réglementaire pour l'exercice de leurs compétences.” “Les collectivités territoriales bénéficient de ressources dont elles peuvent disposer librement dans les conditions fixées par la loi.” “Tout transfert de compétences entre l'État et les collectivités territoriales s'accompagne de l'attribution de ressources équivalentes à celles qui étaient consacrées à leur exercice. Toute création ou extension de compétences ayant pour conséquence d'augmenter les dépenses des collectivités territoriales est accompagnée de ressources déterminées par la loi.” “La loi prévoit des dispositifs de péréquation destinés à favoriser l'égalité entre les collectivités territoriales.” [Articles 1er, 34, 72(3), 72-2(1), (4) (5) de la Constitution de 4 octobre 1958]
Division politico-administrative – 3 niveaux de collectivités territoriales	- 36.683 communes qui doivent être associées à un <i>Etablissement public de coopération intercommunale</i> - EPCI: <i>communauté de communes, communauté d'agglomération, communauté urbaine</i> - 101 départements (Paris exerce la fonction de ville et de département) - 26 régions Les prochaines élections municipales auront lieu en 2014 et les élections départementales et régionales en 2015. Les services déconcentrés de l'Etat sont organisés en trois niveaux : 339 districts, 100 circonscriptions départementales et 26 circonscriptions régionales.
Densité de la population Disparités de population entre municipalités	- 14.351 communes ont moins de 300 habitants - 20.233 communes ont moins de 500 habitants - 27.200 municipalities have less than 1 000 habitants - 866 communes ont plus de 10 000 habitants - 39 communes ont plus de 100 000 habitants - 11 communes ont plus de 200 000 habitants - 4 communes ont plus de 400 000 habitants (Paris, Marseille, Lyon, Toulouse).

La France a construit dans son histoire 2 grands “modèles” de référence d'organisation des services publics: celui des grands services publics nationaux (énergie, chemins de fer, postes, télécommunications, etc.) confiés à des entreprises publiques avec un rôle essentiel de l'Etat ; celui des services publics locaux, de la compétence des collectivités territoriales (services d'eau et d'assainissement, gestion des déchets, transports locaux, transports scolaires, gestion des équipements culturels, sportifs, accueil de la petite enfance, etc.) dont la gestion est soit assurée en régie (c'est-à-dire par la collectivité elle-même), soit déléguée à des entreprises privées ou encore à des associations à but non lucratif. Ce modèle de gestion déléguée, largement répandu dans certains secteurs (par exemple l'eau et l'assainissement, la gestion des déchets ou les transports) a notamment permis le développement de deux grands groupes d'envergure internationale dans ces secteurs (en particulier Véolia et Suez-Environnement). Même si d'importantes réformes sont intervenues, conduisant à des hybridations entre ces deux « modèles », nous n'aborderons ici que certains services de base de compétence locale.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

Les communes jouissent de la clause générale de compétence pour agir de manière autonome dans toutes les affaires d'intérêt local, s'il n'existe pas d'interdiction légale ou de compétence explicite conférée à une autre autorité¹¹². Les services publics locaux recouvrent essentiellement la distribution de l'eau, l'assainissement, la collecte des ordures ménagères, le service des pompes funèbres, le chauffage urbain, les transports collectifs de voyageurs la construction et l'entretien des écoles maternelles et primaires ; municipal social services have competence concerning the elderly, nurseries and poor people. On peut les qualifier de services urbains ou de services de la vie quotidienne ; ce sont des « services de proximité ».

La gestion des services publics locaux relève pour l'essentiel de la compétence des communes ou de regroupements de communes : communautés de communes, communautés d'agglomérations, communautés

¹¹² Robert Herzog, « Local Government in France », in Angel-Manuel Moreno (ed.), *Local Government in the Member States of the European Union : a comparative legal perspective*, INAP, 2011, p. 197.



urbaines ; les départements sont compétents en matière de gestion des services sociaux et de solidarité, de transports interurbains et de transports scolaires, les régions sont compétentes en matière de formation professionnelle, mais aussi de transports ferroviaires régionaux, de gestion des aéroports régionaux.

Malgré la grande diversité des communes et leurs fortes disparités, notamment en termes de population, toutes les communes possèdent la même structure administrative et les mêmes compétences légales (voir le tableau ci-dessus). Il existe aussi un nombre important de regroupements intercommunaux qui gèrent des compétences transférées par leurs communes membres. Début 2013, on dénombre 2 456 groupements à fiscalité propre. Alors que les communes isolées étaient au nombre de 1377 voici un an, elles sont 614 aujourd’hui. La plupart de celles-ci ont déjà fait l’objet d’un projet de rattachement à une intercommunalité.

Répartition des EPCI à fiscalité propre (au 1^{er} janvier 2013)

Catégorie d’EPCI à fiscalité propre	Nombre d’EPCI à fiscalité propre	Total des communes regroupées	Population totale (en millions d’habitants)
Métropole	1	46	0.54
Communauté urbaine (CU)	15	434	7.24
Communauté d’agglomération (CA)	213	4118	25.54
Syndicat d’agglomération nouvelle (SAN)	4	23	0.25
Communautés des communes (CC)	2223	31428	27.32
Total	2456	36049	60.89

Source: DGCL http://www.collectivites-locales.gouv.fr/files/files/Bis_94.pdf

Mais ce découpage traditionnel de compétences est de plus en plus remis en cause...; ainsi, l’organisation-régulation de l’eau reste de la compétence de la commune ou du syndicat intercommunal, alors que la production et l’assainissement, voire la distribution pour les stations de pompage, ne sont plus, dans la plupart des cas, assurés au niveau communal. Les questions de l’eau sont de plus en plus appréhendées au niveau des « bassins ». En fait il n’existe plus de domaines de l’action publique dont la compétence puisse être confiée exclusivement à un seul niveau de décision. Qu’il s’agisse des enjeux de l’eau, des transports, de la santé ou de la sécurité et des services sociaux, le découpage et le cloisonnement se révèlent de plus en plus inefficaces à prendre en compte la complexité des enjeux, à apporter des réponses adaptées et à définir des stratégies. L’identification de collectivités qui seraient « chef de file » pour telle ou telle compétence est au cœur des débats sur la réforme de la décentralisation.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Le mode d’organisation des services publics locaux relève de la décision des élus, qui ont le choix entre deux grands modes de gestion, la gestion directe, c’est-à-dire la régie ou par une société publique locale, ou la gestion déléguée qui peut prendre essentiellement deux formes, revêtant toutes deux le caractère d’un contrat de droit public, mais différant notamment quant à leur mode de financement : la délégation de service public et la concession ou l’affermage, dans lesquels le titulaire du contrat est rémunéré par le produit du prix du service payé par l’usager (le concessionnaire a pour mission la construction, l’entretien et la gestion d’un réseau, le fermier reçoit un ouvrage déjà constitué qu’il doit entretenir et gérer) ; le marché public, dans lequel le titulaire du contrat est rémunéré directement par la collectivité qui lui a confié la réalisation de travaux ou services ou l’achat de fournitures. En cas de gestion déléguée, le choix de l’opérateur s’effectue à l’issue d’une procédure de mise en concurrence, mais le choix final appartient à l’autorité publique selon le principe de l’« *intuitu personae* » (libre choix de l’entreprise par le titulaire de l’autorité publique, sur la base de la « confiance » existant entre eux).

Un nouveau contrat administratif a été instauré par l’ordonnance n° 2004-559 du 17 juin 2004 qui instaure les « contrats de partenariat ». Le contrat de partenariat est défini comme un contrat de longue durée par lequel une personne publique confie à un tiers une mission globale relative au financement, à la conception, la réalisation, l’entretien, l’exploitation ou la gestion d’investissements matériels (ex : construction d’un bâtiment) ou immatériels (ex : services informatiques) et, le cas échéant, à d’autres prestations de services concourant à l’exercice par la personne publique de la mission de service public dont elle est chargée. Les modalités de rémunération se caractérisent par le paiement d’une redevance ou d’un loyer par la personne publique au bénéfice de l’entreprise privée.

A titre d’exemple, dans les transports publics urbains de province en France, la part de la gestion directe tend à se stabiliser aux environs de 10%. Par rapport à l’ensemble des réseaux de transport public, la gestion directe concerne plutôt les petits réseaux (15 sur les 19 régions enregistrées en 2005 concernent des cas de moins de



100 000 habitants). Pour les réseaux plus gros les autorités organisatrices tendent à recourir à un prestataire privé spécialisé. Les communautés (urbaine, d'agglomération, de communes) délèguent fortement, les communes et les syndicats mixtes, moins. Dans tous les cas pour lesquels la rémunération n'est pas substantiellement liée aux résultats de l'exploitation du service (Article L. 1411-1 CGCT), la procédure de marché public s'applique (en 2010, ces contrats ont représenté environ 9% de l'ensemble des contrats). Dans ce cas, l'opérateur est rémunéré principalement par l'autorité organisatrice, qui assume la plupart des risques opérationnels. L'utilisation des contrats de PPP est possible mais ils ne sont pas utilisés dans la pratique. Les contrats de délégation de gestion sont octroyés pour une période moyenne de 8 ans. Ils sont de plusieurs catégories en fonction des types et de l'envergure des risques assumés par les parties. La plupart des contrats (74% en 2010) sont des contrats dans lesquels l'opérateur assume les risques industriels et commerciaux et l'autorité organisatrice paie une contribution financière sous la forme d'un montant forfaitaire. Les contrats de concession, dans lesquels l'opérateur finance les investissements nécessaires et supporte les risques associés (y compris les risques liés aux revenus et aux coûts) représentent une petite partie de l'ensemble des contrats (3%). Les autres contrats sont des contrats d'affermage (4%), de gestion (4%) ou de régie intéressée (4%).¹¹³

Les deux opérateurs privés principaux sont Keolis, une filiale de SNCF qui opère dans 13 pays et dans tous les secteurs de transport urbain, et Véolia Transdev, qui a été constitué en 2011, par la fusion de la branche transport du Groupe Véolia Environnement et d'une filiale du Groupe Caisse des Dépôts. Dans un accord passé en octobre 2012, les deux groupes ont convenu une prise de contrôle par la Caisse de Dépôts et Consignations du capital de Transdev. Cette prise de contrôle a été approuvée par l'Autorité de la concurrence le 1^{er} octobre 2013 sous réserve de maintien des engagements pris lors de la fusion de Veolia Transport et Transdev en 2010 de céder des actifs en France, dans des départements où leur position menaçait la concurrence¹¹⁴.

L'organisation du transport public en Ile-de-France fait l'objet d'une réglementation spéciale, qui prévoit le monopole de la RATP (Régie autonome des transports parisiens) pour la fourniture du transport public (métro, bus et tramway) dans Paris et ses banlieues proches. Les dispositions légales prévoient que les contrats actuels dans l'Ile-de-France vont continuer dans le cadre du régime légal actuel jusqu'au 31 décembre 2024 pour les services de transport routier, jusqu'au 31 décembre 2029 pour les services de tramway et jusqu'au 31 décembre 2039 pour les services de métro (Article L. 1241-6 du Code des transports). Au cours des dix dernières années, la RATP Dév, filiale de la RATP, a participé avec des offres pour des contrats de marchés publics de transport des passagers hors Ile-de-France, en France et dans 12 autres pays dans le monde.

En 2011, le GART (Groupement des autorités responsables de transport) a identifié 281 autorités organisatrices de transport composées d'une ou plusieurs municipalités. Chaque autorité organisatrice est responsable de l'infrastructure de transport public, de la définition de la couverture, de la fréquence, des horaires et des prix du service de transport urbain.

En France, on compte environ 29 000 services des eaux : 12 300 pour la distribution de l'eau potable et 16 700 pour l'assainissement. La distribution de l'eau potable est majoritairement assurée en gestion déléguée : 39 % des services d'eau potable représentent 72 % des usagers desservis en 2007. L'assainissement collectif est également de plus en plus souvent confié à des opérateurs privés : 24 % des services d'assainissement représentent 55 % des usagers en 2007¹¹⁵ également. La tendance largement dominante de la gestion déléguée tend toutefois à s'infléchir.

Le gestionnaire du service, qu'il soit personne publique, privée ou mixte, dispose pour la gestion du service d'un monopole territorial (sur une zone donnée) et temporel (pendant une période de temps déterminée), mais l'autorité publique reste propriétaire des infrastructures.

La gestion déléguée du service public est une invention française, qui se répand aujourd'hui dans de nombreux pays et qui a été présentée par la Banque mondiale comme le « service public à la française ». Elle présente des avantages : elle permet, dans des situations budgétaires difficiles, de recourir à l'investissement privé ; elle offre la possibilité d'une intégration de la conception, de la réalisation et de la maintenance d'une infrastructure ou d'un service ; elle permet de substituer une logique d'entreprise aux contraintes de la gestion administrative. Cependant, ces avantages ont des conséquences négatives.

L'accroissement de la technicité, la diversification des besoins, ainsi que l'autonomie des élus locaux renforcée par la décentralisation ont débouché sur un mouvement d'intégration verticale et horizontale et sur la constitution de deux grands groupes (*Compagnie générale des Eaux* devenue *Vivendi*, puis *Véolia-Environnement*, *Société Lyonnaise des Eaux-Suez*, devenue *Suez-Environnement*, filiale de *GDF-Suez*).¹¹⁶

¹¹³ *Idem*.

¹¹⁴ http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=482&id_article=2253

¹¹⁵ Source « la politique publique de l'eau en France » Ministère de l'écologie 2011.

¹¹⁶ Pierre Bauby, « Les deux « majors » françaises de l'eau : une « valse à trois temps » (intégration, internationalisation, environnement) », in Graciela Schneier-Madanes, *L'eau mondialisée. La gouvernance en question*, La Découverte, 2010 ?, p. 91-107.



Cette situation débouche sur de profondes asymétries. Tout d'abord, entre ces grands groupes qui disposent de capacités techniques et financières fortes, et de l'autre, les 36 000 communes dont la plupart ont des capacités de négociation et de contrôle réduites du fait de leur petite taille, de ressources humaines réduites et de la dépendance financière de l'Etat¹¹⁷. L'asymétrie structurelle des informations et des compétences est patent et le rapport de forces est fortement inégal, au détriment des collectivités locales. C'est en particulier cette asymétrie et la forte concentration du marché qui ont poussé plusieurs collectivités territoriales à envisager et conduire le retour à une gestion en régie de ces services (cf. focus).

L'inégalité existe également entre les gestionnaires des services et leurs clients. Ces derniers sont le type même de la clientèle captive : ils n'ont pas le choix du prestataire de service, ce dernier disposant d'un monopole territorial et temporel, débouchant sur l'existence d'une rente ; ils n'ont qu'une capacité très restreinte pour négocier le prix du service ; ils peuvent se voir imposer des clauses abusives. Des améliorations sont cependant intervenues depuis quelques années pour renforcer l'information préalable des consommateurs et la lisibilité des factures.

Le service n'est financé par un prix que dans le cas de la distribution de l'eau et de l'assainissement, et encore ce prix n'est-il pas facilement identifiable dans le cas de l'habitat collectif puisque souvent il figure dans les charges locatives, même si la loi impose des compteurs individuels. Les autres services locaux sont financés soit par la fiscalité qui n'est individualisée que pour la taxe d'enlèvement des ordures ménagères, soit par une participation des usagers, par exemple pour les transports publics.

Une série de réformes des modes de délégation sont intervenues depuis 1990, afin d'éviter les risques de corruption et de mettre en place un financement public de la vie politique française, qui avait reposé pendant une période sur l'accompagnement de la délégation de service public. La loi Sapin de prévention de la corruption et de renforcement de la concurrence et de la transparence (1993), les lois Barnier et Mazeaud d'amélioration de la transparence (1995), le développement de mécanismes incitatifs, un renforcement de la place des usagers dans les mécanismes de régulation, etc., ont donné davantage de moyens d'orientation, de contrôle et de régulation aux autorités organisatrices, qu'il s'agisse du renforcement de la concurrence, de l'amélioration de la transparence ou de la création de moyens d'expertise à leur disposition, sans qu'il soit possible de faire totalement disparaître l'asymétrie structurelle d'informations et de compétences entre déléguant et délégataire. Dans certains cas sont intervenus des retours à la gestion publique (pour l'eau, Grenoble, 1994 ; Castres, 2003 ; Cherbourg, 2005 ; Paris, 2010) ; dans d'autres, les autorités organisatrices ont acquis une taille critique leur permettant de mieux exercer leur rôle ; les exemples les plus efficaces sont peut-être ceux pour lesquels les autorités organisatrices ont d'autant plus de moyens d'expertise qu'elles opèrent directement les services sur une partie de leur territoire (cf. Nantes Métropole).

Pour autant, la gestion directe peut elle aussi faire l'objet d'asymétries entre l'entité qui est en charge du service et l'autorité publique. L'existence d'un monopole légal atemporel débouche lui aussi sur l'existence d'une rente pouvant être accaparée ou détournée par l'entité concernée, ou ses personnels, ou pour d'autres finalités que le service public.

Il n'existe pas de supériorité avérée et systématique d'un mode de gestion sur l'autre. Il semble essentiel de garantir la liberté de choix du mode de gestion par chaque autorité publique et d'en permettre la réversibilité.

En France, les municipalités et les entités intercommunales (2599 communautés - de trois types : *communautés de communes*, pour les communes rurales et les villes de petite taille, *communautés d'agglomération*, pour les villes de plus grande taille, *communautés urbaines*, pour les villes métropolitaines – et 15 099 syndicats – syndicats techniques ; ils regroupent 95,5% des communes) représentent plus de 55% des dépenses totales des autorités locales, alors que les départements représentent 32% et les régions 13%. Dans leur ensemble, les trois niveaux de collectivités territoriales représentent presque 22% de l'ensemble des dépenses publiques (y compris l'administration centrale et la sécurité sociale) et 70% des dépenses pour les investissements publics (46 milliards d'euros en 2011)¹¹⁸.

Focus sur le phénomène de retour à la gestion publique. Essentiellement constaté dans le secteur de la gestion de l'eau et de l'assainissement, ce phénomène existe également dans des secteurs comme les transports ou la gestion d'équipements culturels. Initié au début des années 2000, le retour en gestion publique a concerné plus de 2,8 millions d'habitants supplémentaires entre 2009 et 2012. Pour l'eau potable, la population desservie en gestion publique serait passée de 28% à 34% entre 2004 et 2012. Cette tendance pourrait s'accroître dans les prochaines années. On comptabilise en effet près de 10 000 contrats de délégation de service public dans le domaine de l'eau et de l'assainissement, représentant de l'ordre de 800 contrats arrivant à échéance chaque année en moyenne, mais ce chiffre augmentera d'ici 2015 de plusieurs centaines à la suite d'un arrêt du Conseil d'Etat (« arrêt Olivet »), qui va conduire à écourter la fin de certains contrats. Les raisons d'un retour en régie pour les collectivités qui le choisissent sont souvent diverses et multiples: choix politique, cohérence de modes de

¹¹⁷ Robert Herzog, *loc. cit.*, p. 193.

¹¹⁸ *Idem.*



gestion, conséquences de résiliations de contrat, contentieux avec le délégataire, absence de concurrence... mais aussi évolutives. Volonté de transparence, maîtrise du prix et de la qualité du service sont recherchées.

Focus sur le développement des sociétés publiques locales. On observe un certain renouveau des modes de gestion publique, influencé en partie par les développements européens tels que la reconnaissance de la gestion « in house » (quasi régie). C'est par exemple le cas des Sociétés publiques locales (SPL) dont le développement repose sur la loi du 28 mai 2010 relative au développement des Sociétés publiques locales. Ayant le statut de société anonyme, les SPL ont vocation à intervenir pour le compte de leurs actionnaires publics dans le cadre de prestations intégrées et sont, de ce fait, qualifiées de quasi-régies ou, selon la terminologie retenue par la Commission européenne, «in house». Leur domaine d'intervention est relativement large. Il est calé sur les compétences des collectivités territoriales qui en sont actionnaires : transports, eau, assainissement, gestion d'équipements culturels, de loisirs, aménagement, restauration scolaire, services funéraires.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Les évolutions qui touchent les services publics locaux français ne se circonscrivent pas aux modes de gestion, désormais plus ouverts à des opérateurs privés, mais concernent aussi les modalités de fonctionnement, de financement, de collaboration (mutualisation, relation avec le secteur associatif) pour assurer leur mise en œuvre et répondre aux besoins des populations et acteurs du territoire. Ils sont soumis à des évolutions et des contraintes qui rendent leur mise en œuvre difficile : besoins accrus de services (vieillesse de la population, forte natalité par exemple), contraintes budgétaires accrues, montée en puissance d'opérateurs privés dans certains secteurs. En même temps, les règles communautaires imposent de définir clairement les objectifs de chaque service public et les obligations qui en découlent. Ainsi, l'europanisation des services publics correspond à une transformation d'ampleur en France qui affecte à la fois les organes gestionnaires, et les modalités de fonctionnement et de financement. L'évolution n'est certes pas arrivée à son terme dans tous les secteurs, mais les logiques mises en œuvre sont pour leur part transversales : d'un côté, libéralisation et mise en concurrence, de l'autre définition des obligations de service public ou de service universel, constituent l'architecture de la nouvelle organisation des services publics locaux.

Afin de renforcer la place des usagers, les Commissions Consultatives des Services Publics Locaux, créées par la loi de 1992, ont été relancées par la loi du 27 février 2002 relative à la démocratie de proximité. Ces Commissions ont pour vocation de permettre aux usagers des services publics d'obtenir des informations sur le fonctionnement effectif des services publics, d'être consultés sur certaines mesures relatives à leur organisation et d'émettre toute proposition utile en vue des adaptations qui pourraient apparaître nécessaires. Ainsi, les communes de plus de 10 000 habitants, les établissements publics de coopération intercommunale de plus de 50 000 habitants et les syndicats mixtes comprenant au moins une commune de plus de 10 000 habitants doivent prévoir la création d'une commission consultative des services publics locaux qui est consultée préalablement à toute délégation de service public, tout projet de création de service public, en délégation de service public ou en régie dotée de la personnalité morale et de l'autonomie financière, qu'il s'agisse de services publics industriels et commerciaux ou de services publics administratifs.

Plus généralement, quelle que soit la forme de gestion (publique, privée, mixte ou confiée à des organismes sans but lucratif) décidée par l'autorité publique qui définit les objectifs et missions d'un service public, se trouve posée la question de l'évaluation, du contrôle, de la régulation du service public.

Bien qu'il existe des organes et procédures de dialogue social au niveau de chaque entreprise ou branche ou encore, avec quelques spécificités, au sein des diverses fonctions publiques (étatique, territoriale, hospitalière), le dialogue social n'est traditionnellement pas considéré comme le principal atout du système français. Son absence, ou du moins sa faiblesse, est au contraire présentée comme l'une de ses principales carences et il est vrai que le dialogue social intervient classiquement qu'après qu'une opposition se soit cristallisée, généralement sous forme de grève et qu'il peine à être institutionnalisé efficacement.

Aussi quelques textes sectoriels – loi du 21 août 2007 sur le dialogue social et la continuité du service public dans les transports terrestres réguliers de voyageurs ; loi du 20 août 2008 instituant un service minimum d'accueil dans les écoles primaires – ont-ils récemment institué une procédure d'alerte sociale, en obligeant syndicats et pouvoirs publics à négocier avant que ne puisse être mis en œuvre un préavis de grève. Il est encore un peu tôt pour juger de l'efficacité de ce mécanisme, mais il ne semble toutefois pas avoir radicalement bouleversé les habitudes nationales et des progrès peuvent encore être espérés en ce domaine, permettant d'ancrer une véritable institutionnalisation du dialogue social, avec une participation des usagers, dans les services publics.

4/ The future of basic public services: key challenges existing and emerging

Depuis 30 ans, la France a connu une réelle décentralisation de compétences relevant traditionnellement de l'Etat sur les collectivités territoriales dont l'autonomie s'est accrue. Cette décentralisation, qui a été conduite à l'initiative de l'Etat, a eu pour conséquence le transfert de responsabilités et donc de charges importantes vers les collectivités territoriales, notamment dans le domaine social vers les conseils généraux, ce qui a un impact fort sur



les budgets locaux, les transferts de compétence n'étant pas nécessairement suivis d'un transfert équivalent de fiscalité. Mais la décentralisation a été conduite par l'Etat et a reposé en particulier sur sa volonté de se délester de certaines responsabilités en particulier dans le domaine social en en chargeant les collectivités territoriales, tout en privilégiant le rôle des élus, sans intervention significative des citoyens et de la société civile.

Une nouvelle étape de la décentralisation appelée Acte III de la décentralisation devrait être adoptée entre 2013 et mai 2014. Cette réforme a pour ambition de répondre aux nombreux enjeux que posent aujourd'hui le fonctionnement des collectivités territoriales : enjeux démocratiques, enjeux d'efficacité et de clarification dans la mise en œuvre des politiques qui relèvent de la compétence des différents niveaux de collectivités territoriales, enjeux du financement des collectivités territoriales et des politiques locales, et de relation avec l'Etat central.

Cette réforme s'inscrit par ailleurs dans un contexte national de réduction des déficits publics. Cette nouvelle étape de décentralisation comporte donc une exigence de plus grande efficacité de la dépense publique au nouveau local.

Les propositions, inscrites dans le cadre de trois propositions de loi, ont été présentées par le gouvernement le 10 avril 2013. Parmi les outils qui doivent aboutir à une meilleure gouvernance entre les collectivités territoriales elles-mêmes, mais aussi entre les collectivités territoriales et l'Etat, figurent le renforcement des blocs de compétences par types de collectivités, la désignation de chef de file dans certains domaines (les Régions en matière de développement économique et d'organisation des transports, les Départements en matière d'action et développement social, aménagement numérique du territoire, les Commune en matière de qualité de l'air, de mobilité durable), la mise en place de conférences territoriales de l'action publique dans chaque Région, cadre de discussion et de renforcement de la cohérence de l'action des différents niveaux de collectivités territoriales et de l'Etat. C'est au sein de cette conférence que sera discuté le pacte de gouvernance territoriale, se matérialisant par des schémas d'organisation qui définiront les modalités locales d'exercice de chaque compétence.

5/ The EU impact

Les relations entre la construction européenne et la mise en œuvre des services publics, notamment locaux et régionaux, sont devenues un sujet emblématique mais aussi névralgique de la relation entre l'Europe et ses territoires. De nombreux services publics locaux ont naturellement été impactés et continuent de l'être par l'application des réglementations européennes sectorielles visant à la protection et à l'amélioration de l'environnement. C'est particulièrement le cas des directives en matière d'eau potable et d'assainissement et en matière de gestion des déchets.

Par ailleurs, les évolutions du droit européen ont été souvent perçues comme une remise en question de principes, tel que celui de la libre administration des collectivités territoriales.

Depuis 2004 et l'adoption par la Commission européenne d'un Livre Blanc sur les SIG, le rythme des débats relatifs à la place des services publics dans le droit communautaire s'est accéléré en même temps que s'est accrue l'incidence de ses dispositions sur l'organisation, la mise en œuvre et le financement des services publics à l'échelle locale et régionale. C'est en particulier le cas de l'ensemble des dispositions relatives aux marchés publics, ainsi que celles relatives au financement des missions de services publics qui sont venues impacter les modèles traditionnels de collaboration notamment avec le secteur associatif.

Un certain nombre d'initiatives de la Commission européenne, comme la mise en question des modalités de coopération intercommunale en France au regard des règles des marchés publics, ainsi qu'une jurisprudence incertaine de la Cour de Justice de l'Union européenne, ont contribué à complexifier ce dossier et ont été appréhendées par les élus locaux et régionaux comme remettant progressivement en cause leur prérogatives en matière d'organisation, de mise en œuvre et de financement des services publics locaux dont ils ont la responsabilité.

L'entrée en vigueur, en décembre 2009, du Traité de Lisbonne a relancé les débats politiques dans la mesure où ses dispositions consacrent le rôle des services publics dans le projet européen, reconnaissent le large pouvoir discrétionnaire des autorités publiques locales dans l'organisation et le financement des services publics (Protocole 26) et offrent une base juridique pour l'adoption d'un ou plusieurs textes à l'échelle européenne (article 14 TFUE). Ces dispositions ainsi que celles reconnaissant l'autonomie locale et régionale et renforçant le principe de subsidiarité devraient permettre d'assurer un meilleur équilibre entre objectifs européens, règles et principes de concurrence et spécificités des services publics notamment locaux et régionaux.

Sans avoir, pour le moment, tiré toutes les conséquences des dispositions du Traité, la Commission européenne a entendu certaines des revendications portées par les collectivités territoriales en faveur d'une simplification des dispositions communautaires applicables comme par exemple en matière de financement des missions de services publics dans le cadre de l'adoption du paquet Almunia. La compréhension et donc l'application concrète de ces dispositions reste toutefois compliquée pour les collectivités territoriales et leurs partenaires, associatifs notamment.

Les élus locaux et régionaux français appellent à mener une réflexion plus transversale sur la place des services publics dans le projet européen et les politiques européennes liées au marché intérieur et à la concurrence, mais



également de façon plus globale dans la réalisation des objectifs posés par la stratégie Europe 2020 qui fixe des objectifs ambitieux en matière de lutte contre la pauvreté, d'accès à l'emploi et dont la réalisation passera naturellement par des services publics de qualité, accessibles à tous. Cette stratégie va désormais encadrer l'ensemble des politiques européennes telles que la politique en direction des territoires, la politique de cohésion dont l'intervention au bénéfice des services publics locaux devrait être renforcée.



Area	357,026 sq km
Population	81,797,673 inhabitants
State structure	Federal state
Local self-government – constitutional provisions	<p>“<i>Land</i> constitutions – Autonomy of municipalities: (2) Municipalities must be guaranteed the right to regulate all their local affairs on their own responsibility, within the limits prescribed by the laws. Within the limits of their functions designated by a law, associations of municipalities shall also have the right of self-government according to the laws. The guarantee of self-government shall extend to the bases of financial autonomy; these bases shall include the right of municipalities to a source of tax revenues based upon economic ability and the right to establish the rates at which these sources shall be taxed. (3) The Federation shall guarantee that the constitutional order of the <i>Länder</i> conforms to the basic rights and to the provisions of paragraphs (1) and (2) of this Article.” Article 28 of the “Basic Law”/Constitution 8 May 1949)</p> <p>The regulation of local self-government is a competence of <i>Länder</i></p>
Politico-administrative division	<ul style="list-style-type: none"> - 16 the Federal States (<i>Länder</i>) - 439 districts (<i>Kreise</i> – of which, 116 larger towns-<i>kreisfreie Städte</i>) (in some <i>Länder</i>) - 12,629 municipalities (<i>Gemeinden</i>)¹¹⁹ <p>The municipalities of Berlin, Bremen and Hamburg have also the status of <i>Länder</i>.</p>
Average density of population Population disparities between municipalities	<p>Average density of population: 230 inhab./sq. km</p> <ul style="list-style-type: none"> - 52 percent in densely populated areas (at least 500 inhab./km²) - 31 percent in intermediate urbanised areas (100 - 499 inhab./km²) - 17 percent in sparsely populated areas (less than 100 inhab./km²)

Germany is a Federal State, the largest country in EU in terms of its demographic weight and economic power and the fourth country in terms of area.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In the German federal system, the administration is more a responsibility of sub-national levels; the federation has its own administration only in some sectors determined by the Constitution, such as army, customs, and finance, but with not many institutional resources at the local level. Municipalities (few large in the north, many small in the south) have some large powers as they implement about 80 percent of laws and most EU directives. They are responsible for implementing not only their own tasks but also those of the state; however, compared to *Länder* law, federal legislation doesn't have a significant influence on local self-government.

The *Länder*, which are the higher infra-national level, share with the central state the competencies in fields such as social assistance, health, data collection, higher education and other fields, according to the constitutional provisions (the federalism reform of July 2006). All areas that are not the responsibility of the federal government fall within the legislative competence of the federal states – education, internal administration, cultural affairs, protection of the environment, internal affairs and police.

The municipalities' competences may vary considerably from one state to another and they mainly concern: *water supply and waste water*, as standard compulsory tasks of municipalities; *electricity provision*; *local passenger transport by bus or tramway*¹²⁰; *hospital health services primary and secondary education*¹²¹.

¹¹⁹ In West Germany, an important reduction of the number of local governments took place in the 1970s; the process appeared in East Germany after 1990. One of the most recent examples are the mergers of municipalities in the Land of Saxony-Anhalt where during 2010-2011 their number passed dropped from 840 to 220. In all, the number of municipalities passed from 12.456 in 2007 to 11.553 in 2011 that is a drop of 7 percent in four years. See Dexia – CEMR, *Subnational public finance in the European Union*, Summer 2012.

¹²⁰ *Länder* and regional transport association are responsible for regional railway transport of passengers that is operated by Deutsche Bahn and regional public companies/semi-private companies without competition. Autonomous cities and districts set up a Passengers public transport plan (*Nahverkehrsplan*) for non-railway transport modes and *Länder* for railway transport modes. This is the main policy instrument defining the public transport offer and the level of service it defines is compulsory for the provider (adaptations may be allowed).

¹²¹ Local public administration regulates the pupil's affiliation to a school (little private influence in that respect even if parents can decide for a private school) and are responsible for the construction and maintenance of school buildings.

Municipalities' competences are essentially determined by Land legislation (some tasks often have mandatory character, such as education and social assistance), but local authorities may also assume voluntary tasks (principle of universality)¹²². Thus, *childcare, elderly care and care of disabled services (0-6 years)* constitute voluntary tasks of municipalities.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Since the 19th century the municipalities have engaged themselves in a broad spectrum of public services and public utilities. Nowadays, public administration is primarily a local government tasks. There exist some rare national and regional tasks which are normally executed by the municipality acting on behalf of the federal government (e.g. the handing out of passports) or on behalf of the regional governments. The Federal Constitution (*Grundgesetz*)—provides the municipalities' right to autonomy (Article 28, paragraph 2)¹²³ According to article 33, the division of competencies between central federal state, Länder and local communities is based on the principle of subsidiarity according to which the higher level exercise a competence only if it cannot be assumed by the lower level. In the constitutional law doctrine and in judiciary practice this constitutional provision has been interpreted as an "institutional guarantee" which gives the local government the right to appeal to the federal constitutional court or a Land constitutional court with the allegation that this "right to local self-government" was infringed (for instance through Land legislation)¹²⁴.

In Germany, the management modes of local basic services are different, according to sectors and territories. Since the 19th century, German local authorities created municipal multi-sectoral enterprises (*Stadtwerke*) to provide economic tasks, which became a traditional concept for the management of economic local basic services, acting often as "local monopolies". In fact, at that time, only social services were largely provided by non-public not-for-profit organizations. However, in the last decades of the 20th century, under the impact of the New Public Management discourse the modes of management of local services evolved and marketization, corporatisation, privatisation and externalization inspired the organization and management of local basic services. Still, in most sectors, for the management of public services, the infranational authorities or their associations (mostly unions of municipalities/voluntary inter-communal cooperation - *Zweckverband*, but also associations of municipalities and regional associations) tend to recourse to local public companies subject to company law. More recently, an emerging tendency of (some) return to public sector provision appeared, in the fields of water and electricity¹²⁵.

In practice, the vast majority of local public companies are still owned by the local communities (mainly in the sectors of water supply and energy, waste treatment, transport, housing, cultural services and hospitals). The local public companies (*Stadtwerke*) are organised mainly as SARL (under private law), for their flexibility of statute, organisation and subsequent choice of the management – public company of private law (formal privatisation) or mixed/private companies (material privatisation). The local companies are majority owned by the municipality: 45 percent are in the unique ownership of municipality, 16 percent in co-management between public actors, and about 40 percent engage private participation, majority or minority. In half of the cities, in infrastructure/network services (transport, waste, for example), the municipality has minority shares in the capital of public enterprises. There are especially network services that are outsourced¹²⁶.

Water services have been traditionally operated by municipalities or by their *Stadtwerke* (about 7,000 entities¹²⁷), which also ensure waste water management. Private operators entered in water market in the last two decades

¹²² Dian Schefold, « Local Government in Germany », in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, pp. 222-245

¹²³ Internationally German's local government system is counted, along with the Scandinavian countries, among these countries with strong local governments. Hellmut Wollmann, „Evaluation and public-sector reform in Germany: Leaps and lags”, in Hellmut Wollmann (ed.), *Evaluation in public-sector reform: concepts and practice in international perspective*, Edward Elgar Publishing, UK, 2003, p. 119

¹²⁴ Hellmut Wollmann, Paper prepared for the International Conference on Reforming local government: Closing the gap between democracy and efficiency, University Stuttgart on September 26-27, 2002

¹²⁵ For a synthesis in electricity, Oliver Rottmann, « Re-communalisation dans l'approvisionnement énergétique allemand », Note for Jean Jaurès Foundation, Paris, 18 June 2013, <http://www.jean-jaures.org>. See also H. Wollmann and G. Marcou (eds.), *The Provision of Public Services in Europe. Between State, Local Government and Market*, Edward Elgar, 2010.

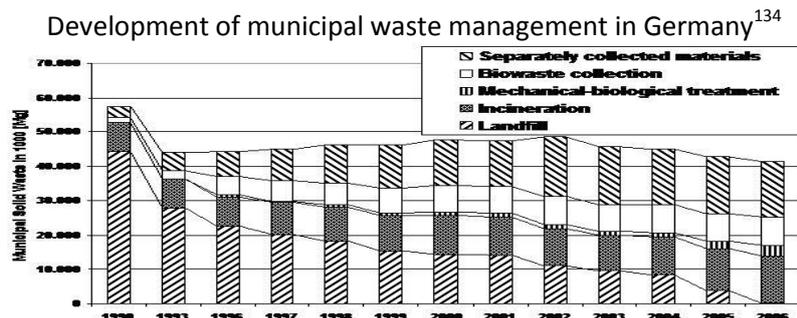
¹²⁶ Sabine Kuhlmann, in J.-C. Boual et al., *Les services publics en Europe*, 2007, p. 13, 14

¹²⁷ Andrea Prontera, Giulio Citroni, « Energie et administrations locales en Italie: Dénationalisation, libéralisation et concurrence » in *Annuaire 2007 des Collectivités Locales*, Paris, CNRS, 2007, pp. 191-208.

by acquiring minority share positions in *Stadtwerke* of almost half of 109 largest cities¹²⁸. Thus, Véolia and RWE acquired 49,9 percent of the shares of Berlin *Stadtwerke* in 1999 and EnBW become the owner of Stuttgart *Stadtwerke* in 2002. Still, water and wastewater services are mainly provided by municipalities (more than 1.400 water supply companies in Western Germany). Private management of services mainly appeared in Eastern part of the country¹²⁹. At the beginning of the 1990s, there were important differences of access to **sewerage** and treatment among the territories of the former GDR compared with Western Germany (75 percent connection rate in East against 94 percent in West). Moreover, since the unification, in 1990, household **water** consumption in Eastern Germany has fallen by 50 percent and by 20 percent in Western Germany, which also explains the rising of prices.

Unless many other European countries, German local authorities play an important role in the transmission and distribution of **electricity** but less in generation market, traditionally dominated by private sector stock companies¹³⁰. After the set up of EU liberalization policies in electricity, the share and role of municipal energy companies began to shrink (they give up or sell minority shares of their assets – grids and power plants – to the four major private and semi-private operators). More recently, a growing numbers of municipalities begun to buy back assets or to establish new facilities, or to expand existing ones, or to take back the operation of local grids when long term concession contracts expired, sometimes by setting up intermunicipal *Stadtwerke* (e.g. Bergkamen case). Still, regional and local companies ensure the supply with little competition. In the context of the closing of nuclear power generation¹³¹, it is expected that to role of local level power generation of the energy saving and renewable will become important¹³². The largest German energy companies (E.ON and RWE) are already focusing towards investments in renewable energy and are withdrawing from plans to build nuclear reactors (in the UK).

Local public companies play an important role in **waste** service provision, too. Some of them have grown through mergers and often participate to tenders and PPPs in others regions or sell specialized services (e.g. treatment) to other undertakings¹³³.



¹²⁸ Christina Denkwirth, „Der Erfolg der Global Players. Liberalisierung und Privatisierung in der Bundesrepublik Deutschland“, in: Hans-Jürgen Bieling et al. (eds.), *Liberalisierung und Privatisierung in Europa*, 2008, Verlag Westfälisches Dampfboot, p. 85. Hellmut Wollmann, “Public service provision in European Countries: from public/municipal to private sector – and back to municipal?”, Conference paper for Symposium on Neither Public nor Private: Mixed Forms of Service Delivery around the Globe, University of Barcelona, 2012.

¹²⁹ For private sector contracts awarded, see Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 106.

¹³⁰ Vattenfall, Rheinisch-Westfälische Elektrizitätswerke–RWE, EnBW, E.ON accounted in 2010 for a market share of nearly 80 percent. See Bundesnetzagentur, “Monitoring Report 2010”, Bundesnetzagentur, Bonn, 2010.

¹³¹ The German Government had initially planned to shut down its reactors by 2032, then by ten years to 2022.

¹³² Hellmut Wollmann, “From public to private and return? Discourse swings forth and back on public service provision”, Conference paper, Congrès de l’Association Française des Sciences Politiques, Strasbourg, 2011.

The two main programmes defining the climate change and energy strategies in Germany are the Integrated Energy and Climate Program (2007) and the Energy Concept (Bundesregierung, 2010 – the aim is to make Germany “one of the most energy-efficient and greenest economies in the world while enjoying competitive energy prices and a high level of prosperity”).

¹³³ Barbara Antonioli, Antonio Massarutto, « The municipal waste management sector in Europe : shifting boundaries between public service and the market », CIRIEC International Working Paper N° 2011/07, http://www.ciriec.ulg.ac.be/fr/telechargements/WORKING_PAPERS/WP11-07.pdf

¹³⁴ Source: http://scp.eionet.europa.eu/facts/factsheets_waste/2011_edition/factsheet?country=DE



According to the German Basic Law, waste management is subject to concurrent legislation (the federal state has the right to adopt the waste management legislation). Along with Federal legislation, each state of the federation has its own waste management legislation/regulation. Unless otherwise regulated in national legislation, waste from households fall under the responsibility of the federal state, who delegates the concrete management of household waste to the districts and municipalities. Planning competences are conferred to the Länder or, in few cases, to district authorities (there is no national waste management plan).

Local passenger transport by bus or tramway is mainly ensured by regional and local semi-public companies (*Stadtwerke*), which also benefit from public funding (grants, compensation of deficits, etc.). In 2005, the market share of public companies in short distance public transport has represented about 80 percent, whereas private companies reached 15 percent and mixed companies 5 percent. Direct awarding through renewal of the incumbent's licence covers nearly 91,5 percent of the market share. The number of services covered by private operators has increased in the last decade but they still play a complementary role, in interurban bus transport market or providing additional services. Since 1996, competitive tendering for non profitable routes is compulsory but remains limited because the cross-subsidisation and capital grants to municipal companies ensure their profit. Thus, notwithstanding the formal liberalization process developed since the end of the middle nineties, the market shares hardly changed. Nevertheless, municipal companies developed subcontracting and outsourcing to accomplish some tasks. To enter the German local public transport market, foreign companies acquired shares in local transport companies.

Local competent authorities (city districts) are members, together with transport operators (and Länder), of regional transport associations (*Verkehrsverbund*) which coordinate different modes of public transport services on a larger scale. They are financially supported by the federal government by annual subsidies covering additional costs of regional initiatives. Their role may differ: to integrate services of different operators and different competent authorities into a coordinated public transport system, to provide an integrated fare scheme, to share revenues among operators, to coordinate timetables, sales and communications and, in some cases, to determine the service level and quality. At the same time, this shared regulatory role between local authorities and transport associations may not allow users to clearly distinguish the true responsibility for service provision¹³⁵. Cycling transport mode is continuously spreading in Germany. In Freiburg, for example, it represents about 28 percent of urban public and private transport¹³⁶. Car-share systems become also more and more familiar.

Childcare services is characterised by a small amount of competition between municipal services and private and charity institutions; the public/mixed operators are majority; as municipal institution, kindergarden haven't legal personality and autonomy. Since 2005, day nursery has become an important issue in family policy. There are also different traditions between West Germany and East Germany. Thus, in the sector of childhood, there is a tradition of delegation to religious associations in West Germany and public traditions on East Germany).

The services of **elderly care** and **care of the disabled** are voluntary competences of municipalities. It is a very small amount of competition in this field; services are mostly provided by regional or municipal institutions but private enterprises are advancing in the market of elderly care; the charity organisations are important mostly in the field of disabled care.

Debates on the virtues of public-private partnership, inspired by the British and American models appeared in the 1990s. The causes of this debate included the high cost of reunification, the new competition between local authorities across Europe to entice the investment of transnational corporations, the economic pressures from the rising costs of social benefits and the costs of modernising local infrastructure. The Law on acceleration of PPP (*ÖPP Beschleunigungsgesetz*) is entered into force in 2005 and legislative initiatives also exist in some federal states. Recent assessments indicate about 5 percent of PPP projects in the total local investment (school, transport, culture, urban development)¹³⁷.

Local government finance is mainly subject to the legislation of the Federal tax legislation and *Länder* (local taxes – consumption and expenditure) which transfer competences to local authorities. In the framework of services provided by municipal companies (*Stadtwerke*), the cross-subsidizing practice allows them to cover deficits in some sectors by surplus made in other fields, as in public transport. For instance, bus transport services funding is ensured by a complex system of subsidies provided by all three tiers of the government through a broad variety

¹³⁵ See Andrea Zatti, "New organizational models in European Local Public Transport: from Myth to Reality", CIRIEC Working Paper N° 2011/06, http://www.ciriec.ulg.ac.be/fr/telechargements/WORKING_PAPERS/WP11-06.pdf.

¹³⁶ Jens Schippl & Maike Puhe, Technology Options in Urban Transport: Changing paradigms and promising innovation pathways, Report for the European Parliament, September 2012, p. 41.

¹³⁷ Dominique Hoorens, *Les collectivités territoriales dans l'Union européenne. Organisation, compétences et finances*, Dexia, 2008, p. 163



of instruments¹³⁸: the federal state (co-funding of major infrastructure projects, reduced taxes and tax exemption for public transport), the Länder (in particular for rail services and infrastructures and/or vehicle investments at the local level, compensation payments to operators for reduced fares for pupils and disabled) and local or regional authorities (subsidies for infrastructure investments, remaining costs of public transport tickets, supplementary subsidies to operators). The financing structure differs between the Länder and also at local level, without obligation for authorities to publish information on public funding (some authors speak about “intransparence”¹³⁹).

In case of necessity and public interest, local authorities may by law establish the obligation for citizens to use these services.¹⁴⁰

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

According to the legislation, citizens may participate in local basic services, they have “a general right to co-determination in matters of local self-government.” Regulated citizens’ forms of participation include assemblies, hearings, requests, and consultative votes. They may also participate in informal ways. In the the 1990’s it was decided the introduction of the referendum and popular initiative at the local level on some aspects of municipal competence (e.g. the referendum of 2008 in Leipzig, in East Germany, to oppose the externalisation of water management).

¹³⁸ Source: Arne Beck, „The distinction between commercial and non-commercial bus services in Germany: Given by nature?“, in *Transport Policy* 19(2012), p. 26-35.

¹³⁹ T. Sterzenbach, *Reformaufgaben im Rahmen einer Neuordnung der Finanzierung des öffentlichen Personennahverkehrs (ÖPNV)*. Kovac, Hamburg, 2008, p. 34.

For a recent analyse of the issue of transparent pricing in water sector, Christina Schaefer, Stephanie Warm, “Critical review of literature on the recent advances in the theory and empirical analysis of public enterprises: financial instruments and price/tariff calculation using the example of the German water and sewage sector”, Paper presented at the International Brainstorming Workshop of CIRIEC International, Berlin, 14-15 February 2013, to be published.

¹⁴⁰ Dian Schefold, *op. cit.*, p. 227



Area	131,957 sq. Km
Population	11,299,976 inhabitants (9,903,000 en 2012)
State structure	Unitary state (one peninsula and almost 2,000 islands, of which 227 inhabited)
Local self-government – constitutional provisions	“... For the administration of local affairs, there is a presumption of competence in favour of local government agencies ...” “Local government agencies shall enjoy administrative and financial independence”; “... Every transfer of competences from central or regional administrations of the state to local government also entails the transfer of the corresponding funds.” (Article 102 (1), (2) and (5) of the Constitution)
Politico-administrative division – 2 tiers of local self-government	13 regions (<i>peripheries</i> – the previous 54 (51+3) prefectures - <i>nomarchiakes autodiikisis</i> - disappear; the de-concentrated state administration restructured at a higher level in seven units – <i>apokentromeni diikisi</i> ¹⁴¹) 325 municipalities (by merging the previous 1034 municipalities on the basis of “Kallikrates” Plan adopted by Law n° 3852 in May 2010) The Community of Mount Athos Monasteries is an autonomous territorial entity.
Density of population in municipalities ¹⁴² Population disparities between municipalities	Average density of population 31,000 inhabitants: - 14 percent of municipalities (45) have less than 5,000 inhabitants - 8 percent of municipalities (26) have between 5,001 and 10,000 inhabitants - 59 percent of municipalities (192) have between 10,001 and 50,000 inhabitants - 15 percent of municipalities (49) have between 50,001 and 100,000 inhabitants

During the last 3 years Greek Economy has fallen into a vicious cycle of recession. Attempting to cover the fiscal deficits austerity measures are being taken. This austerity also reduces the active demand and limited the tax base. The lack of tax revenue results to new deficits and the need for further stabilization and austerity measures.

This situation has severely affected Greek local authorities which are one of the first victims of the fiscal constraints. During the last years, state grants towards local authorities have been reduced by more than 60 percent. At the same time, municipalities own revenues have also been constraint, due to the recession, while the demand of municipal social services has increased, because of the specific social conditions that have appeared.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

Historically, the French administrative model significantly inspired the Greek public administration and the development of a centralist organisation. In the recent decades, many decentralization reforms were initiated but important public services delivery systems (e.g. public education, health services) remain subject to the central governments. The “Kallikrates” law of 2010 (plan in operation since 1 January 2011) is both a territorial reform (merging municipalities, replacing departments by regions) and institutional reform. It extended decentralisation by granting new tasks to municipalities (e.g. licensing of enterprises and economic activities) and resources (personel, grants), transferred by the state but generally inherited from the old departments (school transport, welfare, urban planning). The number of municipal companies should also fall from 6,000 to 2,000. The metropolises of Attica and Thessaloniki will be given an institutional structure within a regional framework to manage issues related to transport and communications, the environment and quality of life, territorial planning, urban development and security¹⁴³.

The Municipal Code of 2006 (a new updated version is under preparation) stipulates that municipalities have the general responsibility for managing local affairs and the promotion of the social, financial, cultural and spiritual needs of their citizens. The main competences exercised by municipalities and communities include waste collection and treatment, local public transport, childcare services, elderly care, social housing, construction and maintenance of local roads and school buildings, etc.¹⁴⁴.

The reforms of 2010 did not directly affect the responsibilities of municipalities for water supply and sewerage but the seven deconcentrated state administrations acquire, among others, responsibilities in water management

¹⁴¹ Nikolaos-Komninos Hlepas, *Local Government in Greece*, in Angel-Manuel Moreno (ed.), *Local Government in the Member States of European Union: a comparative Legal Perspective*, INAP, 2011.

¹⁴² 2011, Greek Ministry of Interior.

¹⁴³ Dexia – CEMR, *Subnational public finance in the European Union*, Summer 2012.

¹⁴⁴ See Bauby Pierre, Mihaela M. Similie, *Mapping of the public services in the EU and the 27 Member States*, Associations Europa Limoges and RAP Paris, Report for CEEP, Bruxelles, 2010.

for environmental protection (before the reforms, water management was ensured by “water regions” under the control of the state). Waste management also remains a competence of municipalities and the waste management planning constitutes a regional competence.

In the field of transport, municipalities ensure local traffic regulation and planning, transportation of public school pupils and the maintenance and repair of the road network. Still, island municipalities assume enlarged responsibilities related to local transportation.

In the social protection field, municipalities are responsible in particular for nurseries and kindergartens, centres for the elderly, the licensing and control of private welfare institutions and private care units and social welfare subsidies (for example for the disabled, poor and minors). The establishment of centres for social services and the licensing and control of social workers fall within the regions’ competence.

The reforms of 2010, which has reduced the number of both tiers of local government and regions, “is expected to increase multi-level cooperation that can facilitate coordination across and within the new administrative units”¹⁴⁵, as well as to increase administrative capacity and thus to reduce the costs.

2/ *The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services*

By tradition, Greek local basic services are rarely delegated to private companies¹⁴⁶. Thus, in cities over 10,000 inhabitants, **water** and **wastewater** services are provided by municipal undertakings (*dimotikes epiheiriseis*). In Attika region, EYDAP S.A (Athens Water Supply and Sewerage Company, whose capital is shared with the Hellenic state that holds 61 percent of its capital) provides water supply for more than 4 million persons (20 years water and sewerage concession) while EYATH (Thessalonika Water Supply and Sewerage Company, where the state holds 74 percent of its capital) provides water and sanitation services in this region (25 years water and sewerage concession). As part of the current austerity measures, further stake sales in these companies are planned. In the last decades, the proportion of population connected to sewerage services increased from 0,5 percent in 1980, to 10 percent in 1990 and to 58 percent by 1994.

In **waste** sector, intermunicipal associations carry out waste management function, except in Attica region where a compulsory cooperation (across different levels of infra-national government - cross-level association) has been established for this purpose.

More generally, inter-municipal or cross-level association may also be created on a voluntary basis to deal with local basic services provision.

Regarding the operation of **local public transport**, in Thessalonica, the passenger service is assigned to O.A.S.TH by a concession signed between this body and the Greek state. O.A.S.TH is an organisation under private law whose majority of the capital (346 shares from a total of 415 shares) is shared between 1,900 drivers. The development and the supervision of public transport in Thessalonica is ensured by THUTU (Thessaloniki’s Urban Transport Authority) organised as independent public authority. OASA (Athens Urban Transport Organisation) coordinates all means of public transport in the Athens region (bus, trolleys, metro, tram, train). The law specifies that the transport of passengers is assigned to various transportation agencies placed under the supervision of OASA (Athens Urban Transport Organisation), which signs contracts (business contracts agreements) with these agencies.

Municipal or communal undertakings may also be established in partnership between several municipalities or communes, or with ‘second level local government agencies’, other local agencies or third parties. They are private law legal persons established to organise functions or activities and to provide services related to or associated with their areas of competence and cannot have a commercial or industrial purpose.

Public **social services** are provided by local public corporate bodies (elderly homes, child care centres), or foundations established by presidential decree.

Compared to other European cases, Greek local governments lack regulatory/normative autonomy. This feature creates a specific framework for the governance of local Greek basic services.

Taxation autonomy is limited and local government revenues and expenditures form a low percent of GDP (that is 3 percent of GDP). Independent revenues seem to be higher than state transfers only in (big) towns. Waste and street-lighting tax are considered ones of the most important sources of revenue for municipalities. They are

¹⁴⁵ Nikolaos-Komninos Hlepas, *op. cit.*, p. 254.

¹⁴⁶ State funded water and sewerage corporations were established by the Law N° 1665/1980, as self standing entities (for large cities) or municipally run entities. Some of them are grouped to encourage EU and/or private funding.



collected by the national electricity company for the local authorities when electricity bills are paid to ensure a high level of collection¹⁴⁷. Beyond this mechanism, there are some serious difficulties in the collection of local revenues since there is no effective collection mechanism at local level. Major problems are displayed especially in small municipalities. In 2010, the debt crisis led to a reduction of at least 50 percent of local revenues, more particularly tax revenues because taxes are not collected as no payment were made¹⁴⁸.

Investments represent 15 percent of total expenses at municipal level; the remaining 85 percent represents the operating costs.

Greek Local Authority has the smallest municipal debt among the European countries, with the exception of Malta and Cyprus. Its total debt amounts to 0.8 percent of the total financial indebtedness of the country.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

At present, Greek local authorities are implementing a series of community programs in order to facilitate the access of vulnerable groups to local public services. In addition, the “Kallikrates” law provides for the establishment of the council for immigrant integration (*Symvoulío entaksis metanastón*).

Social tariffs exist in several municipalities for local transport and water sector, for disables, large families, unemployed, students, for large families and other vulnerable groups.

The “Kallikrates” reforms aims, among others, to increase the transparency (publication of all local public decisions on the Internet) and participation of citizens in local issues as a way to upgrade the performance of local government. The law provides for the establishment of a local ombudsman (*Sibarastis*) in each municipality to support citizens and examine relevant allegations¹⁴⁹. A consultation committee consisting of representatives of local stakeholders (local businesses, trade unions, NGOs) must be created in municipalities with more than 10,000 inhabitants.

4/ The future of basic public services: key challenges existing and emerging

Regarding the local services (water, sanitation, waste, local transport, childcare and elderly care) the main difficulty is now arising from the current crisis and the reduced resources. At the same time, the management of the local services in the case of mountain and island municipalities is unable to exploit economies of scale. This is the main reason for seeking innovative solutions and “best practices”.

The current crisis determined severe austerity policies, including budgetary cuts in the public sector planning to reduce by more than 20 percent of the total spending of local government, to increase tax collection at national level. The adjustment policies implemented so far are in general criticised for not having clear objectives, for having been not technically sound and not socially acceptable¹⁵⁰.

5/ European impact

There is a rigid legislative framework regarding the development of the municipal real estate and the promotion of public-private partnership. Along with the use of EU funds, an effort is being made to rationalize the management of municipalities and to introduce innovation in the governance in order to reduce costs while at the same time offering more and better local services.

¹⁴⁷ *Idem*, p. 264.

¹⁴⁸ Vassilis Koromantzou, “Greek debt crisis: what impact on local and regional authorities?”, <http://www.ccre.org/en/actualites/view/1866>

¹⁴⁹ *Idem*, p. 256.

¹⁵⁰ Zafiris Tzannatos and Yannis Monogios, “Public Sector Adjustment amidst Structural Adjustment in Greece: Subordinate, Spasmodic and Sporadic”, Conference paper Adjustments in the Public Sector in Europe: Scope, Effects and Policy Issues, ILO and EC, 21-22 June 2012.



Area	93,026 sq km
Population	9,971,727 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“(1) In Hungary local governments shall be established to administer public affairs and exercise public power at a local level. (2) A local referendum may be held on any matter within the responsibilities and competences of local governments as defined by law. (3) The rules of local governments shall be defined by a cardinal Act” “In administering public affairs at a local level, local governments shall, to the extent permitted by law: a) adopt ordinances, b) make decisions, c) perform autonomous administration, d) determine their regime of organisation and operation, e) exercise their rights as owners of local government properties, f) determine their budgets and perform independent financial management accordingly, g) engage in entrepreneurial activities with their assets and revenues available for the purpose, without jeopardising the performance of their compulsory tasks, h) decide on the types and rates of local taxes, ... k) be free to associate with other local governments...” (Article 31, 32 of the Constitution of 2011).
Politico-administrative division – 2 tiers of local self-government	- 19 counties (<i>megyék</i>) - 3,152 municipalities (2,824 rural municipalities, 304 towns, 23 municipalities with county status, and the capital of the country, Budapest, which has a special status). The deconcentrated administration of the state is organised at regional level (7 <i>regionális közigazgatási hivatal</i>)
Average density of population Population disparities between municipalities	Average density of population: 107 inhab/km ² <ul style="list-style-type: none"> - 34 percent of municipalities have less than 499 inhabitants - 21,5 percent of municipalities have between 500 and 999 inhabitants - 20 percent of municipalities have between 1,000 and 1,999 inhabitants - 15,5 percent of municipalities have between 2,000 and 4,999 inhabitants - 4 percent of municipalities have between 5,000 and 9,999 inhabitants - 2,5 percent of municipalities have between 10,000 and 19,999 inhabitants - 1,3 percent of municipalities have between 20,000 and 49,999 inhabitants - 0,3 percent of municipalities have between 50,000 and 99,999 inhabitants - 8 municipalities have between 100,000 and 999,999 inhabitants - Budapest has more than 1,730,000 inhabitants

The first Hungarian law establishing municipal self-government was adopted in 1870. The Communist regime has introduced a highly centralised regime with no substantive local autonomy. It has also decided mergers between municipalities. Local and county self-governments were re-established after 1989 and, since then, more responsibilities were transferred to local level. The overall system of self-government is seen as “one fragmented into small municipalities and based on the principle of one local community, one local government”¹⁵¹.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

After 1990, the principle of local autonomy was recognized by the Constitution (chapter 9) and the Local government Act n°LXV of 65 of 1990, which was based on the principle of the general competence of local and regional self-governments. This law established a system whose main principles were: a) that every settlement is entitled to have an independent local government (as a result of which the number of local governments doubled, and the resulting system is one Europe’s most scattered); b) that the local governments are very autonomous: they are entitled to handle any public matter which is not explicitly ruled to be in the competence of some other authority by some other act; and c) that from the three levels of public administration, national, regional and local, the first and the last should be really significant (the hourglass model). The resulting system can be characterised by a high level of legal autonomy, combined with a great deal of problems concerning efficiency and the shortage of resources to cope with the tasks with which the local governments are burdened.

In 2011, a fundamental public administration reform has been initiated by the adoption of the new Fundamental Law of 25 April 2011, the Local Governments Law (n° CLXXXIX of 19 December 2011) and the Magyar Program. It

¹⁵¹ Zoltán Szente, “Local Government in Hungary”, in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, pp. 271.



concerns public education system, the provision of the public services (take over by the state of the public establishments of the counties – institutions of education, social protection and youth institutions, cultural institutions, etc. – and of local communities – health institutions, including hospitals and municipal medical facilities¹⁵²) and public finances (in particular, take over by the state of the debt of counties and municipalities, the transferral of the ownership of the county and municipal public institutions). As the process is ongoing, many aspects could change in the near future.

The new Local Governments Law re-established cantons/districts (a number of 175)¹⁵³, a new level of deconcentrated administration (abolished in 1984) which assumes many of the tasks which were previously exercised by municipalities (more than 80 laws regarding the decentralisation of different tasks were modified). However, the new Local Governments Law does not abolish the principle of local self-government even if the tasks of municipalities were reduced (primary education). According to the Government, local authorities should not be delegated tasks they are not able to provide.

The aim of the Reform of Public Administration (Magyary Programme 2011-2014) is to reach an efficient and effective national public administration. It concerns the organisation of public administration (e.g. reduced number of public organisations, centralisation of some tasks) and its tasks (e.g. the Registry of Governments Tasks was created), its procedures (e.g. new Public Procurement and Public Finance Laws) and personnel (e.g. the New Civil Service Law and the creation of the National Public Service University). The reform is partly financed by two EU structural funds (ESF and ERDF).

According to 2011 Law on Local Governments, “Local public affairs are connected essentially to providing residents with public services and to creating the organisational, personal and physical conditions for local self-government and cooperation with residents” (Section 4).

Municipalities (many rural and small sized towns) have mandatory and voluntary duties and powers, to ensure local democracy and basic local public services, some of them compulsory (primary education¹⁵⁴, kindergarten service, social action - e.g. child welfare and child protection services, elderly care, care of disabled¹⁵⁵), refuse collection and waste management, water and wastewater services (canalisation, treatment and disposal of waste water – sewerage service), public lighting, district heat supply, etc.) and complementary (social housing¹⁵⁶, public security, protection of environment, public transport, public heating¹⁵⁷, etc.). According to the Law on local governments, “a local government may volunteer to solve any local public affair, unless it is reserved for the exclusive competence of another body by a rule of law” (Section 10(2)).

Currently, the counties are in charge with services of supra-municipal interest or services that cannot be ensured by municipalities. According to the reform, they have no more competences in the fields of health (specialised and hospital health services), social action, secondary and vocational education, culture and sport which are now ensured by state’s entities. In exchange, they have some competences as regards environment protection, civil-emergency defense and important tasks regarding territorial development.

According to the Act on associations and cooperation of local governments (1997), the municipalities may gather their resources to ensure more efficient and higher quality “public services”.

¹⁵² Law n° XXXVII of 23 April 2012.

¹⁵³ Law N° XCIII of 25 June 2012.

¹⁵⁴ The municipalities having more than 3 000 inhabitants keep the ownership over municipal schools and the management of their staff. These tasks are not compulsory for the smaller municipalities.

¹⁵⁵ Specific financial support for the severely disabled is provided by the local directorates of the Treasury. Otherwise the local governments are the main providers of this support. Other services are provided by a wide range of providers. About 2500 institutions provide integrated education for disabled children, most of them operated by the local governments. There are also about 130 segregated institutions. The Ministry of Finance provides regular support for about 750 private companies throughout the country for serving as local centres for the employment of disabled people. 92 percent of the disabled live in private households; the homes of the remaining 8 percent are operated predominantly by the local governments.

¹⁵⁶ The local governments usually provide rentable flats for those in need who have to apply for them regularly for set periods.

¹⁵⁷ About 18 percent of the households use district heat supply, provided mainly by local government-owned companies. Issuing of licences for combined power stations producing both electricity and district heat became the responsibility of the National Energy Office, whereas the local government became responsible for the issuing of licences for every other producer and provider of district heat. Pricing for provision for households is in the authority of the councils of the local governments. It is the competence of local authorities to regulate the district heating providers, which predominantly they themselves operate, including pricing.



2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Local authorities are free to choose the way they organise the delivery of basic services. Almost one third of local “public services” are ensured directly, by the “budgetary institutions” (*költségvetési intézmények*) of municipalities. They are used mainly to ensure equipments for educational, medical, cultural, sportive and social services. Services such as **water** provision and **wastewater** are managed by local public companies. The public provision of local services, including of voluntary local services, is rather common to larger municipalities, which have enough administrative and economic capacity to this respect.

Before the 1990, water was supplied in a centralized system, by state-owned undertakings organised at infra-national level. Prices were also established at national level. During the first steps of the decentralisation process, water become a municipal mandatory responsibility and water companies ownership was transferred to municipalities. Water and sewerage fees are also established by local authorities and no central scheme for price setting has been defined. The service is provided by many municipal and mixed entities which serve one or more municipalities. Thus, about 80 percent of Hungarian waterworks are controlled by nearly 400 local waterworks, which are mostly owned by the local governments and desserve about 65 percent of population. The 25 largest operators provide water and wastewater services for about 80 percent of the market. The biggest of them, the Waterworks, is owned in 25 percent by international private companies (Berliner Wasser-Betriebe and Véolia – 25 years sewerage concession). Water service provision in Budapest is currently ensured by Eurawasser (Suez/RWE) which manage a 25 years water concession contract. As regards Véolia, it also operates a 25 years water and sewerage concession in Erd and together with Berliner Wasser-Betriebe a 25 years sewerage concession in Hodmészövárshely. Suez was also active in Kapsovar and Pecs where it has managed water and sewerage concessions and, through Eurawasser (with RWE) in Debreen (20 years water and sewerage concession)¹⁵⁸. Seven infra-national companies (regional waterworks) are owned in 90-100 percent by the state; in some of them the local governments and the waterworks’ own employees have a minor share. These, however, control only 35 percent of the total drinking water supply in Hungary. Recently, there has been much debate about the privatisation of waterworks. The Parliament has decided that the regional waterworks should remain in at least 75 percent in the possession of the state. According to the ongoing reform of public administration, starting with January 2013, the local governments are no more competent for tariff fixing; this competence is exercised at central level (in 2011, 4.2 percent deviation in charges was admitted). The Magyary Programme also provides that important waterworks competences are transferred to district offices. But local governments will continue to exercise the contractual competences with the providers. In general, the current reform concerned the entire water governance. As of 1st January 2012, the new organisation of water and environmental protection is divided between the Ministry of Internal Affairs (flood and inland water control, the organisation of water quality damage control and protection), the National Directorate of Water Management (set up as the legal successor of the Central Directorate for Water Management and Environmental Protection) and the water management directorates (set up as the legal successors of the 12 directorates for water management and environmental protection) under its supervision¹⁵⁹. The connection to water networks has risen from 75 percent in 1980, to 92 percent in 1990 and 99 percent in 2006. Sewerage mains connection is less important but its rate also grew from 40 percent in 1980, to 52 percent in 1990 and 65 percent in 2006, with about 7.500 km of new sewerage network (one third of total network) in the 1990s¹⁶⁰.

Wastewater management is performed by companies owned predominantly by the local governments. Sometimes private shareholders are also involved (in 25 percent in the Budapest). In smaller towns a new form is emerging now, that is the co-operatives of all parties that possess a real estate in the given area. Currently, wastewater service is available in 72.4 percent of properties¹⁶¹.

Among the new provisions of the Constitution of 2011, ones should notice those aiming at ensuring a high level of environmental protection and obligation for keeping a sustainable development path. In 2011, the National Waste Management Agency was established and a new law on **waste** to ensure, among others, that the state assumes a more important role in waste management.

¹⁵⁸ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 116.

¹⁵⁹ Magyary Zoltan, *Public Administration Development Programme*, Magyary Programme, Ministry of Public Administration and Justice, 31 August 2012. http://magyaryprogram.kormany.hu/admin/download/a/15/50000/Magyary_kozig_fejlesztési_program_2012_A4_eng_percent283_percent29.pdf

¹⁶⁰ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 114.

¹⁶¹ Central Statistical Office, 2009.



Local transport services are ensured by municipal (e.g. BKV in Budapest) or private companies. Their operation is strongly sustained by local and/or state subsidies. The state owns the majority of most bus companies (Volán companies, operating as regional monopolies). In two cities, Pécs and Kaposvár, the local public transport company is owned jointly by the state and the local government. The local public transport company of Budapest is owned by the municipality of Budapest since 1990. In respect to local public transportation the local governments are competent in setting some specific regulations, including pricing.

Social services are ensured through social security system and through social services. Competences are divided between the state, municipalities and county-level authorities but many social basic services are ensured at local level¹⁶² (childcare services, some services for elderly) while in general they are financed by the central budget with a co-payment by users (free access those who cannot afford them). Services are generally provided by the agencies of the local governments and their co-operations but some accessory activities may be outsourced to public benefit companies, NGOs or churches. The share of agencies of micro-regional (local governments) co-operations has been increased recently. In 2009, about 40 percent of the services were provided by local government agencies directly, 10 percent by their micro-regional co-operations, 15 percent by public benefit companies, 5 percent by churches and 15 percent by NGO's. The situation is similar in the field of complementary social protection. The main difference is that the role of county local governments and that of Budapest, and also of the churches, is larger in the provision of complementary services than it is in the case of compulsory services.

Some **childcare services** are among the ones whose provision is mandatory for the local governments, and which are provided free of charge. The state supports the local governments in providing these services. Some childcare services are provided by the central government through its regional institutions. These are also financed from the central budget. Early protective nurse services and family assistance are provided by the local governments or their co-operations. About 91 percent of the nurseries are operated by the local governments, too. NGO's also offer services to families with small children. The share of private providers in pre-school education has recently grown. Guardianship duties are performed by regional agencies of the state. Homes for the children they take out of their families are provided by county local governments and the local government of Budapest.

In Hungary, the delegation of the "public services" management to economic private providers is used mostly for the services of waste treatment, parking, maintenance of public area and roads.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Access to basic services differs according to sectors and territories. For example, there is a better access to water services (about 95 percent of households) than to waste water (about 72 percent of households), and the access to some services is free of charge. There are also differences between different territories (urban – rural areas) as regards the level of public services provided¹⁶³.

4/ The future of basic public services: key challenges existing and emerging

Several issues could be particularly underlined: reduced expenditures, budgetary cuts, including social benefits, debts (e.g. the operation of some transport services), disparities between municipalities and sectors as regards access, quality, level, needs exceeding provision capacities (e.g. in transport).

¹⁶² The Act on Local Governments rules that the provision of compulsory social services is the responsibility of the local governments.

¹⁶³ According to Istvan Temesi, Conference Paper at Colloque Europa, Limoges, 23 November 2012.



Area	103,001 sq km
Population	319,014 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	«The municipalities shall manage their affairs independently as laid down by law. The income sources of the municipalities, and the right of the municipalities to decide whether and how to use their sources of income, shall be regulated by law.» (Article 78 of the Constitution)
Politico-administrative division – 1 tier of local self-government	- 74 municipalities (<i>sveitarfélag</i>) ¹⁶⁴
Average density of population Population disparities between municipalities	Iceland has a low density of population (on average, 3.2 percent inhabitants/km) and large uninhabited areas. However, the population is generally concentrated in few territories. - About one third of the population lives in the capital city Reykjavík (118,427 inhabitants) and two third in Reykjavík and its surrounding municipalities. Only 6.4 percent of the population lives in rural communities. - 20 municipalities have 2000 inhabitants and more - 54 municipalities have less than 2000 inhabitants - the smallest municipality has probably 49 inhabitants

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

Iceland is a big country but scared populated. It has only two levels of government, the state and municipalities, which make relations simplest and easier. Current crisis was another factor of developing improved relationships between these levels. The Local Governments Act is the basic legal framework for the relations between municipalities and the State.

The state has been experienced a process of decentralisation and many services of general interest fall within the competence of municipalities: water, wastewater, waste, public transport, electricity supply, basic social services, child day-care, as well as primary education, services for disabled, culture, sport and leisure, public and environmental health, harbours, etc. Municipalities have the possibility to take on additional tasks concerning their inhabitants provided that they have the budget to support these and that the tasks in question are not assigned to other government administrations by law. However, the share of local government expenditures in the total public expenditure is less important in Iceland than in other Nordic countries but higher than the EU-27 average (in 2012).

Central government intervenes in all these policy areas. Therefore, there is a rather close and regular relationship with national authorities. For example, the capital-city is regularly in relationship with the Icelandic Ministry for Environment and the Environment Agency of Iceland regarding waste management legislation and practice. Cities also testify a very good dialogue with the Association of Local Authorities in Iceland which has close ties with the national government. At the same time, the division of competences is not always clear in certain fields.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

The provision of local services is most often ensured directly by municipalities or inter-municipal cooperation. Regional municipal federations, municipal companies and private entitites also operate local services.

The vast majority of Iceland's municipalities are very small. Only six of them have more than 10,000 inhabitants. Inter municipal cooperation is therefore widespread in all service fields. In 2011, when services to disabled people were transferred from the state to municipalities, it was made obligatory for smaller municipalities to cooperate about services as the law stipulates that each service unit shall have 8000 inhabitants as a minimum.

Water service is provided by municipalities, either directly or through their companies. Some of them also distribute electricity and hot water. All households have access to water services. Some households use their own source of water in certain rural areas. In the capital-city, water is supplied by the public utility company Orkuveita Reykjavíkur (Reykjavík Energy). The City of Reykjavík holds 94 percent of shares in the company, with the rest

¹⁶⁴ Iceland reduced the number of municipalities from 200 in 1990, to 74.

divided between the municipalities of Akranes and Borgarbyggð. Reykjavík City is represented by the mayor at the company's annual general meetings and the city council appoints 5 out of 6 board members, including the chair. The same company provides water sanitation, electricity and broadband services¹⁶⁵. Water service is funded by water charges paid by households and fees paid by industrial users.

The municipalities provide access to **sewerage** services all over the country. Some farms in rural areas and summer cottages have private sewage system. The municipalities collect service charges for sewerage services.

The provision of **waste** service falls within the competence of municipalities, too. At national level, the regulatory responsibilities are ensured by the Ministry for the Environment and the Environment Agency. At local level, the service is provided by the municipalities themselves or by intermunicipal companies. The City of Reykjavik and six other municipalities have coordinated their solid waste disposal through a municipal company (SORPA), which these seven municipalities jointly own and run. SORPA makes regular user surveys and publishes annual report of activities. More generally, local services are controlled by e.g. regular user surveys and monitoring of key figures.

There are no trains in Iceland so public land **transport** depends on **bus** services. A new central transport plan for 2011-2022 puts more emphasis on public transport and decentralisation to the Regional Municipal Federations. Free of charge transport is an exception (in some municipalities). In the capital-area, public transport by bus is provided by the public utility company Strætó. Strætó is equally owned by 7 municipalities and the City of Reykjavík appoints 1 out of 7 board members.

Municipalities also participate in the provision of **electricity**, either through municipal units or municipal companies. All the population is connected to electricity.

Iceland has a low public spending on **welfare** compared to other Nordic countries. Concerning welfare services, the Icelandic state is responsible for some welfare tasks of which local and regional authorities are responsible for in the other Nordic states (for instance primary health care, hospitals and secondary schools). Icelandic municipalities are responsible for the provision of the pre-primary education (for 2-5 years old), as well as primary education (6-15 years old), which are run directly by municipalities or, in some cases, by private bodies. Access to pre-primary education is subsidized by municipalities but families also participate to its financing with about 16-20% of the total costs of the kindergarten (reductions for siblings are granted in most municipalities). Primary education is free of charge¹⁶⁶. In many municipalities there are pre- and primary schools run by private actors.

Municipalities are by law responsible for providing their inhabitants with basic social services according to their needs, including basic social services to **elderly people**¹⁶⁷. They provide basic financial assistance to those that are not able to provide for themselves, organise assistance at home, social housing and transport, food delivery, recreational activities. Fees to access (or free access to) local services are decided by each municipality.

After the beginning of the crisis, Iceland was confronted with an important rise (20 percent) in the cost of social services in all municipalities. The total number of households depending on social service provided by municipalities has risen by 61 percent and this put a significant pressure on municipal budgets. The crisis also made people more aware about their rights.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

All the inhabitants of a municipality have the same right to access to municipal services. Service charges may not exceed the actual costs of a provided service. Basic welfare services are in most cases subsidized, especially for disadvantage groups. Lower income municipalities and municipalities with extra costs get compensations from the Municipal Equalisation Fund. Municipalities have a legal responsibility to ensure that their inhabitants and those they provide service to can take part in and have influence on municipal administration and policy making.

Local government Act 138/2011 contains a new chapter on participation which requires municipalities to ensure the participation of inhabitants. For instance, inhabitants may take initiatives on local government areas and calling for a general vote on particular issues. If such a request is made by 20% of voters the local authority must to comply with it. Besides, citizens are demanding for more openness and transparency from their local authorities.

¹⁶⁵ Internet access is also provided by private companies.

¹⁶⁶ The Icelandic primary school system is among the most costly in the world.

¹⁶⁷ The state is responsible for specialized services to elderly people, such as health care, elderly care homes and nursing homes.



Collective agreements between the trade unions and the municipalities determine the rights and obligations of municipal employees.

4/ The future of basic public services: key challenges existing and emerging

It follows from the constitutional right of the municipalities to self government that municipalities can adapt their services to local circumstances and needs. In general, different accessibility to local services is observed between concentrated, urban and rural, low and sparsely populated areas, as well as in large municipalities, as the capital-city.

According to GOLD III survey, local services have been affected by the current crisis. In particular, there was an important increase in the municipal debt and cuts in all aspects concerning municipal services. However, the contributors also noticed some previous excess. Hence, the stricter financial rules are met with understanding at local level. Representatives of the capital-city underline some degradation of the situation of all services fields, in particular in the field of water, sanitation and electricity supply. However, the crisis did not affect the level of autonomy of local authorities.

The crisis, the lack of funding to improve or extend services and European regulations appear, according to the survey, the principal challenges that will impact all local basic services in the next 10 years. Increasing energy prices, changes in population age structure and number, development of new services to meet new demands entail similar concerns. In the context of the crisis emigration increased, too. Moreover, in the last ten years, a tendency to move to the capital-city was observed; if this will continue the country could become more scarced.

5/ The EU impact

Iceland is a member of the European Economic Agreement which provides for the inclusion of EU legislation covering the four freedoms – the free movement of goods, services, persons and capital – in Icelandic legislation. However, Iceland and local authorities are not associated to the EU decision-making process. The Agreement guarantees equal rights and obligations within the Internal Market for citizens and economic operators in the EEA. The impact of the implementation of the EU law on the governance of local basic services is observed in all sectors covered by GOLD III report but to different degrees: very high in sanitation, waste and electricity fields, medium in water and water transport, and low impact in social fields (child day-care and elderly care). Meeting and implementing all EU regulations is considered a very costly process, in particular in sectors such as waste management and soil.



IRELAND

Area	84,421 sq km
Population	4,576,748 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“The state recognises the role of local government in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law and in promoting by its initiatives the interest of such communities.” (Article 28A§1 of the Constitution, as amended in 1999)
Politico-administrative division – 2 tiers of local self-government	Local government in Ireland consists of a number of local and regional authorities at two levels: - regional authorities ¹⁶⁸ (<i>Udara Reigiunach</i>) - 114 local authorities (<i>Comhairli</i>) ^{169,170}
Population disparities between municipalities	- 34 percent in densely populated areas (at least 500 inhab./km ²) - 66 percent in intermediate urbanised areas (100 - 499 inhab./km ²)

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

Until 1921, Ireland and the UK were one entity and the *common law* of both states remains highly similar.

Local government in the Irish Republic owes its genesis to the (UK) Local Government (Ireland) Act of 1898. Since 1945, local authorities saw some erosion of their powers, many of their functions being passed to Government departments or agencies.

An overhaul of the system was reached with two important laws: Local Government Acts de 1991¹⁷¹ and 2001¹⁷² and with the recognition of local government’s status in the Constitution of Ireland. The Department of the Environment and Local Government (DECLG) oversees the operation of the local government system and implements policy in relation to local government structures and functions.

Compared to other local governments in Europe, Irish municipalities have fewer powers and functions; they are responsible for social housing and building, road transportation and safety, water supply and sewerage, environmental protection, recreation and amenity, support of economic development, and miscellaneous services¹⁷³. With respect to the imposition of taxes and charges, local authorities may impose them only if it is permitted by law.

¹⁶⁸ A regional level of administration has been in existence since 1994. There are eight unelected Regional Authorities established under section 43 of the Local Government Act 1991 comprising elected members of the city and county councils in the various regions. Regional authorities coordinate some of the county/city and sub-county activities and review development plans. Two regional authorities, known as *Regional assemblies* were established in July 1999 to promote co-ordination and the provision of public services in their areas, to manage new regional operational programmes and to monitor the general impact of all EU structural funds. But, in general, the role and functions of Regional Authorities in local government are marginal. See Yvonne Scannell, “Local Government in Ireland”, in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 296 and following.

¹⁶⁹ The actual level of local government is introduced by the Local Government Act of 2001. The local level has two parts. There are twenty-nine county councils and five county borough (city) corporations that cover the five largest cities in the state and form the core of the local administrative system. There is however, no uniform system of subcounty administration and different systems exist in different parts of the country: five borough corporations, forty-nine urban district councils, and twenty-six boards of town commissioners. John Loughlin, “Ireland: From Colonized Nation to ‘Celtic Tiger’”, in John Loughlin, Eliseo Aja, *Subnational democracy in the European Union: challenges and opportunities*, Oxford University Press, 2004, p. 64.

¹⁷⁰ A number of mergers of local authorities have been announced to take effect from 2014.

¹⁷¹ At local level, until 1991, the local governments’ powers were guided by the principle of *ultra vires*, according to which these authorities could exercise only the powers specifically enumerated by the law. Since the Act of 1991, local governments have general powers to carry out any action of local interest. See Dominique Hoorens (dir.), *Les collectivités territoriales dans l’Union européenne. Organisation, compétences et finances*, Dexia, p. 405.

¹⁷² <http://www.environ.ie/en/LocalGovernment/LocalGovernmentAdministration/RHLegislation/FileDownload,1963,en.pdf>

The local elections have been introduced by the amendment of the Constitution in 1999.

¹⁷³ In 1980 and 1990, Ireland ranked lowest among the twelve EU countries for the level of local government spending as a percent of national output.



The “Reforming Local Government Plan”, launched in 2007, was resuscitated in the summer of 2012 as part of a national programme aiming to increase decentralisation by strengthening local authorities’ competencies, functions, leadership and financing mechanisms¹⁷⁴.

Local authorities may also act jointly with other authorities to manage local services. As part of the current reforms, shared services and shared administrative processes between counties and municipalities are being explored as instruments to achieve scale economies and increase efficiency.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

For the provision of “public services”, local governments may create public or mixed local companies under private law which can operate only within the powers of governments. Also, since the Agency National Development Finance Agency Act 2002, local authorities may establish joint ventures in the form of PPP. At local level, most PPPs are concluded in the areas of water and sewerage. At national level the PPP projects involve the construction of roads/carriageways/services areas on the national roads network, built projects for services of justice, health, education, culture, etc.¹⁷⁵.

Water services are supplied by municipal operators (water services operated by municipalities in urban areas – almost 80 percent of the population - and group schemes – co-operative water systems developed, operated and maintained by user groups - for rural water supplies), according to the provisions of the Water Services Law (the current Law was adopted in 2007). About 10 percent of the population use individual supplies. In 2010, some 78 percent of Irish households were connected to public water supplies, 12 percent to group water schemes and 10 percent to individual water supplies. As regards wastewater, in 2006, some 65 percent of households were connected to public sewage treatment facilities (around one-third of the population lives in rural areas). As regards water quality standards for drinking water, the national Environmental Protection Agency has important powers (licencing, monitoring of river basin plans). Municipalities’ co-operation concerns the preparation and implementation of river basin plans¹⁷⁶ – with one municipality designated as co-ordinating local authority, the implementation of inter-municipal projects, and less the co-provision of water services. In Ireland, there are no universal metering and charging for water (a unique case in the EU), and pricing water household consumption is a sensitive issue. Since 1997, households are exempted from both the capital and operating costs for water delivery, collection and treating of sewage; in exchange, commercial use of water is not for free. Before, local authorities had large discretion to this respect, so that the situation was very different within the country (for example, poorer municipalities imposed charges, while the richest ones – e.g. Dublin, Limerick – did not)¹⁷⁷. Nevertheless, Ireland met a very high rate of compliance with the EU Urban Waste Water Directive (more than 92 percent) and more than 99 percent of drinking water supplied by public utilities meets health standards. Moreover, as regards secondary wastewater treatment, Ireland established more stringent requirements (to be ensured for all settlements of more than 1,000 inhabitants). Water infrastructure investment for households is financed by the capital budget of the Department of the Environment, Heritage and Local Government (DoEHLG) and operating costs from the Local Government Fund¹⁷⁸.

The responsibility for implementing **waste** policy objectives is shared between the central government (DoEHLG, Environmental Protection Agency and the Office of Environmental Enforcement) and local authorities. In the field of waste management and planning, Ireland has established 10 waste management regions (a reduction of their number in the 2000s, from 34 previously) introduced by the Waste Management Act of 1996. The role of local authorities has gradually evolved from the traditional collection of households waste and operation of landfills to regulation and monitoring of waste services and planning (local and regional management plans in relation to on-hazardous waste), recovery and disposal, waste reduction and recycling of waste, control of illegal dumping, etc. Compared to other sectors, in Ireland many municipalities have delegated municipal waste collection (some of them treatment, too¹⁷⁹) to private operators (in 2007, for more than half of household waste; in 2011, only three local authorities collected waste as compared with fifteen in 2008¹⁸⁰). In parallel, “a movement towards vertical and horizontal market consolidation has taken place within the private sector”. Therefore, unlike the situation in

¹⁷⁴ Dexia – CEMR, *Subnational public finance in the European Union*, summer 2012.

¹⁷⁵ www.ppp.gov.ie.

¹⁷⁶ Ireland has seven river basin districts.

¹⁷⁷ The EU granted Ireland an exemption from the full cost recovery principle of the 2000 Water Framework Directive.

¹⁷⁸ Source: *OECD Environmental Performance Reviews, Ireland 2010*, p. 63 and following.

¹⁷⁹ If according to the promoted principle of proximity, treatment and disposal should occur near where the waste is collected, most part of the total waste generated in Ireland is recycled and disposed abroad (over 80 percent).

¹⁸⁰ Environmental Protection Agency, *National Waste Report 2011, 2013*, p. 26.



most other European countries, competition in the market for the waste collection services occurs in some Irish urban areas (on boundaries and densely populated areas). In 2011, the number of operators in each municipal area ranged from two to fourteen.¹⁸¹ However, in case of multiple operators in a local market, each operator serves distinct households. At consumer level, practices of switching operators remains limited (in 2010, 3 percent of consumers) and lower than switching rate for electricity (9 percent).¹⁸²

In many municipalities, waste collection was not charged until 1999, when a flat charge was introduced. Because of public opposition, a pay-by-use approach (a weight/volume-related waste collection charging, including cost recovery) started to be introduced in 2005 (it was already announced in the Waste Management Act of 1996). Today, waste services are financed through fees from users (the rates vary considerably among municipalities, sometimes with differentiation between separated and residual waste) and national public grants (DoEHLG and the Environment Fund). Levies on plastic shopping bags and landfilling were also introduced in the 2000s. In some municipalities, for some low-income households charges have been waived (in particular in cities where waste collection is not run by private providers). However, the situation varies among municipalities and no national guidelines on waivers exist so that the categories of “vulnerable” users who can benefit from free access to waste services may be different (in some municipalities low-income households, in others elderly and unemployed persons)¹⁸³.

Recently, local authorities are encouraged by the Government to set up shared services in waste treatment and water services, as well as rent recovery, tariffs and fees¹⁸⁴.

Waste collection service seems not to be used by all households. According to estimations¹⁸⁵, in Ireland about 19 percent of households (representing about 54 percent of households in some rural areas) did not use such a service in 2009. In some cases, the service was not available; in other, the use of the service appears to be too costly.

Local public transportation services are regulated at national level. The organising authority is the National Transport Authority. Local bus public services are provided by state-owned companies: Dublin Bus, which operates in Dublin and Bus Eireann, outside the capital city. In rural areas, public transportation services are delivered through not-for-profit companies or co-operatives. Most of them operate on a door-to-door basis.

The National Transport Authority is also responsible for the regulation of public bus fares. Free travel scheme are available for persons aged 66 years or older and who are permanently resident in Ireland or for persons under the age of 66 that satisfy certain qualifying conditions. The free travel scheme is funded in full by the Department of Social Protection on behalf of the Government. All licensed operators can participate in the scheme following an agreement with that department. The National Transport Authority has no function in this scheme¹⁸⁶.

¹⁸¹ Environmental Protection Agency, *National Waste Report 2011*, 2013.

¹⁸² Department for Environment, Community and Local Government, “Regulatory Impact Analysis-Household Waste Collection”, 2012, p. 24, www.environment.ie

¹⁸³ Source: *OECD Environmental Performance Reviews, Ireland 2010*, p. 85 and following.

¹⁸⁴ Dexia – CEMR, *Subnational public finance in the European Union*, summer 2012.

¹⁸⁵ Ireland Environmental Protection Agency, *National Waste Report 2009*, Wexford, 2011, cited by P.K. Gorecki, S. Lyons, “A submission to the Department of the Environment, Community and Local Government on the Discussion Document, Altering the Structure of Household Waste Collection Markets”, www.ersi.ie.

¹⁸⁶ Cf. Annex IX of the Study on the implementation of Regulation 1370/2007/EC on public passenger transport by rail and by road, 31 October 2010, Study DLA Piper for the European Commission.



Area	301,338 sq km
Population	60,723,569 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“The Republic, one and indivisible, recognizes and promotes local autonomy; it fully applies administrative decentralization of state services and adopts principles and methods of legislation meeting the requirements of autonomy and decentralization” (Section 5 of the Constitution)
Politico-administrative division – 3 tiers of local self-government	- 20 regions (<i>regioni</i>) (15 with “ordinary status” and 5 with a “special” status, autonomous) - 110 provinces (<i>province</i>) ¹⁸⁷ - 8,096 municipalities (<i>comuni</i>) ¹⁸⁸
Average density of population Population disparities between municipalities	Average density of population in municipalities: 7,250 inhabitants Disparities of population between municipalities - 7,467 municipalities have fewer than 15,000 inhabitants - Almost 2,000 municipalities have less than 1,000 inhabitants - 66,6 percent of population in municipalities having less than 50,000 inhabitants - 6.6 percent of population in cities having between 50,000 and 100,000 inhabitants - 4.8 percent of population in cities having between 100,000 and 250,000 inhabitants - 3.4 percent of population in cities having between 250,000 and 500,000 inhabitants - 2.2 percent of population in cities having between 500,000 and 1,000,000 inhabitants - 16.4 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants ¹⁸⁹

Italy is a unitary state, but the process of decentralisation and regionalisation knew important developments starting with 1990.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The Italian Constitution recognizes the autonomy of local communities and confers a legislative power to regions. The Law n°142 of 8 June 1990 on regulation of local entities (*Ordinamento delle autonomie locali*) confirmed the principle of statutory autonomy of the local entities, defined the municipalities’ and provinces’ competences and established a new division of competences, and reformed the legal arrangements available to municipalities for providing public services. The Bassanini reform of 1997 transferred about 40 percent of administrative tasks to territorial entities and consolidated their autonomy. The constitutional reform of 2001 granted wide-spread competences in the field of local services to regions, in particular in the field of local public transportation, waste management and water distribution (some health care responsibilities were transferred to regions in 1995). In principle, the administrative responsibilities must be conferred with the respect of the principle of proximity and of the capacity of the administrative level the nearest to the citizens.

¹⁸⁷ The elimination of 110 provinces as elected entities had been taken under consideration in 2011 in the aim of cutting fiscal costs. The plan was dropped in June 2012 as the project met resistance and because it would have required a constitutional amendment. However, the number of provinces could be reduced by half. Dexia – CEMR, *Subnational public finance in the European Union*, summer 2012.

¹⁸⁸ In Italy, a plan for eliminating small municipalities of less than 1,000 inhabitants appeared in the context of 2011 austerity measures but it seems to have been abandoned in favour of greater inter-municipal cooperation. The municipalities with fewer than 5,000 inhabitants will have to share their resources starting in 2013 (group purchasing, municipal unions) while reducing the number of municipal councillors. *Idem*.

¹⁸⁹ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.



2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In the past two decades, the management modes of public services were enlarged by the Italian legislator both for national and local public services. Before, direct labour was widespread in most local public services and in all non-network activities. However, the delegated management by concession was introduced in the Italian legal order by the Law n°103 of 29 March 1993 under public law regime.

In accordance with the provisions of the Law 142/1990 (Article 22), a municipality may provide services by: a) direct management, where, by reason of the small size or the characteristics of the service, the creation of an institution or an undertaking (*gestione in economia*) would not be efficient; b) licenses to third parties, when justified by technical or economic considerations or by reasons of social expediency (*concessione a terzi*); c) special undertakings (*azienda speciale*) through a separate administrative accounting entity; d) institutions (*istituzione*) for the provision of social services lacking commercial importance; e) corporate companies managed and controlled by local public entities, where participation by other public or private persons appears expedient by virtue of the nature of the service to be provided.

Law-decree n° 112/2008 identifies a duty to introduce public procurement procedures for all local public services before 31 December 2010 for all existing cases of in-house provision, except for particular economic, social and geographical situations in the local area.

Since the 1990s, the use of PPP was constantly spread in Italy, primarily in the sectors of transport infrastructure, utilities, hospital health services, housing, management of waste, etc. A special public structure was created in 2000 to support the investment projects in the public sector (*Unita Tecnica Finanza di Progetto - UFP*). In 2006, the work concession under private initiative was the most widespread procedure in the Italian PPP market; the service concession account for 23.6 percent in value of total PPP market.

In Italy¹⁹⁰, traditionally, **water service** provision was based on direct public operation of networks, regional planning of infrastructure and a high level of subsidies for investment. In some cases, in particular in northern urban areas, municipalities created their own management systems, municipal (multi-sectoral) companies, similar to the German model of *Stadtwerke*. In rural and semi-urban areas, especially in the north, voluntary associations and joint boards of small municipalities were also created. In the last decade, Italian water management system knew a far-reaching reform modelled on industrial asset management and operation, integrated management at a district scale, operation through professional public or private water companies, financial self-sufficiency and full-cost recovery. Strategic and regulatory functions now rest on regional and basin institutions (regional decentralisation reform regionalised the responsibility for environment, in general, so that regions began introducing their regulations on water). The Law n° 36/1994 instituted a compulsory association of municipalities (an inter-municipal agency) within each new management unit (ATO – ‘optimal territorial units’) to ensure a vertical integration of responsibility across the whole urban water cycle and a single operator for all services. The Law Decree n° 135/2009 imposed compulsory competitive tendering while all in-house management modes should be terminated in 2011 (in the 1990s, the number of management units in the country were estimated at some 13,000; in 1995, the municipalities provided water services for more than 87 percent of consumers). On 19 July 2010, one million four hundred thousand signatures of Italian citizens were brought by the Italian Forum of the Water Movements to the highest Italian Court, in Rome, asking for public consultation through a referendum on water. During the referendum of 12 and 13 June 2011 the necessary quorum was attained (57 percent of the population having the right to vote) and 95 percent of the total voters participating in the referendum decided the repeal of the rules allowing the management of local public services to be entrusted to the private sector¹⁹¹ and also of the regulations governing the determination of the water service tariff based on an adequate return on invested capital. To ensure the full cost recovery through charges, the general framework rules for water prices are fixed by the state (e.g. tariff structure, maximum increase rates)¹⁹². Drinking water network covers more than 90 percent of the population, with no great differences among the geographical areas but waste water collection and treatment are backward.¹⁹³ A survey by Istat in 2004 found that 1,165 of Italy’s 7,988 *Comuni* still have no sewage treatment works, with 112 of these lacking a sewerage system. Only one

¹⁹⁰ Summary is based on: Antonio Massarutto, “Urban water reform in Italy: A live bomb behind outward unanimity”, in Bernard Barraqué (ed.), *Urban Water Conflicts*, UNESCO & Taylor&Francis, 2012, p. 247 and following.

¹⁹¹ Ronchi decree of 2009 stated the transformation of all water distribution public enterprises in mixed companies, with at least 40 percent of private shares.

¹⁹² See Lorenzo Bardelli, Lorenzo Robotti, “The water sector in Italy”, CIRIEC International Working Paper N° 2009/01.

http://www.ciriec.ulg.ac.be/fr/telechargements/WORKING_PAPERS/WP09-01.pdf.

¹⁹³ Anea-Utilitatis, *Blue Book. I dati sul servizio idrico integrato in Italia*, Roma, 2007 in Lorenzo Bardelli, Lorenzo Robotti, *loc.cit.*



of the six cities with a population over 0.5 million has an effective sewage treatment while nearly half of *Comuni* with a population of 10-80,000 have inadequate sewage treatment or sewerage. Nevertheless, access to sewerage increased a lot in the last three decades, from 30 percent in 1980 to 62 percent in 1987 and 80 percent by 1995. The proportion of domestic sewage subject to treatment was 14 percent in 1971, rising to 30 percent in 1980, 45 percent in 1987, 62 percent by 1995 and some 69 percent in the mid-2000¹⁹⁴.

As in other European countries, the role of Italian municipalities in the field of **waste management** evolved along with the changing focus of EU and national waste management policy to embrace not only collection and removal of waste but also the sustainable management of materials flow¹⁹⁵. The obligation for municipalities to organize garbage collection services was introduced in 1941 and for this purpose they were allowed to raise charges (cost recovery base, calculated as proportion of size and value of property). However, today, the situation of waste management is not uniform in the country (e.g. differences of collection and use of landfilling). Private sector played an important role both in collection and disposal (landfills were generally owned and operated by the local market). In particular in the urban centres of northern and central Italy, where the tradition of creating municipally-owned companies had been started since the beginning of the 20th century, this management mode was also adopted for garbage collection. In the 1970s, the traditional model of organisation of waste management entered into a process of transformations and the EU waste policy played some role to this respect. At the beginning of the 1980s, regions (just introduced in the Italian politico-administrative system) become responsible for planning. In the 1990s, a new legislative reform transposing the new EU directives introduced a management model inspired by integration of responsibilities (earlier promoted by some municipal companies). It introduces a collective responsibility for municipalities within each province to achieve self sufficiency and led to the separation between (collective) municipal responsibility (creation of intermunicipal agencies – ATO – currently 92, organised as a Consortium or based on a Convention between municipalities) and operation (delegated to specialized commercial companies¹⁹⁶ becoming responsible for the integrated service). On that occasion charging reform was also embarked (cost recovery, structure of charge). Since then, private sector participation and outsourcing increased and a process of concentration and increased complexification of the value chain are noticed. However, until now, municipal companies continue to play a very important role in the field of waste. Some of them grown through mergers and entered the open market in other regions or by selling services (e.g. treatment) to other undertakings. In 2005, about 30 percent of the population that used waste services, from about 34 percent of all municipalities, was disserved by private operators. In 2007, two-thirds of operators were public owned companies (64 entrusting agreements), a slighter number (31) concern mixed companies and in only 5 cases service management was delegated to private companies.¹⁹⁷ Until 2008, municipalities were free to choose among in-house management or tendering but the Law n°112/2008 obliges them to tender (in-house provision would become a last resort management mode). In the waste funding system, pay-as-you-throw systems were introduced.

As regards **local public transport of passengers**¹⁹⁸, since 1997, legislative, planning and financial responsibilities rest with regional authorities. They have direct responsibility to organize and regulate railway services of regional and local interest (essentially supplied by the state owned operator), as well as to establish the relevant basin for other modes and to define and finance minimum services in each basin. Provinces and municipalities are responsible for planning, organising and financing other transport modes. In some territories, inter-municipal cooperations led to the creation of supra-municipal organizing bodies (e.g. Turin) but overall suppliers are very fragmented. More frequently, some form of territorial integration has been obtained through the progressive extension of services from the central city to the surrounding communes (e.g. Milano, Firenze, Napoli). Some municipalities created independent regulatory authorities, with varying degrees of autonomy and power and different organisational forms. In the largest urban areas, services are provided by municipalities, through their public companies (in general, there is a complete recourse to corporatization of public operators which are organised as stock-option companies). In 2004, competitive tendering has been formally established by law as the ordinary entrusting mechanism (since 2010) and was implemented for almost 20 percent of the bus urban and inter-urban network of the centre-northern regions (end of the 2000s); in most of these cases the incumbent

¹⁹⁴ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 129.

¹⁹⁵ Summary is based on: Antonio Massarutto, "Municipal waste management in Italy", CIRIEC International Working Paper N° 2010/01, http://www.ciriec.ulg.ac.be/fr/pages/6_2working_papers.htm.

¹⁹⁶ On the basis of the Law n° 142/1990, local utilities entered into a transformation process dominated by corporatization of management units.

¹⁹⁷ Comitato per la vigilanza sull'uso delle risorse idriche-Coviri, *Rapporto sullo stato dei servizi idrici*, Roma. Coviri, 2008, in Lorenzo Bardelli, Lorenzo Robotti, *loc.cit.*

¹⁹⁸ Source: Andrea Zatti, « New organizational models in European Local Public Transport : from Myth to Reality», CIRIEC Working Paper N° 2011/06, www.ciriec.ulg.ac.be/fr/telechargements/WORKING_PAPERS/WP11-06.pdf.



operator won the bid. According to GOLD III survey, in Ferrara province, the choice of the operator through competition has affected the separation of management and control tasks by decreasing some organisational and managerial responsibilities of local authorities¹⁹⁹. In general, private sector remains marginal in the provision of Italian local transport services (generally as minor share of the local incumbent's stock or as provider of complementary and rural routes) and municipally owned companies hold important tactical and strategic decision.

As regards energy, at the beginning of the 20th century, the national Italian legislation set the framework for (urban) **electricity** to be provided by public law municipal corporations (*municipalizzate*), a system already operating in some northern territories while the rest areas were dominated by private oligopolies or regional monopolies. This model was limited to some extent in the mid-1920s by the Fascist regime but because of the lack of consistent policy of centralization or privatisation, it continued its expansion in the next decade. After the World War II, private companies, public corporations and *municipalizzate* still coexisted. At that time, about 250 municipalities ensured the production and provision of energy, of which 50 through a *municipalizzata*, the rest through direct management or concession to private enterprises. Italy nationalized its energy sector in 1962 by establishing a state-owned enterprise (ENEL) which exercised a national monopoly. Few municipal corporations/companies survived nationalization and no new ones could be created. However, they seem to continue to play a certain important role (in the 1990 they represent about 4 percent of the national production of energy). Recently, their role in national energy market has expanded, in particular in big cities. In 1992, ENEL was transformed into a state-owned stock company (formal privatisation/corporatization) and then some shares have been sold to private sector. *Municipalizzate* could again engage in transmission and sales and some buy significant interest in the power plants ENEL, some of them by recurring to stock markets and PPP to find strategic international partners. Thus, some multinational corporations (Endesa, Suez, Electrabel, EDF) acquired (minority) shares in *municipalizzate*, too. However, local enterprises cover today only a marginal part of the distribution market²⁰⁰.

One may observe that in Italy, the third sector composed by a complex of institutions placed between state and market play today a more important role. They are private organized subjects (charity associations and organizations, cooperatives, no-profit organizations) which aim to produce and supply social services of general interest. The Law n° 328/2000 admitted the contracting out for the supply of social services.

¹⁹⁹ "La scelta del gestore tramite gara pubblica ha influito sulla separazione tra gestione e regolazione diminuendo alcune responsabilità di tipo organizzativo e gestionale degli Enti Locali".

²⁰⁰ Source: Giulio Citroni et al., « From public service to commodity: the demunicipalization (or remunicipalization?) or energy provision in Germany, Italy, France, the UK and Norway», in Hellmut Wollmann, Gérard Marcou (eds.), *The Provision of public services in Europe. Between State, Local Government and Market*, Edward Elgar Publishing, 2010, p. 168 and following.



Area	64,589 sq km
Population	2,058,184 inhabitants
State structure	Unitary state
Local self-government	<i>(No particular Constitutional provisions as regards the statute of local-self government)</i>
Politico-administrative division – 1 tier of local self-government (since 2009)	119 municipalities (9 cities and 110 municipalities) (compared to 522 municipalities before the reform of 2009, of which 7 cities, 50 towns, 41 amalgamated municipalities, 424 rural municipalities)
Population disparities between municipalities	<ul style="list-style-type: none"> - the largest municipality has more than 700,000 inhabitants (capital-city Riga) - the smallest municipality has about 1,300 inhabitants - 47 percent in densely populated areas (at least 500 inhab./km²) - 1 percent in intermediate urbanised areas (100 - 499 inhab./km²) - 52 percent in sparsely populated areas (less than 100 inhab./km²)

After the collapse of the USSR in the 1990-1991, Latvia together with Lithuania and Estonia restored their independence. The beginning of the 1990s was a period of sharp transformation in political, economic and administrative areas. Economic changes included transformation of economic regime from planned economy to market economy and liberalisation of markets. At the same time, administrative transformation resulted in the new division of functions between central and local level: at the beginning with a system very decentralised, then with some trends to centralisation. Autonomous competences are formally recognized but in practice more and more fields are shared with the state and more regulation is produced at central level and frame local action. According to GOLD III survey, the political distribution of resources is another facet of centralisation.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

Since 1998, due to the territorial reform, the number of local communities has varied constantly. The country has no deconcentrated level of central administration and there is no explicit recognition of the principle of local autonomy in the Constitution of Latvia but indirect references to territorial communities²⁰¹.

Local authorities' competences are listed by the Law on Local Governments of 19 May 1994 as well as other specific laws and regulations (on privatization, entrepreneurship, social assistance, education, etc.). The law of 1994 was the first law in the history of Latvia that applies to all types of self-government (rural municipalities, town/city municipalities and districts²⁰²), to which it confers both delegated²⁰³ and autonomous powers. Some of their autonomous competences are mandatory, other optional. According to the Administrative Territorial Reform Act of 1998, the new created "republican" city has some specific features: it has developed commercial

²⁰¹ Article 25 "The Saeima shall establish committees and determine the number of members and their duties. Committees have the right to require of individual Ministers or local government authorities information and explanations necessary for the work of the committees, and the right to invite to their sittings responsible representatives from the relevant ministries or local government authorities to furnish explanations. Committees may also carry on their work between sessions of the Saeima."

Proposals are being prepared on amending the Satversme to include an additional chapter dealing with the functions and the role of local government. Edvins Vanags and Inga Vilka, „Local democracy in the Baltic countries: a new beginning?“, in Michal Illner, Harald Baldersheim, Hellmut Wollmann, *Local democracy in post-communist Europe*, VS Verlag.

²⁰² Districts, second tier of local self-government, were abolished in 2009.

²⁰³ The part 5 on the delegation of specific administrative tasks of the State Administration Structure Law of 2002 sets up the basic provision for delegation of tasks. Section 41 of the respective law states: "A public person may delegate administrative tasks, the performance of which is in the competence of such public person or its institution. When delegating administrative tasks, the relevant public person shall be responsible for the performance of the function as a whole". It is not allowed to delegate to public institutions: "1) planning and approval of the policy and strategic development of the sector; 2) co-ordination of the activities of the sector; 3) supervision of institutions and administrative officials; and 4) approval of the budget of public persons, distribution of financial resources at the level of programmes and sub-programmes, and control of financial resources. *It is not allowed to delegate the following function to individuals:* 1) issuance of administrative acts, except in a case, when such is provided by law; 2) tasks related to the performance of the functions of the external and internal security of the State, except the cases, when such is provided for by law or Cabinet regulations; and 3) other tasks, which by their nature may be performed only by institutions". The delegation can be ensured either by the law or regulation of the Cabinet of Ministers, either by the contract. However, delegation is not widely used instruments in Latvia since there is no defined procedure and criteria for delegation.



activities, transport and community facilities and a social infrastructure; it has a significant complex of cultural institutions; and it has at least 25,000 permanent residents²⁰⁴.

Services such as water supply, sanitation, municipal waste, local public transport, childcare (pre-school education) and elderly care are mandatory for all municipalities. Examples of municipalities' voluntary tasks include adult education, fire protection (usually under the competence of the state).

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

There are different forms used for local service delivery in Latvia: through an internal municipal body, by local institutions and companies (local public companies operate in the areas of water, sanitation, waste, heating), through the delegation of the management to private companies. The contractual delegation of public services to a private company or a local public company is governed by the Law on concessions in force since 2000. In some fields, the delegation of the service is contracted out with NGOs (e.g. Latvian Association of Doctors, Latvian Association of Nurses, Latvian Association of Veterinarians, Latvian Association of Certified Auditors, Latvian Chamber of Crafts).

The section 88 (commercial activities of public persons) of the State Administration Structure Law of 2002 states that public persons may perform commercial activities if the market is not able to ensure the implementation of the public interest in the relevant field, in a sector in which a natural monopoly exists, thus ensuring availability of the relevant service, in a strategically important sector, for the development of the infrastructure of which large capital investments are necessary, or in a sector in which, in conformity with the public interest, it is necessary to ensure higher quality standards²⁰⁵.

Local services can also be delivered in cooperation with other local governments. The cooperation is even required in some fields, or when a municipality does not have the necessary infrastructure. In this case the municipality must enter into an agreement with a municipality that has the infrastructure (e.g. social services, education). Inter-municipal cooperation may also take an institutional form (e.g. waste management, socio-economic development and tourism).²⁰⁶

Water services. In Latvia, water resource management falls within the competence of the central government (Ministry of Environment), which sets strategic plans and policy on EU financing, the Latvian Environment Agency, the four river basin authorities and the four co-ordination councils (representatives of national and basin public authorities, municipalities, and NGOs). In the 1990s, water and waste water services have been decentralised to municipalities. Provision of services is regulated by local government by binding rules. Management could be performed either by an entrepreneur (providing profit) – a private enterprise or a municipal enterprise, in both cases tariffs are regulated by the Public Utilities Commission; or directly by a municipal institution (without profit), in this case tariff is set by the municipality. A new law on water management services is currently being prepared, incorporating norms on facilitation of EU fund rising. In practice, municipalities usually provide these services through municipal companies. In 2010, water service was supplied by 156 commercial enterprises (compared to 170 companies in 2009). For example, in the capital city Riga, water and wastewater services are operated by a municipality owned company ("Rīgas ūdens").

As regards the regulation of water market, until 1 November 2009, this function was assigned to 16 independent municipal regulators (except for the capital city, Riga, whose public utilities were regulated by the National Public Utilities Commission). Since then, water management regulation for water supply, collection, treatment²⁰⁷ and drainage of wastewater (as well as waste management, heat energy supply) became a responsibility of the Public Utilities Commission of Latvia, which shall grant (or revoke) licences, evaluate and approve tariff proposals, protect users' interests, evaluate the compliance of service with public service licence standard²⁰⁸.

²⁰⁴ Inga Vilka, "Local Government in Latvia"«, in in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 352.

²⁰⁵ <http://www.mk.gov.lv/en/mk/darbibu-reglamentejosie-dokumenti/administration-structure-law/>

²⁰⁶ Dominique Hoorens (dir.), *Les collectivités territoriales dans l'Union européenne. Organisation, compétence et finances*, Dexia Editions, 2008, p. 452, 453.

²⁰⁷ Following its accession to the EU, Latvia had three transitional periods during which to meet the obligations of EU Directive 91/271/EEC on urban waste water treatment: (i) for agglomerations with a population equivalent of less than 100 000: until 31 December 2008 (two agglomerations); (ii) for agglomerations with a population equivalent of 10 000–100 000: until 31 December 2011 (24 agglomerations); (iii) for agglomerations with a population equivalent of 2 000–10 000: until 31 December 2015 (62 agglomerations).

²⁰⁸ Aigars Mezals, "Water management sector regulation in Latvia", January 2012.



The financing for operation and investments is ensured by fees (established by municipalities) and local subsidies, as well as structural funds and loans. In 2003, 77 percent of the population was connected to public water supply systems. However, this average masks territorial differences: with a rate of 98 percent of water service connection in Riga, more than 80 percent in other cities and towns and around 50 percent in smaller towns. At the same time, water loss in distribution was estimated to represent about 25-30 percent (12 percent in 2000s according to other sources) and about 60 percent of used water was treated²⁰⁹. Currently, water loss is significantly diminished, in majority of cities water meter are installed. The '800+' programme began in Latvia in 1995, aiming to improve water supply and wastewater treatment in small towns and rural areas, through the refurbishment and construction of 800 sewage treatment works by 2010²¹⁰.

In Latvia, water resource quality is high. Nevertheless, the problem of increased level of iron concentration in drinking water exists. Therefore, it is necessary to fulfil the EU requirements in order to improve the quality of environment and contribute to the purity of the Baltic Sea waters, and improve water quality and decrease the level of iron concentration in drinking water. In smaller municipalities, problems with implementation of centralized water supply system arise due to local inhabitants' mobility between local governments. Liabilities regarding the central water supply system can be met by the cities and municipality centres, while smaller municipalities may have problems.

Municipal waste management is regulated by the new Waste Management Law which entered into force in 2010. At central level, the responsibilities for waste policy and waste management falls within the competence of the Ministry of Environmental Protection and Regional Development (which elaborates both the state and regional waste management plans), the State Environmental Service and its Regional Environmental Boards and the Latvian Environment, Geology and Meteorology Center.

In 2011, municipal waste services were provided by 10 companies (there were 67 in 2010 and 68 in 2009 to provide waste management for households and 26 companies providing households waste disposal).

The Waste Management Law stipulates: 1) choosing of the enterprise which provides waste management services according to the Law on Public Procurement (except the cases which are defined in the Public Procurement directive; 2) in order to secure access to services, waste collection is organized in zones – services provided in cities are combined with rural areas in order to distribute the load. Opening of the market is not mandatory, the market is still regulated. There is a high competition among waste management operators. However, waste deposit polygons are properties of local governments. Those polygons still have commitments regarding EU investments. There are 11 polygons (instead of 500 previously) which will exist until fulfilment of EU investment commitments. Self-governments set up the costs for services (non application of pay-as-you-throw systems for municipal waste). Inhabitants are obliged to make a contract with the enterprise chosen by the self government, according to the competition procedure. In order to stimulate competition, a 'frozen fee' is applied.

Currently, tariffs for services are considered to be affordable for inhabitants - 8-11 LVL for m³ per year, however, increase in tariffs is expected.

In the field of **energy**, some municipalities have responsibilities as regards the organisation of centralized heat supply. In 2009, there were more than 180 companies operating in this field (91 in December 2011). In 2011, about 60 percent of the total energy for heat supply was received from district heating systems²¹¹. Heating is supplied by municipal enterprises or municipal institutions. In more than 44 percent of all households expenses for heating exceed 15 percent of total household expenses. Those households experience difficulties in paying bills. The average amount of debts is about 1.5-2 months of heat suppliers' turnover.

Local public transport in self-governments is organized according to respective regulation. The state compensates losses/expenses for providing public transport, as well as it has defined four categories of privileges. The state organizes inter-city transfers (cities do not receive state compensations); self-governments provide transfers in cities; while planning regions provide local and regional routes. Due to limited state resources, the amount of runs within local routes has significantly decreased. Local governments organize transfers to schools for pupils. There were three sources for purchasing school buses: 1) Swiss financial Mechanism funding; 2) social security network created during the current economic crisis (in areas where schools were re-organized) or 3) state subsidies in

http://www.konkurentsiamet.ee/public/Baltic_Electricity_Market_2011/Presentation_Aigars_Mezals_Tallin_January2012.pdf

²⁰⁹ Brigitte Hoffmann, Susanne Balslev Nielsen, Working Paper on the Current Status of Water Sector Restructuring in Latvia, September 2003.

http://www.irs-net.de/forschung/forschungsabteilung-2/intermediaries/WP1_Latvia.pdf

²¹⁰ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 143.

²¹¹ Public Utilities Commission, Annual Reports 2009-2011.



connection with administrative territorial reform. Provision of school buses causes the risks of: competition of school buses with regular local service providers, as well as increase of illegal service providers due to decreased funding. Service providers are chosen either by concession (in inter-city routes) or by public procurement procedure. In some cities, according to the Regulation, exclusive rights are granted to a single enterprise which provides transport services in the respective city and do not participate in other competitions (e.g., “Rīgas Satiksme” in Riga City).

There are several Latvian state funded health care services for children under the age of 18 which include all emergency services, acute illness treatment and planned medical assistance as well as GP care and home visits if the patient's place of residence is a GP's operating area. There is also certain amount of prophylactic examinations free of charge when children are at certain age intervals. Free of charge vaccination is carried out in accordance with the vaccination calendar.

There is still lack of policy as regards childcare and a real shortage of kindergartens in larger cities and shortage of kindergarten teachers in both, cities and rural areas. Since 2002 municipalities have been obliged to guarantee places in pre-school education for all children of the age category 5–6 years. Latvia also used some European Social Fund funds to improve the infrastructure of kindergartens, to establish alternative centres for short-term childcare and to initiate child minder services.²¹²

There are two types of nurseries in Latvia: state social care centre - for children under two years of age, and children with special needs, and municipal nurseries. There are 39 state and local government funded nurseries occupied by 2000 children. There are also several non-governmental organizations that are taking care of these children.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In 2004, the Constitution was amended with a new part on human rights. Article 101 states that “Every citizen of Latvia has the right, as provided for by law, to participate in the work of the state and of local government, and to hold a position in the civil service. Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia. Every citizen of the European Union who permanently resides in Latvia has the right, as provided by law, to participate in the work of local governments”.

The existence of regional self-governments before the administrative territorial reform ensured higher representation and involvement of inhabitants in tariff setting process. After the creation of a centralized regulation commission (resulting in greater distances between the regulator and service providers and receivers), opportunities for inhabitants to participate in discussion significantly decreased. The representation of inhabitants within the framework of regulation process is formal.

In the sector of public transport, local routes are decreased for one third; consequently, local transport access in rural areas is threatened, while mobility measures are inefficient. GMI and housing benefit compiles around 50 percent of all types of local government services. Social sector comprises around 7 percent of total expenses in local government budgets. The main concerns for the future are connected with the fact that starting from the next year the state ceases to co-finance GMI and housing benefit. In addition, rise of heating costs is expected due to increased prices for gas.

4/ The future of basic public services: key challenges existing and emerging

In controllable sectors, there is a tendency to 1) increase independence of the Regulator and 2) weakening the dialogue with society. Local government influence to regulated tariffs is very low. Economic crisis has influenced the sector in the following ways:

- 1) decrease of the number of service providers – centralization;
- 2) decrease of the number of small and medium enterprises;
- 3) in several sectors access to services is weakened;
- 4) the development of services is slowed down. Funding which is planned for development, in many cases is used for covering debts and amortization expenses; accumulation for development is eliminated;
- 5) services' providers (especially state institutions) become more centralized – they move to the capital and move away from inhabitants.

²¹² Janneke Plantenga, Chantal Remery – EGGE (eds), *The provision of childcare services. A comparative review of 30 European countries*, European Commission, March 2009, p. 35, 59, 65.



Area	65,300 sq km
Population	3,030,173 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“The right to self-government shall be guaranteed to administrative units of the territory of the state, which are provided for by law. ... The procedure of the organisation and activities of self-government institutions shall be established by law.” “The state shall support municipalities. Municipalities shall act freely and independently within their competence defined by the Constitution and laws.” “Municipalities shall draft and approve their budget. Municipal councils shall have the right, within the limits and according to the procedure provided for by law, to establish local levies; municipal councils may provide for tax and levy concessions at the expense of their own budget (Articles 119, 120, 121, Chapter X on Local self-government and governance of the Constitution of 1992)
Politico-administrative division – 1 tier of local self-government	60 municipalities (<i>savivaldybė</i>) ²¹³ , out of which 7 are city municipalities (<i>miestų savivaldybė</i>), 53 district municipalities (<i>rajonų savivaldybė</i>); at infra-municipal level, the municipalities are divided in 524 “neighbourhoods” (<i>seniūnija</i>) ²¹⁴
Average density of population Population disparities between municipalities	Average number of inhabitants per municipality: 56,722 - 66,7 percent of municipalities have between 10,000 and 50,000 inhabitants (the majority of municipalities have between 20,000 and 40,000 inhabitants) - 21,6 percent of municipalities have between 50,001 and 100,000 inhabitants - 8,3 percent of municipalities have over 100,000 inhabitants (the largest municipality has over 550,000 inhabitants) - 1,7 percent of municipalities have between 5,001 and 10,000 inhabitants - 1,7 percent of municipalities have between 1,000 and 5,000 inhabitants (the smallest municipality has about 2,400 inhabitants) ²¹⁵ 40 percent in densely populated areas (at least 500 inhab./km ²) 60 percent in sparsely populated areas (less than 100 inhab./km ²)

In 1940, when Lithuania was incorporated into the Soviet Union, the constitutional local self-government was abolished. It was restored 60 years after, before the independence, on 12 February 1990, by the Supreme Council of the Lithuanian Soviet Socialist Republic, which adopted the Law on the foundation of Local Self-government.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The Constitution of 25 October 1992 granted autonomy to the administrative units²¹⁶ of the territory within their jurisdiction (Chapter X). In 1994, the Law on Local Self-Government (1994²¹⁷) divided local authority functions into autonomous²¹⁸ and delegated by the state²¹⁹. Today, Lithuanian public administration and administrative-territorial systems can be seen as a mixture of the Western and Soviet tradition. The new Law on local self-government was adopted in 2000.

²¹³ It is a law of 1994 that transformed the 581 existing administrative units in 56 municipalities. Four new municipalities were created between 1994 and 2000.

²¹⁴ The 10 counties (*apskritis*) are highest territorial administrative units (their reorganisation in 5 regions is planned).

²¹⁵ Diana Šaparnienė, Aiste Lazauskienė, « Local government in Lithuania », in in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 374.

²¹⁶ “The administrative units of the territory of the State of Lithuania and their boundaries shall be established by law” (article 11 and 66 of the Constitution).

²¹⁷ <http://www.litlex.lt/Litlex/Eng/Frames/Laws/Documents/167.HTM>.

²¹⁸ General education and additional training of children and youth and the general training of adults, cultural education of the population and the promotion of general and ethnic culture, primary health care and disease prevention for residents, care for the sick, disabled and elderly, ensure that the territory is sanitary and that the requirements for hygiene and environmental protection are being complied with, develop the industry of recreation and tourism of the residents, organize the support, care and attendance of the disabled and single elderly persons, arrange charity events, and distribute accumulated funds and donations, establish prices and tariffs for services rendered to residents by public municipal enterprises.

²¹⁹ Civil registration, keep the register of municipal, state and private enterprises, as well as public organizations; they may also manage state parks (national and regional), organize the municipal police, civil security and fire prevention system, other functions delegated by laws. (Article 16 of the Law)



Lithuanian municipalities are among the most populated in the European Union. They are even considered as too large and a reform of the territorial organisation is analysed to facilitate the relationships between people and local politicians by increasing their number²²⁰. The scope of competence is the same for all municipalities but their powers are not so many (e.g. sanctioning powers over individuals and firms, expropriation power). Their compulsory tasks concern education (kindergarten, primary and secondary), social and primary public health services, municipal passengers transport, energy, water²²¹, waste water treatment and waste and some cultural and administrative services. Their autonomous functions also include vocational training and vocational guidance of children, free school transportation for pupils residing in rural localities, planning and provision of social services (through social establishments and/or ONG), etc. Broadband access is not a municipal competence but the State has developed a nationwide optical-fibre infrastructure, including public access points (in the public libraries, schools, etc.).

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Municipalities organise and determine the management mode of local basic services. They may set up municipal bodies and public establishments or delegate their management to external private or mixed operators. In the absence of a provider of public services, a ward/neighbourhood (*seniūnija*) may, by the decision of the municipal council, render public services itself (article 5 and 8, 9 of the Law on local self-government).

Local basic services may be rendered by budgetary and public establishments, municipal undertakings, companies with share capital and other entities. Public services may be managed under contract by a municipal company, a private or a mixed one, which is the case particularly in the transport sector. External operators are chosen by public tender. In practice, concessions and PPP are becoming more and more popular. Public management of local public services through a public establishment is used for the provision of social services (early childhood care and elderly care). Some private and central government-owned establishments also operate in these sectors.

In **water** field, municipalities operate 73 water and waste water management entities, providing water to 78 percent of the population and sewerage to 71 percent (due to weak coverage in rural areas). Most services are managed through a public company controlled by the municipality. Private companies are less present on this market (e.g. construction of waste water plants). The water provision services for Vilnius are under consideration for developing a concession contract²²². In 2011, a survey revealed that four municipalities were connected to a municipal drinking water network.²²³

Private companies often contract with municipalities the operation of sanitation, waste and local public transport services. In these fields, public municipal companies intervene more rarely. Some of the water supply and sanitation as well as public transportations companies appeared following the total or partial privatisation of public undertakings. In 2011, 53 private companies, 11 companies with mixed capital and 31 municipal companies operate waste collection services.²²⁴

In general, the concession procedure may be used for the provision of public services in areas determined by law: energy, including heat and electricity, oil and natural gas extraction, transmission, distribution, supply, railway lines and systems, water economy, including water collection, pumping, treatment, purification and distribution; waste water, including waste water collection, transportation and treatment, and sludge treatment; utilisation, recycling and management of waste; infrastructure of road transport; health care system; telecommunications infrastructure; educational system; port and barrage infrastructure; airport infrastructure; public transport infrastructure; tourism objects, facilities and other infrastructure; culture, sports, leisure facilities, equipment and other infrastructure²²⁵.

The intermunicipal cooperation is promoted as an alternative to the creation of a second level of local communities. There are two main forms of cooperation: agreements for joint activities or joint provision of public services made with state agencies and/or other municipalities (including construction and development of equipment, urban and regional planning and basic public services) and participation in regional development council. Intermunicipal-entities intervene in particular in the field of sanitation and waste management. Thus,

²²⁰ Dominique Hoorens (dir.), *Les collectivités territoriales dans l'Union européenne. Organisation, compétence et finances*, Dexia Editions, 2008, p. 465-466

²²¹ A draft legislation is likely to reduce municipalities' role in the fields of water management.

²²² Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 140.

²²³ Lietuvos Laisvosios Rinkos Institutas, *Lietuvos savivaldybių indeksas 2011*, Vilnius, 2011, p. 11.

²²⁴ Lietuvos Laisvosios Rinkos Institutas, *Lietuvos savivaldybių indeksas 2011*, Vilnius, 2011, p. 12.

²²⁵ Law n° I-1510 on concession of 10 September 1996, last amended by Law n° X-749 of 11 July 2006.

waste collection is organized via “regional” waste management centres established by municipalities (main shareholders).

The modes of organisation of **urban transport** services are diverse and include direct, in house and delegated management to private operators. As in other new Member States, after 1990, the sector saw the steady decline in passenger transport by public transportation. However, largest municipalities have started to invest into modernisation and renewal of public transportation system and the number of passengers increase.

The need to improve public infrastructure and public services situation and limitations on the main country fiscal indicators set by international treaties (Stability and Growth Pact and Maastricht Treaty) and therefore Government inability to devote appropriate financial resources to meet those needs are determining for the PPP development in Lithuania²²⁶. PPP development has started by MOF in the middle of 2005. PPP Projects Management and Coordination Division within State Treasury Department were established, in late 2007 incorporated into newly established Assets Management Department. Today the process is mainly spontaneous as there is no long term PPP strategy or Action plan, no centralized PPP process development and management and supervision or a sufficient clearly developed legal system enabling effective different PPP forms application. Public and private sectors cooperation possibility is foreseen by the Concession law of 1997 revised in 2003, the public procurement law, the Civil code, the Law on management, usage and disposal of state and municipal Property. Currently existing legal basis provides for two PPP forms application: concession (the most developed PPP type, on the grounds of Concession Law provisions) and joint activity (joint ventures) - establishing mixed capital enterprises (contract limited to 3 years). PPP projects are initiated and carried out mainly by municipalities. The first concession type project was concluded in 2002 as a long term lease of Vilnius city heating networks. According to the National Audit Office of Lithuania by September 2007, 45 concession type projects were initiated by 26 municipalities (above 43 percent out of total amount) and in many cases there was only one participant during tender²²⁷.

Municipal budgets consists of tax revenues (35 percent of all municipal revenues), non-tax revenues (among them, administrative fees for local services provided) and financial grants (more than 50 percent of all municipal revenues). Because of the growing tendency to collect and distribute a larger part of tax revenue at central level, the financial independence of municipalities is decreasing²²⁸. According to GOLD III survey, in the field of water, sanitation and waste (pay-as-you-throw systems are implemented), fees cover all operation costs, while social services (early childhood care and elderly care) are fully financed by subsidies from the local government. Such subsidies and other public transfers are also necessary to ensure the operation of local public transport where fees cover, on average, only 65 percent on all costs. In water, sanitation and waste sectors, on average, 70 percent of investment costs are covered by grants from EU Structural Funds. Important EU financial support is also invested in public transport infrastructure.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In some sectors, the survey of the GOLD III project reveals several problems in coordinating between different levels of government and those responsible for the delivery of local services that essentially concern the regulation of prices (water, sanitation, waste, local public transport) as well as the compensation of reduced prices for social benefits holders. The categories of persons entitled to receive social benefits (socially disadvantaged households) are defined by the central government and discounted prices are applied by the local service providers (for access to hot water, sanitation and urban heating services, local public transport) but the methodology of compensation of these costs is set at central level.

Among the sectors of GOLD III project, early childhood and elderly care public services are provided free of charge but users may choose some additional services issued in return for payment.

Users' participation in the governance of local basic services is ensured through municipal committees and councils meetings where they can participate as observers, the publication of draft municipal decisions on the Internet, their right to submit a claim to the parliamentary Ombudsman. However, GOLD III survey could not assess their real influence in services' governance.

²²⁶ See the actual strategic documents: Lithuania Convergence Programme 2007, National Lisbon Strategy Implementation Programme, 15-th Government Activities Programme for 2009-2012, MOF Strategic Activity Plan 2009.

²²⁷ Diana Vaitiekūniene, Ministry of Finance of Lithuania, *PPP process development in Lithuania*, 29 January 2009, http://www.ppp.gov.lv/fetch_1856.html. See also some examples on http://www.ppp.gov.lv/fetch_1857.html

²²⁸ Diana Šaparnienė, Aiste Lazauskienė, *op. cit.*, p. 383.



Users' complaints regarding services are mainly to be address to municipal administration, either through the ordinary procedure of inquiries or through online consultation tools. Direct complaints to operators seem to be less frequent or their impact on local services governance is less known.

In case of service failures, or of the non respect of the contractual clauses only ad hoc schemes for the compensation of users are provided for, on a limited scale (e.g. in case of severe consequences).

The participation of employees to the governance of local basic services mailny (or exclusively) concerns their working conditions.

Performance assessment of the access and quality of the local basic service seems not be a local routine. Evaluation standards and indicators seem to be set up only in some sectors (water, sanitation and waste) by the central ministry in charge of environment protection, which also collect and analyse data from municipalities and/or operators. Nevertheless, many municipalities and operators seem to publish assessment data on their web sites. Municipality's control over service providers is ensured by annual reports, nomination of the manager of the municipal enterprise, municipal audit.

4/ The future of basic public services: key challenges existing and emerging

Improvements of the situation of Lithuanian local public services have been made in the last five years. Thought, the current crisis impacts them, too. In general, in water, sanitation and waste, as well as in social services sectors, GOLD III survey underlined the reduction of funds for infrastructure investments and repair works, the reduced purchase capacities of users, which caused slightly reduced consumption, slight increase in the amount of delayed payments, but also the degradation of the situation of some social services during the crisis. For the mayors responding to GOLD III project survey, the lack of funding to improve or extend services (excepting waste and broadband services) will remain the main challenge in the next decade, along with changes in population change, the impact of EU policies and law, increasing energy prices and the development of renewable energies, rural issues and aging infrastructures.

The number of persons entitled to receive social benefits increased during this period but the financial transfers from the central government to support them are delayed and this situation also impact the operation of some services (e.g.in local public transportation).

The main challenges for financing local basic services and guaranteeing universal affordable access appear to be linked to the particular situation of rural areas, which are sparsely populated and require high infrastructure costs. This also explains the fact that the inhabitants of these territories have ensured less access to some public service, such as public transportation (the number of transportation routes being reduced).

Social services are confronted, on the one hand, with the phenomenon of (children) population decreasing, leading to under-exploitation of early childhood care infrastructure and high maintenance costs per person, and, on the other hand, to increase share of elderly population and, in some larger cities, of the number of children, so that municipalities cannot fully satisfy the demand. At the same time, the level of participation of children in pre-school formation is weak because of the two years parental leave permissible.

Access to local basic services is rather varied countrywide and sectors but no informal settlements seem to exist in Lithuania. According to GOLD III project survey, between 11 and 15 percent of the population has limited access or no access to water services and 5 to 10 percent to local public transportation.

The current crisis had a major financial impact (GDP has fallen by a quarter) while at the same time increasing the demand of social provisions. To accommodate with the new financial situation, some municipalities were constraint to reduce public employment and wages, others reduced weekly working hours.

5/ The EU impact

The EU law impact is first to be seen in local basic services market opening and competition (waste and waste water collection, public transport). However, due to relatively low density of population and large distance, public transportation remains largely subsidized by public budget(s) because it is not generating profits. In exchange, EU law does not seem to have any impact on local social services.

According to GOLD III survey, in Lithuania, the impact of EU jurisprudence only concern sanitation and waste services, where it is frequently referred to as the source of the solution of disputes.



LUXEMBOURG

Area	2,586 sq km
Population	537,039 inhabitants (1 st January 2013)
State structure	Unitary state
Local self-government – constitutional provisions	“Communes form autonomous authorities, on a territorial basis, possessing legal personality and administering their patrimony and own interests.” “The [communal] council draws up the yearly budget and closes the accounts. ... It may impose taxes with the Grand Duke’s approval.” “... No communal charge or tax may be introduced except with the consent of the communal council. A law determines the exceptions shown by experience to be necessary as regards communal taxes.” (Article 107(1), (3), and 99 of the Constitution)
Politico-administrative division – 1 tier of local self-government	106 municipalities (12 having city status) ²²⁹
Average density of population Population disparities between municipalities	203 inhabitants per sq km Lowest density: 31,8 inhabitants per sq km (commune of Boulaide) Highest density: 2222,9 inhabitants per sq km (commune of Esch-sur-Alzette)

The territorial and administrative structures of Luxembourg and the first responsibilities of municipalities have been established during the XVIIIth and XIXth century. The actual Constitution recognizes the principle of self-government (Article 107). The Municipal Act of 13 December 1988 strengthens the self-government of municipalities and confers to the municipal council the general competence to meet all municipal interests (Article 28).

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The compulsory responsibilities of municipalities include municipal planning, water supply, waste water, waste, pre-primary and primary education (organisational and infrastructural aspects), public social assistance, school medicine, emergency services.

The complementary missions assumed by municipalities include i.a., childcare services, elderly care, housing, music education, electricity and natural gas supply (transport and distribution).

Some municipal responsibilities are carried out in cooperation with the state.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Local public services may be provided directly by municipalities or in cooperation with other municipalities. Inter-municipal cooperation has been significantly intensified during recent years. The municipal syndicates (*syndicats de communes*) run services in various sectors, including public transport, waste, wastewater, water supply.

The majority of local public services are supplied by public entities. There are few local public enterprises in the country.

Water was originally an exclusive municipal task. Today, water management is ensured in a multi-level governance system where municipalities organise and ensure the provision and financing of water service supply. They may choose to manage it through their own entities and resources, or through inter-municipal syndicates. Water supply and waste water treatment are thus exclusively managed by the public sector (communes or *syndicats de communes*) The full cost recovery principle, enshrined in the Law on water of 30 December 2008 (Art.12), is in the process of being implemented.

²²⁹ The number of municipalities slightly reduced in the last years (there were 116 municipalities in 2009) but this trend is expected to continue and by 2017 there is expected to be 71 municipalities to ensure a critical mass of a minimum of 3,000 inhabitants per municipality. Dexia – CEMR, *Subnational public finance in the European Union*, summer 2012. Three administrative districts are organised for the deconcentrated administration of the State.



In Luxembourg, **waste** management is regulated by the Law of 1 February 2012 on waste. The national plan on waste is set up by the National Administration of Environment. The provision of waste services is realised by municipalities and their inter-municipal syndicates. There are three main syndicates for waste management: SIDEC, SIGRE, SIDOR, which also operate two controlled landfills and one incineration plant. Within the territory of SIDOR, several municipalities set up other syndicates to accomplish specific missions.

The tasks of the Luxembourg' inter-municipal syndicates as regards waste management²³⁰

		SIDEC	SIGRE	SIDOR	M/inett- Kompost	SIAS	SICA	SIVEC	STEP
General objectives	Management in general	X		X		X	X		X
	Waste reduction	X		X					
Collection	Collection in general								
	Household waste collection	X	X				X		
	Collection of organic waste	X			X		X		
	Selective collection	X					X		
Recycling	Recycling in general	X					X		X
	Centre of recycling	X					X	X	X
	Composting	X			X		X	X	
	Disposal	X		X					
	Discharge	X	X						
	Incineration			X					
	Storage	X							
Information	Information	X		X			X		
Others	STEP					X		X	X
	Cleaning of routes						X		

The law reinforces the principle already enshrined in the previous legislation concerning full-cost pricing at every stage of waste management. It also focusses on waste prevention and the promotion of recycling in accordance with the targets set out in the European directive 2008/98/EC of 19 November 2008 on waste.

Electricity. Since 1st July 2007, electricity market is fully liberalised and all consumers (including households) access the service on the price of the market. According to the legislation, municipalities may be active in the production, transport, distribution, supply, or as buyers and sellers of electricity. In practice, the handful municipalities owning electricity distribution systems and players on the electricity market have been gradually retreating from the market since the entry into force of the above-mentioned law. The Law of 18 December 2009 on social aid provides for guaranteeing a minimum provision of energy to households/persons which fulfil the eligibility conditions of a right to a social aid if he/she cannot afford energy fees. But the national legislation does not define precisely the concept of “vulnerable client”. At the same time, the law on electricity established a procedure to be followed up by operators if consumers fail to pay their bill allowing social offices to assume the debt. In such a case the consumer cannot be disconnected and the provider has the right to install a prepay meter until the recovery of the full debt. However, in practice, the thirty social offices intervene mainly ex post. In 2011, 1,138 electricity and gas disconnection were realized (following 7,216 procedures of disconnection opened)²³¹.

Local transport services. In practice, there are two municipal actors in the field of public transport: the city of Luxembourg and an inter-municipal syndicate federating 9 municipalities in the south of Luxembourg. The public transport system in all other parts of the country is organised and financed by the state.

²³⁰ Ministère du développement durable et des infrastructures, Administration de l'environnement, *Plan général de gestion des déchets*, Janvier 2010, p. 56. http://www.environnement.public.lu/dechets/dossiers/pggd/pggd_plan_general.pdf.

²³¹ Rapport de l'Institut Luxembourgeois de la Régulation sur ses activités et sur l'exécution de ses missions dans les secteurs de l'électricité et du gaz naturel – Année 2011, Luxembourg, Août 2012. http://www.ilr.public.lu/electricite/documents_NEW/rapport/rapport_benchmark_2012_Luxembourg.pdf.



Broadband. The Law of February 27, 2011 on electronic communications networks has liberalized the sector in accordance with EU legislation. Municipalities have to give registered actors free access to municipally owned grounds for the installation of relevant below-ground infrastructures, in accordance with planning regulations.

Child care services are provided by municipal or private actors and are developing rapidly. Municipalities may provide childcare services for 0 to 4 year olds (*crèches*) and are encouraged by the state to provide after-school childcare services for pre-primary and primary school children aged 4 to 12 (*maisons relais*). Services are either managed directly by the municipalities or subcontracted.

Elderly care. In 2013, 14 percent of the insured population is aged 65 years or older and 1.7 percent is aged 85 or older and according to demographic projections these percents will multiply by 2 and respectively by 4. In Luxembourg, any person in need of assistance from another person is entitled (if persistent need for at least 6 months and more than 3.5 hours per week) to long-term care insurance. A dependent person is entitled to assistance for activities of daily living (personal hygiene, nutrition or mobility) and, depending on the level of dependency, help with household tasks, support activities, and/or advices for the dependent person or his informal carer. For a home-based dependent person, the long-term care insurance will pay for the help and care given by a care network or by a semi-stationary centre. The long-term care insurance acknowledges the assistance provided by an informal carer (anyone who is not linked to a care network). If the informal carer doesn't benefit from a personal pension, the long-term care insurance also pays his contribution to pension insurance. For a dependent person within a care institution, the long-term care insurance pays for the assistance and the care given by this institution. The Evaluation and Orientation Unit elaborated the care plan containing the services the dependent person is entitled to, in accordance to his level of dependency. All those services are covered entirely by the long-term care insurance. Active and retired persons pay a special contribution of 1.4 percent of all their incomes (wages, revenue, pensions, and income from an inheritance). This is supplemented by a state contribution (actually 140 million Euros) as well as by a contribution from the electricity sector²³². Municipalities play a complementary role in the management of retirement homes.

²³² Alain Koch, Christine Weisgerber, "Facts about elderly people and long-term care in Luxembourg", 2011. www.peer-review-social-inclusion.eu



Area	316 sq km
Population	416,676 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“The state shall adopt a system of local government whereby the territory of Malta shall be divided into such number of localities as may by law be from time to time determined, each locality to be administered by a Local Council elected by the residents of the locality and established and operating in terms of such law as may from time to time be in force.” (Article 115A of the Constitution)
Politico-administrative division – 1 tier of local self-government	- 68 local councils (<i>kunilli lokali</i>) of which 11 are considered towns (<i>citta</i>) ²³³
Population disparities between municipalities	- the largest municipality has 22,000 inhabitants - the smallest municipality has 349 inhabitants

Malta became an independent state in 1964, after more than one and a half centuries of British colonization. According to the Constitution of 21 September 1964, Malta is a unitary state, composed of seven islands (three of them are populated: Malta, Gozo and Comino while Filfa, Cominotti and St. Paul’s Islands are uninhabited). Because of its size, until the 1990s there was no need felt to establish local governance (except in Gozo)²³⁴.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In Malta, the Local Councils Act was enacted in 1993; it set up 67, later 68 local councils. The system of local government was entrenched in the Constitution of Malta by the Act No. XIII of 24 April 2001.

In accordance with the provisions of law on local councils, their competences, gradually expanded, and currently mainly concern the domestic waste management and urban planning, street cleaning, public gardens and parks, cultural and sport centres, libraries. The councils may discharge themselves of some of their prerogatives, such as street lighting or local public order. In the fields of public health, old people’s home, social action, kindergartens, primary education, local councils have shared competences with the central state.

Municipalities may jointly discharge their functions and by a joint committee of theirs or by an officer of one of them (Article 37, Local Councils Act).

Malta is part of the group of EU member states in which local public expenditure is less than 5 percent (respectively 0,6 percent) of GDP (similar to Greece and Cyprus). However, unlike other European municipalities, local councils of Malta are not empowered to collect their own taxes. Their budget mainly consists of allocations from the central government (about 80 percent). Also, they may charge fees for municipal services. Other sources come from law enforcement, investment, etc.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Municipalities can manage their public services directly or they can delegate the management to a private company by public tender. Recent studies revealed there are no local public companies in Malta²³⁵.

In the field of environment, municipalities are responsible for the protection of the natural and urban environment of the locality and take all necessary measure to ensure good waste management, efficient use of energy and climate change initiatives. They provide for the collection and removal of all refuse from any public or

²³³ Since 1994, the local councils are grouped in three administrative regions without clear administrative or executive functions. In 2009, an amendment to Local Councils Act, introduced the concept of Regional Committees, a new level of government operating above that of local government. Presently they lack any formal legislative, political or administrative role. This reform also introduced the concept of administrative committees (mini councils) answerable to the local council, for 16 localities distant from the centre or with particular needs. Kevin Aquilina, Isabelle Calleja, « Local Government in Malta», in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 416.

²³⁴ Kevin Aquilina, Isabelle Calleja, *op. cit.*, p. 414.

²³⁵ Dominique Hoorens, *Les collectivités territoriales dans l’Union européenne. Organisation, compétences et finances*, Dexia, 2008, p. 499



private place, for the maintenance of cleanliness and for the upkeep and maintenance of all public conveniences, dustbins and other receptacles for the temporary deposit and collection of waste; and to ensure that these are accessible to all persons. The national waste policy falls within the competence of the Government, through the Office of the Prime Minister and the Ministry for Resources and Rural Affairs, responsible for the conception and implementation of the national waste management strategy (the first adopted in 2001). They are assisted by the Malta Environment and Planning Authority (MEPA) established in 2002. WasteServ Malta Limited is the company (established in November 2002) to serve as an operator of last resort (it does not compete with private enterprises unless it is forced to do so as an operator of last resort or in the light of unforeseen difficulties). It is responsible for organising, managing and operating integrated systems for waste management including integrated systems for minimisation, collection, transport, sorting, reuse, utilisation, recycling, treatment and disposal of solid and hazardous waste.

Local councils operations usually organise the collection services of municipal solid waste on their own territories, at municipal scale. There are only few smaller municipalities teaming up to provide these services. To an increasing degree, private waste management companies are either acting on behalf of local councils, WasteServ Malta Limited or industrial waste generators for collecting, transporting, sorting, pre treating, recycling or exporting different types of wastes. For the purposes of certain services (e.g. bring-in sites), local councils have been grouped into six regions, to enable a more rationalised and cost effective collection of solid waste. The waste collection service (daily door to door collection of household waste, exempted since May 2008 on Tuesdays when dry recyclables are collected, and collection of bulky waste on request) which is offered to Maltese households by their local councils is free of charge to the Maltese citizens. All costs are borne by the Maltese Government which fully supports this service from the general tax income²³⁶.

²³⁶ Source: Waste Management Plan for the Maltese Islands 2008-2012, Consultation document, 15 May 2009.
[http://www.mrra.gov.mt/files/uploaded/files/Waste percent20Management percent20Plan percent20for percent20the percent20Maltese percent20Islands.pdf](http://www.mrra.gov.mt/files/uploaded/files/Waste%20Management%20Plan%20for%20the%20Maltese%20Islands.pdf)



Area	41,543 sq km
Population	16,693,074 inhabitants
State structure	Unitary state ²³⁷
Local self-government – constitutional provisions	“The powers of provinces and municipalities to regulate and administer their own internal affairs shall be delegated to their administrative organs”. “Both the organisation of provinces and municipalities and the composition and powers of their administrative organs shall be regulated by Act of Parliament.” (Article 124§1 and 132§1 of the Constitution)
Politico-administrative division	2 levels of territorial communities - 12 <i>provincies</i> - 415 municipalities/ <i>gemeenten</i> ²³⁸
Population disparities between municipalities	Considerable variation in municipalities’ size - 32.1 percent of the population live in (25) municipalities having more than 100.000 inhabitants - 19.9 percent of the population live in (46) municipalities having between 50.000 and 100.000 inhabitants - 35.8 percent of the population live in (191) municipalities having between 20.000 and 50.000 inhabitants - 12.1 percent of the population live in (150) municipalities having between 5.000 and 20.000 inhabitants - The rest of the population (0.1 percent) live in (6) municipalities having less than 5.000 inhabitants ²³⁹ Average population per local authority: about 37,000 inhabitants

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The Dutch Constitution of 1815, as amended, guarantees self-government but gives no indication on local authorities’ fields of competence. It is the legislators’ competence to create territorial communities (municipalities and provinces), professional corporations (*beroepslichamen*), representative enterprises (*bedrijfslichamen*) or other public bodies (*andere openbare lichamen*). Municipal and provincial authorities derive their legal tasks and powers principally from the Municipalities Act (*Gemeentewet*) and the Provinces Act (*Provinciewet*) of 1994.

By virtue of law, provinces have competences in the field of environmental management (drawing up and implementation of environmental protection plans), spatial planning (drawing up guideline plans for spatial development and endorsing land-use plans), energy supply, housing (allocating quotas with regard to social housing, awarding grants to municipalities), transport (provincial roads), employment, promotion of culture, and tourism.²⁴⁰ They also play a co-ordinating and planning role and supervise municipalities’ finances.

Local authorities have general competences but their activities must not conflict with rules and requirements set by higher levels of government; they are also subject to administrative (mainly provincial) supervision. The municipalities are responsible for spatial planning and urban development (land-use plans and planning permission), water supply, social housing (building and management of social housing and management of land belonging to the community), local public transport and transport infrastructure (development and maintenance of municipal streets and roads, traffic and parking regulations, provision of public transport and school buses), public health, education (management of public primary schools and financing of all primary schools), social services (disabled, elderly, support to children and young people and planning of institutions and programmes

²³⁷ For the purpose of GOLD III Report only the continental part of The Kingdom of the Netherlands is considered. The Kingdom also includes some of the Caribbean Islands (the six overseas entities are Aruba, Bonaire, Curacao, Sint Maarten, Sint Eustatius and Saba). Every country within the Kingdom has its own constitution (within the framework of the Kingdom Statutes) and enjoys extensive autonomy.

²³⁸ There are proposals to reduce the number of municipalities from 430 now to 100- 150 or even to 25-30 and the number of province from 12 to 5- 8 or even to zero.

²³⁹ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

²⁴⁰ *Wet van 10 september 1992, houdende nieuwe bepalingen met betrekking tot provincies (provinciewet)/Law on provinces*

providing such support), employment, culture, sport, recreation, public order and safety²⁴¹. It should be highlight that there are major decentralisations on their way, for example in the field of youth care. The state decentralizes these responsibilities, while cutting in the available resources (the so-called “efficiency discounts”). This poses a big problem for the municipalities, because even though it is true that they can deliver the services more effectively and cost-efficient, the cuts (for some services up to 75 percent) make it impossible to carry out these new tasks.

Each governmental level has its own financial control and there is no shared tax. Central government transfers, completed with some local taxes and charges, represent the main sources of income for municipalities (over 75 percent of their financial resources). Provincial and municipal tax revenue comes entirely from own-sources. For municipalities the main sources are property taxes (about €3,5 billion in 2005 representing 48 percent of municipal tax), the refuse collection rate (about €1634 million in 2005 representing 22 percent of municipal tax) and the sewer tax (about €923 million in 2005 representing 13 percent of municipal tax)²⁴². In addition, municipalities may also levy other taxes such as tourist tax, dog tax, parking tax, etc. However, municipal taxes account for less than 10 percent of the municipal revenue. Most state’s transfers tare ring-fenced special purpose grants and aim at enabling the provision of the same level of public goods and services. Municipalities also receive non earmarked block grants from provinces and municipalities funds.

In the Administration Agreement 2011-2015²⁴³, the central government, the provinces and the municipalities agreed that more tasks of the central government will be carried out by municipalities and provinces. This decentralisation will in particular focus on the areas of youth, environment, various issues regarding employment and health care²⁴⁴.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

For the accomplishment of their tasks, local authorities can choose between the in-house management through their administrative services, the creation of a municipal enterprise (*stadswerken*) without legal personality but having autonomy of management, through a local public company (most often organised as limited companies, owned by local authorities or associated with the state) or to delegate the management of the service to mixed or private operators. Many PPP projects were initiated at national level and a centre of expertise on PPP (*Kenniscentrum publiek-private samenwerking*) was founded in 1999. However, locally, PPPs are rare.

Environment and fight against climate change policy - divisions of powers among different level of government

National Government	Regional level – Provinces	Local level – Municipalities
Overall responsibility with the Ministry of Infrastructure and the Environment Coordination and funding of environmental policy Major national concerns: Acidification Climate change Eutrophication Dispersion of toxic substances Waste disposal Groundwater depletion Squandering of resources National telephone number on animal abuse Emission authority	Spatial planning at municipal level (structure vision) Establishes regional legislation on environmental protection on at least groundwater protection and noise nuisances Environmental policy implementation Major regional concerns Acidification Eutrophication Dispersion of toxic substances Waste disposal Groundwater depletion Water collection Energy saving. Protection and cleaning of the soil Partial control over water supply. Under the new Water law of 2009, part of the province’s tasks was allocated to the	Spatial planning at municipal level (structure vision and allocation plans); Environmental policy implementation; Major local concerns: Acidification Waste disposal Local nuisances Groundwater depletion Energy saving Sewerage; Waste management; Recycling; Enforcement measures; Environmental Police; Rejecting access for polluting companies; Granting (environmental) permits has since 2010 been carried out jointly with the Water Board and the

²⁴¹ *Wet van 14 februari 1992, houdende nieuwe bepalingen met betrekking tot gemeenten (gemeentewet)/Law on municipalities*

²⁴² Collective - Dexia Crédit Local Research Department, *Sub-national governments in the European Union – Organisation, responsibilities and finance*, Dexia Ed., La Défense, 2008.

²⁴³ Bestuursakkoord 2011-2015,

http://www.vng.nl/Documenten/actueel/beleidsvelden/bestuur/2011/20111018_bestuursafspraken.pdf.

²⁴⁴ A new government has been installed in November 2012. Therefore, this Administration Agreement is no longer in place but it is not clear at the end of 2012 if the new government and VNG/IPO will sign a new Agreement. However, the decentralizations that are referred to here will indeed go on.



National Government	Regional level – Provinces	Local level – Municipalities
	Water Boards. Supervision of the works of constituent municipalities Environmental Police Granting (environmental) permits - since 2010, it has been carried out jointly with the Water Board and the municipalities.	municipalities. Punishment and prevention of pollution; Transportation of dangerous substances; Protection and cleaning of the soil.

In The Netherlands, **water management** is in the hands of five different levels of government: the central government, the provinces, the 25 water boards (*Waterschappen*²⁴⁵), the municipalities and water companies. Water boards are important institutions as about one quarter of the country lies below sea level and major part of territories of the country is man made. They are public decentralised bodies and represent the oldest democratic institution in the Netherlands, dating back to the Middle Age, with executive councils elected for the most part by property owners in their localities²⁴⁶. The chair of the executive committee is appointed by the central government. Their regulatory power is limited to water (dams, canals, water purification, etc.).²⁴⁷ The sector is characterised by vertically integrated regional monopolies and the management of water production, distribution and supply by a single operator. Drinking water may only be supplied by qualified companies; operators other than water supply companies are prohibited from supplying drinking water to households. In 2010, 10 companies produced and distributed drinking water (one of them – Waternet - being also responsible for processing waste water)²⁴⁸ (in 1945, there were 208 companies). The water supply companies are limited liability companies with associated municipalities and provinces functioning as shareholders. Due to the specific characteristics of the drinking water supply sector, the need to guarantee quality, public health and security of supply, there is currently no competition in the drinking water sector and no rules enabling third party access to the network. Operators, regardless their legal form (most are private law companies) must be owned by public authorities (mostly provinces, water authorities or municipalities). The public sector is responsible for more than 95 percent of all water provision, with all private permits being on a localised basis. A law passed in 2004 prohibits public water companies from handing over shares or control to non-public bodies.²⁴⁹ The multi-level structure of water management has also led to numerous water charges which are mostly set on a cost-plus basis and show a high regional variation²⁵⁰. The **wastewater sector** is mostly regulated through environmental law and is traditionally and legally mainly a municipal responsibility, although water authorities also have an important role. In October 2002, the Delftland waste water treatment 30 years concession for the city of Hague was awarded to the Delfluent Consortium led by Véolia Environnement (40 percent) and other five Dutch companies (of which two municipal water distribution companies). In 2003, 98 percent of the Dutch population as served by sewerage networks (compared to 73 percent in 1980), all of which being connected to wastewater treatment. For the rest of the population, individual systems (septic tanks, biorotors) are subject to regulation and certification²⁵¹.

In the Netherlands, until the 1970s, **waste management** was considered a local issue and was organised at municipal scale. For some time, every municipality had its own landfill but due to the high operational costs they seek for inter-municipal cooperation; thus, common bigger landfills were established and some incinerators. But at the end of the 1980s, they proved to not be sufficient compared to the growing waste volumes, not well equipped, and still too small-scaled. At that time, provinces become responsible for planning, licensing, control and enforcement and waste processing has been up-scaled (composting, incineration etc.) to ensure that waste remains within provincial borders. In 1990, a Waste Management Council (Agency) was established to improve

²⁴⁵ There were 2500 in 1945.

²⁴⁶ an integrated water management system has been developed since 1798, when the Directorate-General for Public Works and Water Management- *Rijkswaterstaat* - was founded.

²⁴⁷ The Netherlands are maybe the first country that has developed specific forms of public services (organic meaning) through the water authorities (*waterschappen*) whose origins back in the Average Age, before the creation of the Dutch State. Jacques Ziller, "La notion de service public dans le droit des Etats du BENELUX", in Franck Moderne, Gérard Marcou, *L'idée de service public dans le droit des Etats de l'Union européenne*, L'Harmattan, 2001, p. 197

²⁴⁸ In the 1930s there were 229 companies in the Netherlands. Their number was later reduced as results of various mergers. *Dutch Drinking Water Statistics. The Water Cycle from Source to Tap*, Association of Dutch Water Companies (Vewin), January 2012.

http://www.vewin.nl/SiteCollectionDocuments/Publicaties/Drinkwaterstatistieken_percent202012/Vewin_percent20Drinkingwaterstatistics_percent202012_percent20lowres.pdf

²⁴⁹ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 162.

²⁵⁰ *OECD Economic Surveys: Netherlands 2012*, p. 24.

²⁵¹ *OECD Environmental Performance Reviews: Netherlands 2003*, p. 59, 65.



the cooperation between all stakeholders and ensure implementation and monitoring of policies²⁵². In 1997, it was decided that the central Government should take over many of the responsibilities of the Provinces. This decision came into effect in 2002 and a National Waste Management was at the same time issued (2002-2006-2012; 2009-2015-2021). Provinces are now responsible for licencing facilities, enforcement and physical planning. The Ministry of Housing, Spatial Planning and the Environment (VROM) ensures the implementation of the national legislation and adopt the National Waste Management Plan. Currently, the (separate) collection of waste from households is the main responsibility of municipalities. They must ensure weekly collection, by municipal or private companies, and financing from a municipal waste tax, as well as facilities for collection and delivery of bulky domestic waste. Until recently, waste treatment was largely a responsibility of the provinces. As regards collection, municipalities are free to determine how to finance this service. Thus, various waste charge systems were implemented: pay per kg, per bag or per waste bin, or pay related to the number of persons in the household. In 2007, trade – import or export – in non-hazardous waste for incineration was liberalized in the Netherlands and fast increase of import was observed since then. Trade in waste for landfill is prohibited.

In bigger Dutch cities, **local public transport** is largely done by tramway; there are few subway networks (in Amsterdam and Rotterdam). However, with some 5 percent of total commuters²⁵³, tram, metro and bus are far from being, as in all other European countries, the most popular mode for commuting; the importance of the bicycle should also be stressed. Besides, the commuters generally move between municipalities (and not locally) and therefore generally take the train; this kind of commuting is a different one than in other European countries. In 2001, mandatory competitive tendering was introduced in public transport. At the same time, public transport responsibilities (design of local routes and connections, management, etc.) were delegated to cities and provincial authorities. Up to then this was a choice on provincial level and only a small percent of lines was tendered. Most lines were exploited by public owned (municipalities and provinces) companies. Today, in the four main cities (Amsterdam, Rotterdam, The Hague and Utrecht), public transport is managed by local authorities, which also compensate the necessary costs (in 2004, ticket revenues covered about 35-60 percent of the total costs²⁵⁴). Reduced tariff is proposed for elderly and children based on a national level decision. Students can partly use transport services for free and partly with a reduced tariff. The competent authorities take the reduced tariffs into account when deciding on the compensation for the bus operators.²⁵⁵

Transport policy - divisions of powers among different level of government

National Government	Regional level – Provinces	Local level – Municipalities
Overall responsibility for policy-making in the field of transport; Traffic and road transport; Railways and infrastructure; Since 2009, the national level only deals with air transportation and the allocation of airport areas. The regulation on airports (e.g. on safety and noise) is delegated to the provinces; Maritime transport and infrastructure; Inland water transport and infrastructure.	Regional traffic, railways and infrastructure. Public transportation. Construction and maintenance of provincial roads. Since 2009, provinces have become responsible for airports on issues such as safety and noise. Inland water transport and infrastructure.	Construction and maintenance of local roads and bicycle lanes. Local public transport. Determining urban areas. Urban planning. Handing out drivers licences. Local traffic plans. Maritime transport. Inland water transport and infrastructure. Parking arrangements. Placement of traffic signs and traffic lights.

Elderly care. In the Netherlands’ welfare system, service provision and care in institutions plays an important role, higher than in many other European countries. In 2009, 6.6 percent of the elderly population (aged over 65) was institutionalised²⁵⁶. Public sector played for some decades the main role in service provision, as well as a regulated not-for-profit sector. Since the 1990s, several changes occurred, in particular the introduction of co-payments (by home care receivers), of care allowances allowing elderly persons to arrange their own care (a major break with the traditional system of care in kind) and thus the expansion of commercial home-care services

²⁵² It aimed to play the role of a deliberation platform for the main concerned actors (the Ministry of the Environment, the Association of Municipalities, the Association of Provinces, Environmental and Consumers organisations). Such co-ordination regarding both local and national levels presented the advantage to give more coherence to local initiatives within the national framework. N. Buclet, O. Godard, “The Evolution of Municipal Waste Management in Europe”, 2000.

²⁵³ Source: CBS Statline.

²⁵⁴ P. Rietveld, “Urban Transport Policies”, Tinbergen Institute Discussion Paper TI 2004-126/3, Free University of Amsterdam.

²⁵⁵ Cf. Annex IX of the Study on the implementation of Regulation 1370/2007/EC on public passenger transport by rail and by road, 31 October 2010, Study DLA Piper for the European Commission.

²⁵⁶ Evert Pommer, *Verzorging en verpleging*, SCP, 2012.



and of self-employed caregivers, a tendency towards decentralisation in policies (in 2007, home help have been handed over to the municipalities)²⁵⁷.

Social policy - divisions of powers among different level of government

National Government	Regional level – Provinces	Local level – Municipalities
<p>Social assistance:</p> <ul style="list-style-type: none"> • Social welfare. • Decision-making by the Ministry of Social Affairs and Employment. <p>Family policy:</p> <ul style="list-style-type: none"> • Decision-making by the Ministry of Social Affairs and Employment and Ministry of Public Health Care, Welfare and Sports. • Funding of child-care provided by municipalities. <p>Social Security:</p> <ul style="list-style-type: none"> • Legislation. Regulation of financial aspects. 	<p>Family policy:</p> <ul style="list-style-type: none"> • Financing youth organisations. 	<p>Social assistance:</p> <ul style="list-style-type: none"> • Social welfare. • Welfare payments. • Administration of the social services. <p>Family policy:</p> <ul style="list-style-type: none"> • Care for the elderly. • Child care. • Youth assistance. • Registration marriage, partnership or birth. • Social integration of people with disabilities. <p>Public housing.</p>

During the crisis, government consolidation measures focus on spending restraint, in particular on cuts concentrated on social benefits, the public wage and subsidies. In this context, a reduction of about 1.5 billion euros in child care spending by 2015 was announced. Childcare related spending increased in the second half of the 2000s by more than 40 percent and reached 1.7 percent of GDP in 2010, including participation supporting measures as well as income support. In 2012, there were 12 child benefits. From 2012 onwards, child care support provisions depend on the number of hours worked by the least-working parent²⁵⁸.

²⁵⁷ See Barbara Da Roit, *Strategies of Care. Changing Elderly Care in Italy and the Netherlands*, Amsterdam University Press, 2010.

²⁵⁸ OECD Economic Surveys: Netherlands 2012, p. 88.



Area	3,323,787 sq km (land area)
Population	5,051,275 inhabitants
State structure	Unitary state
Local self-government	<i>(No specific provisions in the Constitution)</i>
Politico-administrative division – 2 tiers of local self-government	- 19 counties - 429 municipalities
Average density of population Population disparities between municipalities	Average density of population: 15 inhab/sq km Disparities between municipalities: - the smallest municipality has 206 inhabitants (Utsira) - the largest municipality has less than 600,000 inhabitants (Oslo) - average population per local authority: 11,100 inhabitants - Percent living in rural areas: 20 percent - Percent living in urban areas: 80 percent

Norway is affiliated to the EU not as a member state but through the European Economic Agreement (EEA), so that most of the EU law is applied in this country.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In accordance with the principle of subsidiarity basic services are to be provided by the most appropriate of the lowest tier of government to ensure the access to a service of a minimum nationally defined quality and quantity.

Irrespective of their sizes, all municipalities are expected to ensure the provision of all compulsory local services for their inhabitants: primary health services, primary education, social services such as child care and care for the elderly and kindergartens. Local authorities may also provide services on a voluntary basis outside the legal requirements to meet the local needs.

Counties also form a part of local government, and they are responsible for regional and local public transport, county roads, secondary education and regional planning and economic development, as well as dental care for young people.

Where the municipalities are too small to provide services at a reasonable level, they go together in inter-municipal cooperation by voluntary agreements. Cooperation between municipalities is becoming more and more frequent, to secure efficiency and responsibilities.

Producing services more efficient has also led to the conception of diverse tools, such as benchmarking practices based on statistics.

In Norway, local public services are traditionally provided by public sector, but during the last years many services are opened for private operators, still financed by public funds and under municipal control.

Local services are in general funded by transfers from the central government, given as a block grant and a few remaining earmarked grants. The second largest source of income at local level is local income taxes set every year to a certain percent being the same for all municipalities, and for all counties. The rest of the income comes from fees and charges for services provided by local entities. In dense populated areas municipalities can introduce property tax at their own discretion.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Water supply and sewerage services (including infrastructure and sanitation) are provided by the municipalities. The fees shall compulsory cover 100 percent of the costs of providing the services, which means that these services shall be self financed. In 2009, in 9 percent of the population, the cost recovery ration for wastewater activities was below 83 percent. Private operators usually intervene in relation to the construction of new facilities but some operates municipal concessions (e.g. since 1999, the participation of Northumbrian Lyonnaise International in a water provision concession with the municipality of Baerum; the concession of a sewage treatment works in Oslo to Anglian Water International in 1999, concession sold to a Swedish company in 2005). A national programme for improving water supply was launched in 1995 with the goal of securing satisfactory and safe water from all waterworks supplying more than 100 people, some 85 percent of the population. Between



1971 and 2000, half of Norway's water distribution network was extended or replaced. The water treatment works serve 83 percent of the population. Distribution losses accounted for 30 percent of water production in 2009²⁵⁹.

In addition to the Ministry of the Environment, there are three authority levels with regards to waste handling in Norway: the Climate and Pollution Agency (following up firms that manage hazardous waste, suggestions for new waste regulations to the Ministry), 18 county governors (responsible for non-hazardous waste management) and municipalities. **Waste** handling (collecting, transportation and disposal) falls under the municipalities' competence but during the last years it has been more common to set out these activities on contract to companies (private or public owned). The financing is ensured by fees from the inhabitants.

Electricity. In Norway, in the 19th century, due to the plentiful existence of waterfalls and geographical separation of the localities by fjords, a multitude of small municipally owned hydro-power stations were set up. Thus, the tradition of electricity provided entirely by municipal sector was born ("energy municipalities"). In 1973, 337 distribution companies supplied electricity at local level, of which 76 percent had fewer than 5,000 consumers. But major changes occurred in the 1990s when a national electricity agency was established to operate the national grid and the new legislation created a fully open electricity market. However, hydro powered plants, which constitutes the main source of electricity, and short-distance transmission grids continued to be owned and operated (mainly) by municipalities while some of them have been privatised.²⁶⁰ Operation and investments costs are financed by fees from users calculated on the basis of their consumption.

Regional roads and **public transport** fall within the responsibility of the counties. They are provided by public sector, though toll roads have been more common. Construction and maintenance are quite often contracted out to private companies.

In Norway, internet **access** is not organised as a service of general interest, but a majority of Norwegian households (99.7 percent) have connection with high speed over 640 Kbps and 55 percent of connections provide speeds higher than 25 Mbps. Public investment in infrastructure investment happens only in those areas where the market does not give sufficient revenue.²⁶¹

Child care is still mainly provided for by local authorities. However, kindergartens are both provided by public and private organisations. The costs for operation and investments are mainly covered by fees from users and public subsidies. According to a recent study²⁶², in Norway, the coverage rate for children under 1 year is of 4 percent (due to parental leave arrangement) while among 1-2-years-olds and 3-5-years-olds coverage rates reach 80 percent and 96 percent, respectively. Parents with low income might get subsidies from the municipalities.

Social care services including care for the elderly are mainly provided by municipalities, as homes for elderly and care at home. The financing consists also by fees from users, according to their ability to pay. Services may be provided by PPP.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In Norway, the access to local public services is universal. At the same time, mechanisms that take into consideration the specific vulnerable categories of users have been developed.

Vulnerable groups as well as low income people are in general either given free or reduced fees for necessary services from local government. However the financial system is challenged by the opening of the national borders. Providing sufficient services from the municipalities in the sparsely populated areas of the country also cause challenges. The transfers from central government are distributed to provide equalisation throughout the country.

Especially in more sparsely populated areas the municipalities establish intermunicipal cooperation for certain specialised services. Also within so-called technical services cooperation is more and more common. There are

²⁵⁹ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 168.

²⁶⁰ Harald Baldersheim, Dag Harald Claes, « Comment un marché de l'énergie a été créé sans que (presque) personne le remarque. La révolution de 1990 de l'approvisionnement en électricité en Norvège et l'évolution du rôle des collectivités locales », in *Annuaire 2007 des Collectivités Locales*, Paris, CNRS, pp. 131-143. Hellmut Wollmann, « From public to private and return? Discourse swings forth and back on public service provision », Conference paper, Congrès de l'Association Française des Sciences Politiques, Strasbourg, 2011.

²⁶¹ A.G. Calvo, "Universal Service Policies in the Context of National Broadband Plans", OECD Digital Economy Papers, No. 203, OECD Publishing, 2012, p. 48.

²⁶² Janneke Plantenga, Chantal Remery – EGGE (eds), *The provision of childcare services. A comparative review of 30 European countries*, European Commission, March 2009, p. 31.



examples of PPP for service delivery of resource demanding technical services, but we might see a situation where the model for organising the services is only one of several factors influencing on the result. It should also be mentioned that Norway still has a more homogenous population than most European countries. This might change rapidly in the coming years as Norway is experiencing heavy influx of labour force from other countries, a majority from the EU countries where the population is encompassed by the free movement of labour according to the EEA-agreement.

In spite of having a strong role of service delivery from the local authorities, the civil sector in their own capacity as well as in cooperation with the municipalities is a strong force in providing services to all parts of the population.

The tri-partite dialogue is well established and widespread. This is giving the labour organisations a strong position, not the least in the local government sector.

4/ The future of basic public services: key challenges existing and emerging

There is still lack of money to provide services for the population, at least compared to the raising expectations by the population, and due to the fact that the average of the population is growing and the life expectancy also getting longer causing need for more care for the elderly.

So far local government in Norway has not been itself heavily affected by the financial crisis in Europe, but in a longer perspective it is expected to have some negative impact. So far, the crisis has in fact had some positive outcome on Norway due to the influx of skilled workers from other countries where living conditions are less favourable. At the same time, some consequences have become apparent. They particularly concern the integration of immigrants where the language plays an essential role.



Area	312,685 sq km
Population	38,534,157 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“1. Units of local government shall possess legal personality. They shall have rights of ownership and the property rights. 2. The self-governing nature of units of local government shall be protected by the courts.” “Public duties aimed at satisfying the needs of a self-governing community shall be performed by units of local governments as their direct responsibility...” “Units of local government shall be assured public funds adequate for the performance of the duties assigned to them.” “To the extent established by statute, units of local government shall have the right to set the level of local taxes and charges”. (Articles 165, 166, 167 and 168, Chapter VII Local Government of the Constitution)
Politico-administrative division – 2 tiers of local self-government ²⁶³	314 counties (<i>powiaty</i>) ²⁶⁴ 2479 municipalities (<i>gminy</i> – urban, urban-rural and rural communes; towns with county rights) ²⁶⁵
Population disparities between municipalities	- 64.5 percent of population in municipalities having less than 50,000 inhabitants - 7.5 percent of population in cities having between 50,000 and 100,000 inhabitants - 6.3 percent of population in cities having between 100,000 and 250,000 inhabitants - 4.9 percent of population in cities having between 250,000 and 500,000 inhabitants - 7.1 percent of population in cities having between 500,000 and 1,000,000 inhabitants - 9.7 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants ²⁶⁶

Before the Communist, multiple and diversified forms of carrying out public utility activities have been in use in Poland. Local self-governments were also endowed with legal personality and financial assets to provide the mentioned public utility activities. In the post-war period, Poland integrated, together with other Central and East European countries, the sovietic system: a centralized state where the majority of services were provided by the central public administration. Municipalities lost their legal personality and financial assets and centralised management and financing harmed the ability of local authorities to respond efficiently to local needs. Significant changes have been introduced by the territorial administrative reforms at the beginning of the 1990s (Territorial Self-Government Act adopted in March and local elections in May) and a new Constitution was adopted in 1997, followed by a second stage of decentralisation (1998-1999). Article 15(1) of the Constitution provides that the territorial system of the Republic of Poland shall ensure the decentralisation of public power and Article 16 provides that the inhabitants of the units of basic territorial – the commune – shall form a self-governing community, which is to participate in the exercise of public power.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

Since 1989, the transition to a democratic and decentralised political regime allowed local authorities to acquire an increasing role in the provision of some basic services. Communes shall perform public tasks not reserved by the Constitution or statutes to the organs of other public authorities and all tasks of local self-government not reserved to other units of local self-government (article 164 of the Constitution).

The provision of public services is a primary task of local self-governments in Poland. The fulfilment of the common needs of the local society is ensured through provision of universal service, accessible to all (Article 9 of the Act on Local Self-Government).

²⁶³ The 16 regions (voidvodships - *województwa*), whose number was reduced in 1999 (from 49 to actual 16 units) are not self-governments but administrative representatives of the central government.

²⁶⁴ They were restored by the legislation in 1999.

²⁶⁵ Following proposals by the European Commission regarding the programming of structural funds for the 2014-2020 period (when 5 percent of funds could be allocated to urban development projects) a recent project aims to create a dozen metropolitan areas.

²⁶⁶ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.



Today, municipalities exercise both their own (compulsory) competences and responsibilities delegated from the state (primary education, social care). According to Article 7 of the Local Self-Government Act municipalities are competent to satisfy collective needs of the Community in the field of its own tasks, in particular public roads and local transport, water supply, sewerage, waste treatment, provision of heating, gas and electricity, health protection and social welfare, public education (kindergartens, primary schools), libraries and cultural activities, tourism and physical activities, market places, cemeteries and parks, public order, security and fire services, upkeep the common public infrastructure as well as social, medical and legal care for pregnant women. This list is not considered to be exhaustive. Central state exercises regulatory competences in all these fields while municipalities generally ensure their provision.

The counties self-governments' activities concern mainly the organisational units, particularly economic structures (e.g. county roads and county transport), but also delegated task from the central government (e.g. hospital health care services, secondary education, high schools), and only secondarily certain groups of the voivodeships' inhabitants (centres for family assistance, employment offices).

Regional self-government is responsible primarily for designing and implementing regional policies and secondarily for the provision of certain highly specialised public services at regional level.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Municipalities may decide on the legal form through which it is going to provide services as well as the price or the mode of setting the price for public utilities activities. Budgetary agency/entity is the most used institutional way for the provision of municipalities' statutory tasks. Also, according to the Act on Communal Economic Activity of 1996, municipalities can create limited liability companies or stock market companies but only to carry out activities that fall within the sphere of the public utility provision. Apart of that, there are many public services organised in particular forms (especially in the field of cultural activities, health protection, social services, etc.).

For the provision of some public services, public authorities can entrust the activity to private providers by using the legal instrument of public procurement or tender where a civil law contract (any contract of mandate or a PPP) is concluded with a private provider. In practice, there is a large group of private providers acting for the community, including both commercial and not-for-profit organisations. Inter-municipal cooperation (public law associations, inter-municipal agreements²⁶⁷) are often organised for the operation of waste management and public transport.

Public-Private Partnership (PPP), namely the provision of services of general interest by private operators is a sanctioned by Polish law form of the cooperation of private enterprise supported by private capital with the public sector at all levels. In Poland this instrument of economic investment only begins to play a role. It is regulated in principal by the Act on public-private partnership of 19 December 2008, as amended. Other legal forms, particularly multiannual civil agreements, have the effect of cooperation of public and private partners especially in water and sanitation, waste disposal, and most recently in municipal building. Project management adapted to the implementation of the PPP mode and the preparation of the most important element, namely the Agreement on public-private partnership is an important part of the process. These phases are preceded by economic analysis, financial and legal project meant to ensure the optimal financing of investment later, and the implementation of savings, which any PPP project must prove during its life cycle.

Water supply and sewerage is one of the main responsibilities of municipalities and, in fact, all aspects of the operation of water and sewerage services are in the hands of the local authorities which manifest some reluctance regarding the privatisation of water and sewerage services wished by the Government. French company SAUR is involved in the management of Gdansk's water and sewerage facilities since late 1992 (renewed in 2010), Véolia operates different contracts in two towns of Silesia region, Wozniky and Bielsko Biala and the German company RWE in Dabrowa (two other German companies operates in Miskloc, Dobrin and Toszek). Between 1990 and 1996, over 900,000 rural households were connected to water supply systems and sewerage coverage grew from 5 percent in 1995 to 12 percent by 2000, with a similar improvement in the proportion connected to wastewater treatment plants²⁶⁸. In 2009, the provision of drinking water through a service operator covered, on average, about 93 percent of Polish households, the rest (in particular in rural areas) being connected

²⁶⁷ For a summary presentation of their characteristics see Michal Kulesza, Dawid Sześciło, « Local Government in Poland», in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 474.

²⁶⁸ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 173.



to public or private wells. The national coverage with sewerage services is less important: in 2010, about 14 percent of municipalities did not have a sewage system; in rural areas, only 26 percent of the population has its sewage treated. This situation concerns mainly rural areas.

Bus **transport** services are organised in the majority of cities. Organizing authorities are responsible for the planning, the organisation, the management and the financing of the public transport. In the municipalities with more than 30,000 inhabitants this service is in general provided through a municipal bus company. Private concessions to private companies exist in few cities (Warsaw, Krakow, Lublin, Poznan). Transport services by tram are only organised in large municipalities and only three municipalities have also a passenger transport service by trolleybus (Gdynia, Lublin, Tychy). Public transport services contracts may be concluded for a period of maximum ten years. They are financed by users' fares and subsidies from local government.

As regards **social services**, Poland's situation remains behind if compared to the level of other EU Member States. However, the family still plays a very important role in particular in rural areas.

Welfare is an important task of municipalities representing almost the seventh part of local administration expenditures in 2010 (including social benefits). Social care (mainly as social benefits are provided by municipal social centres. Free access to childcare services is not guaranteed and compulsory. The public sector provision of service dominates but a growing number of private operators provide kindergartens, mainly in large cities and their suburban areas (in 2010, almost 20 percent of the places in kindergartens were provided by private operators). Still, the availability of the service is different, according to municipalities. Many rural municipalities cannot afford to provide some of these services (in particular nurseries).

Care for elderly is very limited and few sheltered accommodations for them.²⁶⁹

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

«Members of a self-governing community may decide, by means of a referendum, matters concerning their community...» (Article 170 of the Constitution).

²⁶⁹ M. Mendell *et al.*, "Improving Social Inclusion at the Local Level Through the Social Economy: Report for Poland", OECD Local Economic and Employment Development Working Papers, 2009/01, OECD Publishing, p. 27.



Area	92,201 sq km
Population	10,556,999 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“The state shall be unitary and shall be organised and function in such a way as to respect the autonomous island system of self-government and the principles of subsidiarity, the autonomous of local authorities and the democratic decentralisation of the Public Administration.” “The democratic organisational structure of the state shall include local authorities. Local authorities shall be territorial bodies corporate, shall possess representative bodies and shall seek to pursue the interest of the local people.” “Local authorities shall possess their own assets and finances. ... Each local authority’s income shall obligatory include that derived from the management of its assets and that charged for the use of its services.” “The Public Administration shall be structured in such a way as to avoid bureaucratisation, bring departments and services closer to local people and ensure that interested parties take part in its effective management, particularly via public associations, residents’ organisations and other forms of democratic representation.” (Art. 6§1, 235, 238... and 267§1 of the Constitution)
Politico-administrative division –1 tier of local self-government	At continental level, Portugal contains: - administrative regions ²⁷⁰ (not yet actually established; rejected by referendum) - 308 municipalities (<i>municípios</i>) - 4259 parishes (<i>freguesias</i>) - sub-municipal tier ²⁷¹ Two autonomous regions (Azores and Madeira) have large legislative and administrative competences
Average density of population Population disparities between municipalities	Average density of population in municipalities: 34,400 - 56,7 percent of population in municipalities having less than 50,000 inhabitants - 12 percent of population in cities having between 50,000 and 100,000 inhabitants - 0.9 percent of population in cities having between 100,000 and 250,000 inhabitants - 3.9 percent of population in cities having between 250,000 and 500,000 inhabitants - 9.2 percent of population in cities having between 500,000 and 1,000,000 inhabitants - 17.3 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants - percent of population in cities having more than 5,000,000 inhabitants ²⁷²

Since the emergence of the first Portuguese constitutional framework, in 1822, local administration has gone through “centralising moments interspersed with decentralising ones.”²⁷³

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The Portuguese Constitution of 1976 adopted by the political regime established in 1974 guarantees the autonomy for municipalities.

Municipalities’ responsibilities embrace both their assigned tasks and duties (directly attributed to them) and state-delegated tasks (on one hand, tasks corresponding to administration delegated from the state, on the other hand tasks of local deconcentration). In the first category of competences the Law n° 159/1999 outlines: rural and urban equipment, energy (supply of low-voltage electricity and street lighting), transport and communications,

²⁷⁰ If created, they would exercised responsibilities for economic and social development, planning, environment, nature conservation, water resources, equipment and means of social communications, education and professional training, etc. (Framework Law of Administrative Regional n° 56/1991).

²⁷¹ Their number was planned to be reduced by 30 percent (in particular in urban areas) as certain parishes contain only a few hundred people. See Portuguese Government (2011), “Documento Verde da Reforma da Administração Local”, Gabinete do Ministro Adjunto e dos Assuntos Parlamentares.

²⁷² Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

²⁷³ See Pedro Costa Gonçalves, Ana Raquel Moniz, « Local Government in Portugal», in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 482 and following.



education, heritage, culture and science, leisure and sport, health, social welfare, housing, civil protection, environment and sanitation (water supply, municipal drainage and wastewater treatment, etc.), consumer protection, promotion of development, urban planning, local police and external cooperation. The parishes are (only) responsible for rural and urban equipment, public water supply, education, culture, leisure and sport, primary health care, social welfare, civil protection, environment and health, promotion of development, urban and rural planning and community protection.

A vast reform of the local government was launched in 2011 (Green paper of October 2011). It includes four parts: reform of local public companies, territorial organisation (to eliminate some 1,500 parishes/*freguesias* – administrative subdivision of municipalities in charge of lower administrative functions), municipal and inter-municipal management (to strengthen competencies and financial resources of the 23 “inter-municipal communities” and two metropolitan areas including Lisbon and Porto whose metropolitan zones will be reinforced²⁷⁴), financial management (new financial resources for municipalities and inter-municipal communities) and reform of local democracy²⁷⁵.

The legislative and governmental powers of the two autonomous regions are ensured by the Constitution and their tax revenues are kept in their jurisdiction.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Municipalities can adopt various forms of management of public services. The significant increase of functional responsibilities decentralised to local governments generated an expansion in organisational configurations at their disposal: municipal services; municipal or inter-municipal enterprises; municipal commercial corporations; mixed commercial corporations; contracting-out to private operators; partnerships with non-profit actors; local government associations; and metropolitan associations. Inter-municipal cooperation is not so developed.

When local governments provide services through local public enterprises they may choose among three types of structures (depending on the composition of capital): *empresas publicas* – public companies 100 percent owned by local authorities; *empresas de capitais publicos* – public companies held by local authorities jointly with other public authorities, and *empresas de capitais maioritariamente publicos* – companies publicly owned, but integrating private partners (which have a minority stake).

However, as their competences are growing, local governments in Portugal no longer assume the provision of all public services through in-house structures. By the end of the 1990s, some local governments started contracting out public services to external actors.

In the last decade of the 20th century, Portugal was one of the biggest users of public-private partnerships in Europe (after UK and Spain), and the highest user relative to GDP²⁷⁶. The most part of these projects concerned transport infrastructures (roads – 79 percent, rail 18 percent, metro, tram) and health (2 percent) but are less developed at local level.

Water services²⁷⁷. In 2008, on average, 94 percent of Portuguese population was connected to drinking water supply, less than 80 percent to sewerage (against 64 percent in 1998 and 75 percent in 1999) and 71 percent to public wastewater treatment plants (against 55 percent in 1999). Some important disparities still existed between territories: there were higher levels in South – the highest rates representing 90 percent of the population connected to sewerage and 83 percent to treatment plants - compared to the Northern areas where the lowest connection rates represented 53 percent of population as regards sewerage and 47 percent of population connected to treatment plants. However, the overall positive trends are registered and they have been determined by important national²⁷⁸ and EU structural funds investments²⁷⁹. At the same time, many improvements are still expected not only from the universal access perspective, but also, for example, as regards

²⁷⁴ A project to give two metropolises an institutional structure is currently under discussion, which could lead to the creation of metropolitan municipalities with expanded competencies and greater financial autonomy.

²⁷⁵ Dexia – CEMR, *Subnational public finance in the European Union*, summer 2012.

²⁷⁶ David Haugh, Stéphane Sorbe, “Solid foundations for a sustainable fiscal consolidations”, in OECD Economic Survey: Portugal, 2012.

²⁷⁷ Section based on: *OECD Environmental Performance Reviews: Portugal 2011*.

²⁷⁸ See the two consecutive national plans for expanding water supply and sanitation PEAASAR I (2000-2006) and PEAASAR II (2007-2013) that include, as first objective, to ensure universal reliable and high-quality water supply and sanitation service.

²⁷⁹ During 2000-2006, 9 percent of the EU structural funds in Portugal were environmental oriented and the majority of them (almost 80 percent) were invested in water sector. The amount to be spent during 2007-2013 represents 46 percent of the EU contribution to environmental infrastructure.



losses, which are estimated at an average 36 percent of water withdrawn (even 60-70 percent in some cases). The national targets of 95 percent of the population connected to drinking water supplies (90 percent in each integrated system) and 90 percent connected to sewerage and wastewater treatment (85 percent in each integrated system) should be met in 2013.

In the last decade, water sector also knew important restructurations. The Ministry for Environment and Spatial Planning was created in 2000 to define, implement and co-ordinate national environment policy (supported by subordinate agencies, such as the Water Institute – INAG, and two advisory national councils created in 1997 – the National Council for Environment and Sustainable Development and the National Council on Water). A national regulator was established (Waste and Water Regulation Authority – ERSAR, created in 2009 – former Institute for the Regulation of Water and Solid Waste, IRAR, created in 1997) under the authority of the Ministry for Environment. On the basis of the new Water Law of 2005, five administratively and financially autonomous River Basin District Administrations were set up in 2008 to develop and implement River Basin Management Plans (the first National Water Plan and 15 river basin plans were launched in 2001).

As regards municipalities, they play an important role in delivering public services and in licencing, supervising and enforcing national regulations. Multi-municipal bodies were created to improve water supply and sanitation public services organisation and water sector has been opened up to competition and participation if the private sector. In the 1990s, water services were provided through state concession entities: 33 state multi-municipal concessions, state delegations (one operator) and 30 municipal concessions (municipal services were not yet regulated by the national regulator). In 2003, about 400 entities provided drinking water supply services. In 2006, *Agua de Portugal* supplied water service to 200 municipalities (from a total of 308 municipalities) through 14 companies and wastewater treatment service to 186 municipalities through 16 companies. The sector was dominated by municipalities while the number of corporatised municipal companies and concessionaries has been growing. In 2008, about 25 systems (29 municipalities accounting for 17 percent of the population) privatized their water and wastewater services²⁸⁰. Recently, a concession to run the water company Aguas de Portugal (AdP) is being considered.

Tariffs do not yet cover all capital investments, operations and maintenance costs (in 2008, in urban areas, the cost recovery rate was 82 percent for water supply and 48 percent for wastewater). Water pricing is applied throughout the country. Almost 90 percent of households are subject to a multi-part water tariff (a fixed connexion charge and billing at volumetric rate). The use of block tariffs is increasingly used, with the basic block (usually up to 5 m³) significantly cheaper than the rest. Wastewater charges either depend on several variables (such as water consumption, property value, etc.) or they are fixed (in some 12 percent of all municipalities). Some municipalities that directly provide water and waste services do not pass on to consumers the water taxes, in particular for social reasons, or apply price reductions. Thus, there is no charge for wastewater service in about 20 percent of municipal systems. The water resources levy (from economic entities) was introduced in July 2008 to cover environmental and some administrative costs related to water (50 percent allocated to the Water Protection Fund, 40 percent to River Basin District Administrations and 10 percent to the Water Institute). New regulations concerning water tariffs were introduced in 2009 which confers powers to municipalities to fix water tariffs (according to three levels of use: 60 m³, 120 m³ and 180 m³) to ensure an adequate return of costs and an affordable access for users.

In the field of **waste** management²⁸¹, the current legislative framework for waste management was adopted in 2006 (Waste law) and comprises all waste management operations: collection, transport, storage, sorting, disposal, treatment, recovery and final disposal. The Portuguese Environment Agency is the main governmental body in charge of strategic waste planning²⁸², hazardous and industrial waste management permitting, issuance of technical standards, supervision, and standardisation of licencing procedures.

As in water, **waste** sector recorder significant developments in the last years. Municipal waste collection and treatment have been developed, from a system run predominantly by municipalities to the creation of pluri-municipal systems, in the form of regional inter-municipal companies (managed by associations of municipalities and/or in partnership with private sector operators) and regional multi-municipal companies (based on partnerships between the state and the municipalities – public-public partnerships). As the case of water and wastewater services, the operations of corporatised waste companies were made subject to regulatory oversight by the national regulatory authority. In mainland Portugal, waste services are provided to the entire population by 24 pluri-municipal management systems (12 inter-municipalities and 12 multi-municipalities). Tariffs for

²⁸⁰ For a list of private sector contracts awarded see Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 177-178.

²⁸¹ Section based on: *OECD Environmental Performance Reviews: Portugal 2011*.

²⁸² The Strategic Plans for Municipal Solid Waste: PERSU I 1997-2006 and PESU II 2007-2016.



municipal waste collection are applied in most municipalities. Still, as in the case of water services, for concerns of social acceptability, charges are not applied in some municipalities that directly provide waste services (about 11 percent of all municipalities). In 2007, Portugal introduced the waste taxes: a tax on licensing of waste management activities and a waste management tax. They should be transferred on to final consumers through charges (some municipalities do not pass them on consumers). Tax revenues are earmarked for financing the activities of several authorities and supporting the activities of waste management operators.

Electricity. In accordance with the Decree-Law N° 344-B/82, Portuguese municipalities have the right to distribute low voltage electricity.

Transport. Municipalities are planning, together with the government,²⁸³ to promote the use of public transport by extending bus lanes while increasing the cost of individual transport. However, recently metro price increases and the largest loss making state owned enterprises are the Lisbon and Porto metro companies²⁸⁴. The government has announced that it intends to grant concessions to run the newly merged Lisbon metro and road public transport services companies as well as rail services.²⁸⁵

The measures taken by the government during the crisis to address public deficit included, as in some other European countries, staff reduction, reductions in the public sector wage and in pensions, raise of user charges, social benefit cuts, etc. For instance, in urban public transport, to help closing the gap between revenue and costs, prices were increased by around 20 percent and the government's strategy is to increase them over time "to comparable EU levels". Research suggests that the combined effect of some of these measures reduced disposable incomes of the poorest people in Portugal. Spending cuts and tax and/or fees increases are expected in particular in municipalities which are facing short-term debt and arrears.²⁸⁶

Reforms of regional and local finances laws were expected by the end of 2012. Already in 2007, the reform of the local finance law required municipalities to consolidate their accounts with those of local public companies and introduced limits to municipal total debt (125 percent of annual revenues) and short-term debt (10 percent of annual revenues).²⁸⁷

²⁸³ David Haugh, Stéphane Sorbe, "Solid foundations for a sustainable fiscal consolidation", in OECD Economic Survey: Portugal, 2012.

²⁸⁴ Andreas Kappeler, Mathieu Nemoz, "Public-Private Partnerships in Europe – Before and During the Recent Financial Crisis", EIB *Economic and Financial Report*, No. 2010/04, July, 2010.

²⁸⁵ David Haugh, Stéphane Sorbe, *loc. cit.*, 2012.

²⁸⁶ *Idem.*

²⁸⁷ *Idem.*



Area	238,391 sq km
Population	21,384,832 (19,043,767 cf. preliminary results from the 2011 census)
State structure	Unitary state
Local self-government – constitutional provisions	“The public administration in territorial-administrative units shall be based on the principles of decentralization, local autonomy, and deconcentration of public services”. “The public administration authorities, by which local autonomy in communes and towns is implemented, shall be the local councils and mayors elected, in accordance with the law. The local councils and mayors shall act as autonomous administrative authorities and manage public affairs in communes and towns, in accordance with the law. ... [such] ... authorities may also be set up in the territorial-administrative subdivisions of municipalities [see the case of the capital-city Bucharest].” “The county council is the public administration authority coordinating the activity of commune and town councils, with a view to carrying out the public services of county interest.” Articles 120 (1), 121 (1-3), 122 (1) of the Constitution
Politico-administrative division – 2 tiers of local self-government (“administrative-territorial units”) ²⁸⁸	- 41 counties (<i>judete</i>) and the capital-city Bucharest - 2,858 municipalities (320 cities/ <i>orase</i> – of which 103 towns/ <i>municipii</i> and 2538 rural municipalities/ <i>comune</i>) ²⁸⁹
Average density of population Population disparities between municipalities	Average density of population: 79,9 inhabitants/sq km - 66.8 percent of population in municipalities having less than 50,000 inhabitants - 5.8 percent of population in cities having between 50,000 and 100,000 inhabitants - 8.9 percent of population in cities having between 100,000 and 250,000 inhabitants - 9.7 percent of population in cities having between 250,000 and 500,000 inhabitants - 8.8 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants ²⁹⁰

Romania is a unitary state, relatively large in terms of area (the 9th place at EU level) and population (the 7th place at EU level). About half of the population lives in cities and towns.

The first modern foundations of Romanian local administrative organisation (inspired by the French model) were set up by the Municipal Law of 1 April 1864 and the Law of 2 April 1864 establishing the county councils. The Constitution of 1866 recognised the county council and municipal powers to meet the exclusive interest of their local communities, according to the principle of complete administrative decentralisation and municipal independence²⁹¹. During the communist regime local basic services were entirely provided by the public sector under the control of the state through its subordinated territorial units. The process of decentralisation started in 1990, with the most recent steps at the end of the 2000s.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

After the fall of the totalitarian regime, the Romanian Constitution of 8 December 1991²⁹² established the rule of private property²⁹³ and the principles of deconcentration of the ministries’ services in the administrative-territorial units, of decentralisation and local autonomy.

The local public administration is exercised in the framework of territorial administrative units: communes, towns and counties²⁹⁴. Municipalities with large number of inhabitants, which are of major economic, social, political

²⁸⁸ The 8 development regions do not have the status of local government.

The deconcentrated administration of the State is organised at each county level

²⁸⁹ A « comuna» include one or more « sate» (villages). In 2008, Romania counted 12,951 villages.

²⁹⁰ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

²⁹¹ In the province of Transylvania the Hungarian administrative organisation was in force until 1918, in Bukovina the Austrian one and in Bessarabia the Russian organisation model.

²⁹² <http://www.cdep.ro/pls/dic/site.page?id=371>

²⁹³ However, the Law on public property and its legal regime and the Concessions Law were adopted only in 1998.

²⁹⁴ According to the Law on local public administration n° 215 of 2001, “rural municipalities, municipalities, cities and counties are autonomous administrative-territorial units in which the local government is performed”.

and scientific importance at national level or which meet the necessary conditions for development in these fields may be classified as cities.

County councils are responsible for the coordination of the activities of local authorities in order to provide the public services of county interest (infrastructure of the county public transport, special education, hospital health services, child protection, etc.).

The prefect is the representative of the Government at a local level and shall direct the deconcentrated public services of ministries and other bodies of the central public administration in the territorial-administrative units.

Romania has also 8 development regions. They are not regional authorities and have no legal personality. They represent statistic territorial units considered to be large enough to constitute a good basis for devising and implementing development strategies. Their role is defined by the Regional Development Act no. 315/2004 which establishes the institutional framework for regional development policy in Romania, its objectives, the powers of the development regions and the specific instruments of regional development policy. However, official proposals and political debates to create specific administrative-territorial units at regional level have been intensified in the recent years.

The Law no. 215/2001 provides that local governments shall be organized and shall operate on the basis of the principle of decentralization, local self-government, the election of local authorities and consultation of the public for the purpose of addressing local issues of special importance. Relations between the authorities of the communes, towns, municipalities and counties are based on the principles of self-government, strict compliance with the law, responsibility, co-operation and solidarity in solving problems at county level. There is no hierarchical relationship between the local and county council authorities.

The communes, towns, municipalities and counties may take decisions on matters of general interest in areas within their jurisdiction, in accordance with the law. Municipalities, towns and communes are responsible for: civil status register, pre-school, primary and secondary education, housing including social housing, water supply and sewage, waste collection, parks administration, sports and leisure facilities management, urban transport, roads and streets, district heating and municipal hospitals.

Municipalities provide basic local public services: water, sewage and waste, local public transport, housing and social housing, pre-school, primary and secondary education (infrastructure and teachers salaries), public health (basic and preventive services), social action (e.g. grants and financial aid, guaranteed minimum income) and health care (hospitals), district heating, cultural institutions of local interest, public order, parks administration, sports and leisure facilities management, roads and streets, fire rescue, etc. Rural municipalities whose resources are limited ensure mainly the maintenance of communal roads, street cleaning, and street lighting.

County level administration is responsible for: electoral register, county hospitals and health protection, family welfare services, county spatial planning, environment protection, cultural institutions management (theaters, museums, public libraries etc.) county roads and transport management, agriculture, rural development, electricity, economic promotion, as well as commerce, trade, industry and tourism development.

The division of competences between the counties and municipalities is not clear in all sectors. The Framework-Law on Decentralisation (n°195/2006) provides for three categories of local government competences (shared, delegated and exclusive) and introduces new concepts for the implementation of the transfer of competences from central to local level: standards of cost and quality, geographic area of beneficiaries, administrative capacity.

The Law n° 554/2004 on administrative litigation defines “public service” (*serviciu public*) as “the activity organized or authorized by a public authority for satisfying a legitimate public interest” (Article 2 paragraph 1§c) (functional approach). According to the Law on public-private partnership n° 178/2010 the concept of “public service” embraces “all actions and activities which ensure the meeting of utility and general or local public interest needs of various collectivities.” Since the 1990s, project(s) of Administrative Codes were prepared (recently in 2011 by the Ministry of Internal Affairs) which also contains a chapter on “Public Services” (services of general interest - SGI). If adopted, it would become the first transversal legislation on (national and local) SGI. Already, Romania is one of the few European countries that adopted a transversal legislation concerning local utilities (see below).

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

The Law n°51 of 8 March 2006 on community services of public utility (as amended) establishes the unitary legal and institutional framework, objectives, competences, tasks and specific instruments needed for the organization, operation, management, financing, exploiting, monitoring and control. The regulatory and monitoring tasks over

these services are conferred to the National Regulatory Authority for Municipal Services (ANRCS). ANRCS is subordinated to the Ministry of Administration and Interior.

The law provides two methods of managing public utilities: direct management and delegated management. The majority of local public services are managed by specialised internal services of public authorities. For example, in 2006, most water supply and wastewater services²⁹⁵ were managed by autonomous public *regii* (enterprises whose capital is owned 100 percent by the local authority).

The delegated management of public services was practiced before the Second World War and is redeveloped since the 1990s, mainly through the concession of economic public services to private operators (private or mixed commercial enterprises, some arising from the transformation of autonomous public *regii*²⁹⁶ or the specialised municipal services). Delegated management is most often used in the areas of heating, waste management, urban public transport, street cleaning and rarely in water²⁹⁷ or other similar sectors that require high investments in infrastructure. Not-for-profit operators (and church organisations) are not very common but their involvement in the provision of social services is growing/encouraged.

For the implementation of local development projects or the joint provision of public services, local authorities can establish associations of intercommunal development, public institutions of intercommunal cooperation and associations among the largest municipalities (rank “0” and “1”) and the surrounding communities²⁹⁸. In general, they are not so much developed.

Romanian legislation introduced the contracts of public-private partnership in 2002. The Law n°34/2006 provides for a new general framework on public procurement and concession contracts (including PPP – transport infrastructure, tourism, research, etc.). A new law was adopted in 2010 (Law 178/2010).

Water supply, sewerage and wastewater treatment, waste management, public lighting, local public passenger transport, childcare and elderly care are qualified by the law as “exclusive competences” of municipalities.

In the field of water, whether **water** service provision is an exclusive competence of municipalities²⁹⁹, other governmental levels have specific responsibilities, too, in particular the National Administration “Romanian Waters” which monitors the implementation of EU water framework Directive 2000/60/EC, and the National Regulatory Authority for Community Services of Public Utilities. The service may be provided in a direct (public) or delegated management regime. In case of delegated management, prices and tariffs are set or adjust on the basis on the rules of the National Regulatory Authority (ANRSC). According to the law, the provision of water services shall observe the principles of profitability, quality, efficiency, transparency and public accountability. As regards the organisation of water services, since 2008-2009 (Law n° 13/2008), to ensure the access to structural funds through operators having the appropriate technical and economic capacity, the organisation of water and waste water public services is organised at “regional” level, through “regional” operators (in fact, one operator in each county) owned by municipalities. This reorganisation translating a rationalisation process under the EU financial assistance reduced the number of operators from over 250 to 42 operators³⁰⁰. They organize the extraction, deposit, transport, treatment and distribution of water to households and companies. Most of them are public;

²⁹⁵ The National Regulatory Authority for Community Services of Public Utility recorded at the end of 2006 849 drinking water suppliers, of which 86 covered 90 percent of the market. About 67 percent of these services were conducted in-house. At the end of 2008, in the area of community services of public utility there were 1967 operators (492 new operators compared to the year 2007) providing 2293 services: 985 in the area of water distribution and waste water; 138 in heating; 687 in the waste sector; 274 for local transport of passengers; 209 services of public lighting.

²⁹⁶ The Law on local public administration n° 69/1991 gives local authorities the power and autonomy to perform the services of local interest. In 1991, on the basis of the Law n° 15 of 7 August 1990, the units of local administration were involved in a reorganisation process and became autonomous entities (*regii autonome*) and companies, and later in a process of privatisation. By Government Decision n° 597/1992, the autonomous entities (*regii autonome*) and the companies established with the capital from the State for the provision of public services have been transferred to the competence of local councils. The evolution of the public services reorganisation process has revealed the deficiencies of the management by autonomous public entities (*regii autonome*) and their inefficiency. In 1997, the Government Decision n° 30 started a long process of reorganisation (in some cases, of liquidation) of autonomous entities (*regii autonome*) into limited companies.

²⁹⁷ For example, Apa Nova SA Bucharest, the concessionaire of the water and waste water public service in Bucharest capital city – subsidiary of Veolia Environment – Veolia Water. Since March 2000, 83,69 percent of its capital is owned by Veolia Group, 16,31 percent by the municipality, 0,0009 percent others.

²⁹⁸ It 1872, Romanian law recognised for the first time the association of counties for supply and maintenance of works of interdepartmental interest and, according to the French model, in 1887, the association of rural communes for compulsory works.

²⁹⁹ Law n°241/2006 of water supply and waste water public service. Its provisions provides for the “strategic objectives of the central government authorities (...) to attract private investment and thereby stimulate sustainable development of local communities” (Article 9 paragraph 2b).

³⁰⁰ In the 1970s a similar reduction to 42 water operators was implemented, before expanding to 400 by 1990.



the only private operator involved in this sector is Véolia, which operates two water service concessions in the capital-city Bucharest 25 year water concession and in Ploiesti (15 years water concession; the municipal water company of the capital city – Regia General de Apa Bucuresti – was privatised under the World Bank - International Finance Corporation's auspices). The "regional" (county) operators provide about 88 percent of the total water services. But their territorial competence is still very different from one county to another; for example, in the county of Iasi such an operator operates in 163 localities while in the county of Vaslui the "regional" operator provides service in only 3 localities. According to the preliminary data from the census organised in 2011: 66.7 percent of Romanian households have water provision networks³⁰¹ (91,6 percent in urban areas, 37.2 percent in rural areas) and 65,1 percent have sewerage networks (connected to a public network or not)³⁰². The National Regulatory Authority considers that, based on the current pace of the development of the connection of the population to water services, the objectives established for 2015, 2020 and 2030 will not be met³⁰³.

In the field of **waste** management (Law 101/2006 on the service for the sanitation of localities and Law 132/2010 on the selective collection of waste by public institutions³⁰⁴), municipalities (or their "associations of community development") are responsible for adopting the municipal waste strategy and programs, setting up, organise, manage (directly or through delegation) and finance the provision of waste services. They cooperate with the National Regulatory Authority (ANRSC), the Ministry of Environment and Forest and the Regional Agencies for Environment. As for water services, ANRSC adopts the methodological norms for setting up, adjust and modify tariffs, the framework regulation of the waste service, the framework specifications and the framework contract for the provision of waste services. The operators are specialised structures that obtained a licence from ANRSC. In 2011, the precollection, collection and transport of municipal waste was realized in all 320 urban municipalities by 227 operators (of which 172 organised as commercial companies – with public, private or mixed capital, 53 municipal or county departments and 2 *regii autonome*). In exchange, in the same year, a waste service was organised only in 71 percent of all rural localities, sometimes operated by an operator from urban area (the largest operator provides waste service for 17 urban municipalities). The role of private operators is much more important in waste sector than in the field of water provision as they represent about 44 percent of the total operators providing the service in urban areas. In the case of Bucharest the service is provided by several private operators on the basis of contracts agreed by the six sectors individually. Local councils have the ultimate say upon contracts with private operators or concession contracts. The mode of management of services, the contracts and other forms of association regarding services' provision are approved by local councils. In this sector, ANRSC observes both a trend to the creation of associations of intermunicipal development for the provision of the service (a process of "regionalisation") and difficulties in providing waste service in small cities and in rural areas, because of their poor financial and economic capacity. In these areas the level of investments is low, the municipal budgets do not (cannot) provide funds for the improvement and development of the waste system and operators are confronted with a difficult financial situation because of the low tariff collection and therefore they cannot cover the costs for operation. Many improvements are also needed in terms of selective collection. In some cases, waste transport costs are very high because of the fact that irregular municipal landfills were closed or are inefficient so that the use of landfills located in other municipalities or counties is needed³⁰⁵. Funding of waste collection service is in most of the cases mixed: a sanitation tax paid by households and companies or other operators residing on the administrative area of the locality and from municipal budget sources.

In the field of **transport**, the competent central authority is the Ministry of Transport and Infrastructure (which was, until recently, in charge of the administration of Bucharest Underground Services, the only subway transport in Romania). National railway companies are also subordinated to this ministry. The national regulatory authorities for local passengers transport services are ANRSC, the Romanian Road Authority, the Romanian Railway Authority and the Romanian Naval Authority. Public urban transport falls within the competence of municipalities and are organised according to the provisions of the Law n°92/2007. Passengers transport by bus is

³⁰¹ Compared to 53 percent in 2002. The rest of the population access water from their own wells (about 11,5 percent of households) or from other source.

³⁰² Comisia Centrala pentru Recensamantul Populatiei si al Locuintelor, *Comunicat de presa privind rezultatele preliminare ale Recensamantului Populatiei si al Locuintelor -2011*, 24 august 2011, www.recensamantromania.ro.

³⁰³ ANRSC, Raport privind « Starea serviciului de alimentare cu apa si de canalizare - 2011 », Bucuresti, 2012, p. 35.

³⁰⁴ See also the new law on the legal regime on waste – Law n° 211/2011 – transposing EU waste framework directive. The national strategy for waste management and the national plan for waste management were approved by the Government Decision 1470/2004. The regional waste management plans are drafted by the Regional Agencies for Environmental Protection. The current ones were approved in 2006 by Order of the Minister responsible for environment.

³⁰⁵ ANRSC, Raport privind « Starea serviciului de salubritate a localitatilor – 2011 », Bucuresti, 2012.



organised in 101 urban municipalities and 49 rural municipalities³⁰⁶. Urban transport is provided in-house by public enterprises or delegated to one or several private companies (concession). Overall, in the large cities, this service is provided by municipal companies. Prices are subsidized and reductions or free access are applied for some categories of users (students, retired, etc.). Passengers transport by tram and trolley bus are only organized in some important or big cities. It should also be noted that according to the Romanian law, public local transport services include not only passengers' public transport (including taxi and cars for rent) but goods public transport and other transport services, too. Services provided by public enterprises are financed from operator's own revenues and subventions from the local budget.

According to recent data, the access to **electricity** is ensured for more than 96 percent of Romanian households. In energy field municipalities have competences only as regards public lighting and, if the case, public heating.

Public lightening service in urban areas is organized either in-house by municipalities or by delegated management to a private company (concession to private capital operators). In all cases the service is financed 100 percent from the local budget. Municipalities develop annual and multi-annual investments plans for the development of public lightening infrastructure, apply new technologies to improve the service, reduce energy costs and energy efficiency and to extend the service coverage area. Investments in the infrastructure are financed from the local budget and from EU grants or loans. Law no. 230/2006 on public lightening service provides the regulatory framework for the organization, functioning and management of lightening service in communes, towns and municipalities³⁰⁷.

Centralized heating services are provided by some localities according to the Law n° 325/2006. Because of low services performance mostly caused by high percent of energy losses, increase of energy prices, lack of investments in infrastructure and poor management, many centralized heating operators went bankrupt in the last 10 years. However some municipalities (national reports indicated 34 cities in total, either through local enterprises organized as *regii autonome* or through concessions to private operators) continue to provide heating services to households, as well as some small private companies using the centralized heating services systems. A number of 7 municipalities (Iași, Timișoara, Bacău, Oradea, Vâlcea, Focșani and Botoșani) carry on investment projects to modernize the infrastructure, improve efficiency of their urban heating systems and the management of operations³⁰⁸.

Access to **broadband** is not considered a service of general interest in Romania. In 2010, the penetration rate of wired Internet was of 13.7 percent, the lowest in Europe (while among the first at global level from the point of view of the speed of connection to Internet) but the total number of households connected to Internet reached 42 percent.

Social services. According to Law no 215/2001 on local public administration, municipalities, towns and communes are responsible for social inclusion. They have to set-up measures and carry on actions to respond to social needs of individuals, families or groups, to prevent marginalization and social exclusion. The general directions or service (depending on the size of the locality) operates under the authority of the Local Council. The Government Ordinance no. 90/2003 and 1434/2004 provide the legal framework for the organization and functioning of directions for social assistance and child protection. The Law no. 292/2011 sets out the general framework for organization, functioning and financing of the national system of social assistance in Romania.

The range of social services covers the care of the elderly at home, centers for therapy and recuperation for children suffering of autism, care for persons with disabilities, retirement homes, day centers, canteens for social help and temporary shelters. There is a specific legal framework for all type of social interventions (e.g. Law 17/2000 on social assistance for elderly people and Government Ordinance 886/2000 which approved the national grid for the evaluation of needs of elderly persons; Law no 272/2004 on the protection of child rights).

Attending a pre-school education service, which falls within the competence of municipalities (except for special education, organised at county or national level), is not compulsory in Romania. The level of participation in kindergartens education is relatively low because of socioeconomic factors (lack of minimal resources to send children to kindergarten) or structural factors (lack of kindergartens, in particular in some rural areas); in this case family plays a very important role in children care and education. In some territories, after the 1989, services

³⁰⁶ ANRSC, Raport privind « Starea serviciului de transport public local – 2011 », Bucuresti, 2012.

³⁰⁷ The ANRCS Order no. 86/2007 provides the framework regulation on public lightening service; Order no. 87/2002 approved the framework of tender dossier for this type of public service.

³⁰⁸ The projects are co-financed from European structural funds, Operational Program for Environment 2007-2013, 3rd priority axis "Reduction of pollution and mitigation of climate change by restructuring and renovating urban heating systems towards energy efficiency targets in the identified local environmental hotspots" with a budget line of 460 million euro, including national co-financing.



offered to children have been reduced (as well as the number of children) while in some urban areas private operators appeared. Even if the private market is growing (in 2011 there are about 300 private kindergartens at national level), it is not universally affordable (until recently, they were fully financed by fees). Public services provided by public institutions are to a large extent subsidized by taxes but fees are perceived for meals in case of full-time child care³⁰⁹. Nursery services were very unpopular before the 1990, due to their very poor quality. They covered about 4 percent of children (between 2 months and 3 years old). After 1990, their coverage decreased and many public institutions were closed/merged. The introduction of the parental paid leave for child care (at the beginning for age 1 of the child, then for age 2) sustain the role of the family.

In Romania, a very small part of young children and elderly population (less than 0,9 percent of the total population) lives in institutional centres (*cămine de bătrâni, instituții de protecție a copilului*). At the end of 2010 there were 130 homes for elderly, of which 77 public (5308 places) and 53 private (associations and foundations, 1850 places). A process of reorganisation of 67 health units should ensure until 2013 between 2000 and 2400 new capacities (H.G. 212/2011). At the beginning of 2011 there were about 4180 people asking for a place in such institutions³¹⁰. For Romania, the EU 2020 strategy constitutes an important incentive in this area.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Citizens' participation, transparency and dialogue are at the core of local policy making and public services management in communes, towns, municipalities and counties. There are various instruments used for public participation, depending on the type of the service. Local authorities collect and assess data about public needs using questionnaires, surveys but also online tools like web portals or direct telephone lines allowing citizens to communicate with the administration.

Every municipality carries on strategic planning exercises in order to develop multi-annual strategies. These strategies are subject to public consultation and public participation. The annual local budgets are also openly debated in public hearings.

For public services delivered by private operator under concession contracts (i.e. waste collection, water, transport, public lightening etc.) the local administration assesses the level of performance using contractual indicators and surveys on citizen's satisfaction. These assessments are helping the administration to continuously improve the service provision.

The social services departments in City-halls carry on surveys and investigations to prevent and fight marginalization and social exclusion, in particular for groups or categories of population exposed to social exclusion (i.e. roma population, children's, mono-parental families, elderly people etc.). Social dialogue between local council representatives, population and NGO's is organized to identify problems, assess the needs and find the most appropriate solutions.

In the field of education local administration promotes the participation of schools to programs and projects and helps them to organize competitions or awards. In many local communities special attention is given to sport infrastructure and promotion of sport activities for children's and youths.

The law no 52/2003 on transparency in the decision making process applies in all public administration. Every citizen or company can request information about contracts, spending and other local administration types of operations.

4/ The future of basic public services: key challenges existing and emerging

In Romania the future of public services is shaped following two key principles efficiency and equity. Local public administration must identify the best solutions in order to modernize public service and to cope with public service obligations in times of austerity. Therefore the main challenge remains the financing of public services, under scrutiny of the Romanian Government public finance policies, in view of respecting the agreements with international partners: the European Union, International Monetary Fund and World Bank from 2009 onward concerning cutting the public budget deficit and the public debt.

In the health sector local public administration has to provide the material and financial conditions in order to insure access to public health for the population. Law no. 95/2006 on healthcare reform, with subsequent amendments provide the legal framework for implementation in Romania of a modern and efficient health

³⁰⁹ No meals are offered in "regular program" kindergartens (4 hours).

³¹⁰ According to a data provided by the Ministry of Health <http://www.administratie.ro/articol.php?id=35498>.



system at the same level with European Union health systems and placed to meet citizens needs. Local authorities have the responsibility of identifying sources of funding and to invest in hospital buildings infrastructure modernization as well as their equipment, which are currently in poor conditions and requires significant investments to be able to provide services to the population at a certain level of quality standards comparable with other EU Member States. Major investments are needed in emergency hospitals and emergency departments of municipal and county hospitals to improve the system of urgent medical care, currently overcharged and not able to intervene effectively in rural areas. If the average response time for medical urgent assistance is 15 minutes in urban areas the time response in rural areas is tripled.

Another key challenge for the future is the local digital agenda. For many local administrations the priorities include: 100 percent coverage for broadband in cities and rural areas, access to high speed internet, promotion of e-inclusion and provision of e-government services.

For economic development tourism and trade the main challenge is the investment in transport infrastructure (multi-modal infrastructure, roads, motorways and the transport on Danube River). For some local authorities implementation of the EU Strategy for the Danube Region represents a major challenge for economic and social development and the environment protection.

5/ The EU impact

The EU laws and policies have a significant impact on the way public services are organized and delivered, the financing of public investments, transparency and fight against corruption etc. The convergence programs and European semester impact equally on local public budgets and in particular on borrowings and bond policy of local administrations, subject of approval by the Ministry of Finance.

Europe 2020 strategy and its targets require full participation and partnership between all levels of government, including the local one. Romania's national targets for Europe 2020 are:

1. Employment: raising the employment rate of the population aged 20-64 to 70 percent (end 2011 the percent was 62.3 percent);
2. R&D: investing 2 percent of GDP in research and development (end 2011 the percent was 0.48 percent GDP, 0.30 percent from public sources and 0.18 percent from private sources);
3. Energy and climate change: reducing greenhouse gas (GHG) emissions by at least 20 percent compared to base year 1990, increasing the share of renewable energy in final consumption to 24 percent and increasing energy efficiency by 19 percent or 10 Mtoe, expressed as a reduction of the primary energy consumption);
4. Education: reducing the share of early school leavers to 11.3 percent (in 2011 the percent was 16.7 percent); increasing the share of population aged 30-34 having completed tertiary education or equivalent to at least 26.7 percent (in 2011 the percent was 20.5 percent)
5. Social inclusion promotion, especially by poverty reduction: reducing by at least 580,000 the number of people at risk of poverty and social exclusion.

Local development strategies have been or are under revision in order to asses local administrations potential to contribute in reaching the above mentioned Europe 2020 targets for Romania. EU structural and cohesion funds 2014-2020 could have a major impact on financing these local development strategies.



Area	49,034 sq km
Population	5,398,384 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“The community is the basic element of territorial self-administration. ... The self-administration of higher territorial units and their bodies will be established by law.” “The community is a juridical person that, under conditions set out in a law, independently manages its own property and financial resources. The community finances its needs, first and foremost, from its own revenues, as well as from state subsidies. The law specifies which taxes and fees represent communities' revenue. State subsidies may be claimed only within the limits of the law.” «The community decides independently in matters of local self-administration. Duties and restrictions may be imposed on it only by the law.” (Articles 64, 65, 67 of the Constitution)
Politico-administrative division – 2 tiers of local self-government	- 8 regions (<i>samosprávne kraje</i>), which have the status of higher territorial units (<i>vyššie územné celky</i>) - 2,930 municipalities (<i>obce</i>), of which 138 have a status of cities (<i>mesta</i>)
Population disparities between municipalities	- 68 percent of municipalities have less than 1,000 inhabitants - 95 percent of municipalities have less than 5,000 inhabitant - 79.1 percent of population in municipalities having less than 50,000 inhabitants - 8.6 percent of population in cities having between 50,000 and 100,000 inhabitants - 4.4 percent of population in cities having between 100,000 and 250,000 inhabitants - 7.9 percent of population in cities having between 250,000 and 500,000 inhabitants ³¹¹

The Slovak Republic was established three years after the fall of the “socialist” regime, on 1 January 1993, as the result of the consensual break up of Czechoslovakia.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The decentralization process in Slovakia was initiated in 1990 with the restoration of self-government (Law no. 294/1990). A second wave of reforms was undertaken in 1996. The basis of the current administrative and fiscal decentralization were set up during the first years of the current century, through massive transfer of competences from state to local and regional authorities and a radical change in the state administrative structure (return to the specialized system and the abolishment of the district offices).³¹² Though new powers have been gradually transferred to local authorities, responsibilities which are not expressly granted to municipalities or regions shall be consider as central government competence.

Today, self-governments perform original and transferred competencies (the original ones are financed by their own budget, transferred competences are financed from the state budget).

The main areas of competence at regional level relate to regional transport, secondary education, health, social action and, since the 2000s, road communications and transportation, railway transport, civil protection, part of social care, territorial planning, education (secondary education), physical culture, theatres, museums, galleries, local culture, libraries, health care (polyclinics and local and regional hospitals), pharmacies, regional development, and tourism.

Since 2000, municipalities are responsible at local level for road communications, water management, evidence of citizen, part of social care, environmental protection, education (elementary schools and similar establishments), physical culture, theatres, health care (*vytváranie podmienok* pre-primary and specialised ambulatory care), regional development and tourism. They also continue to exercise competences conferred to them in the 1990s, such as management of local public property and real estate primary education, local public transport (in big cities), construction, maintenance and management of local roads and parking places, public

³¹¹ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

³¹² Milan Bučec, Juraj Nemec, “Local government in Slovakia”, in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 534



lighting, cemeteries, local water resources and wells, water supply networks, sewerage and water cleaning establishments, basic social services (e.g. daily care), municipal police forces and fire service, etc. The scope of municipal responsibilities depended on the size of the municipality and its financial capacity.

Local authorities may freely associate with other local bodies and form regional or other interest group organisations, to decide and organize specific tasks. Because of the small size of many municipalities inter-municipal cooperation is developing. It may take different forms: joint municipal offices (e.g. issuance of building permits, primary education, citizens' registry), micro-regions (for the use of EU structural funds), associations or joint companies created to provide local services (e.g. waste collection and disposal)³¹³.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

To ensure the provision of local services, municipalities may choose direct or delegated forms of management.

In general, in the sectors chosen for GOLD III project (water, sanitation, waste, local public transportation, electricity, broadband access, childcare and elderly care) all management modes are used by municipalities. PPP contracts are rather used on national level (e.g. for the construction of road infrastructure).

During the process of decentralization of the public administration of 2004-2006, water management was also transferred into the responsibility of municipalities, especially to provide safe drinking water, collection and treatment of municipal waste water and to participate in flood prevention, which are original competencies financed by own municipal budget. Other responsibilities in the field of water management are provided and financed by the state. Municipalities take part in the governance of water management along with the central government (in particular, the Ministry of Environment), regional and district environmental authorities, and other professional institutions. For instance, water flows, dams, lakes have their own administrators (Slovak water company, forestry-state own enterprise), which are under the competency of the Ministry of Environment. In 2010, 86.5 percent of the Slovak population were connected to the public water supply networks (against 84 percent in 2002 and 75 percent in 1990) and 60.3 percent to public sewerage (against 55 percent in 2002). The same year, on average, 79.5 percent of municipalities had a public water supply network. At the same time, the level of public water supply varies: from full coverage in the capital-city Bratislava and other cities to approximately 60 percent in others. In some municipalities, a trend of disconnecting inhabitants from public water supply network appeared (inhabitants are building their own sources of drinking water). Water and sewerage local services are managed by water and sewerage works. In most cases, water works belong to international companies, which bought shares in state water companies; self-governments are only one of the shareholders in these companies and the share they own vary from municipality to municipality (in 2010, they deserved almost 80 percent of population with water services and almost 54 percent of population with sewerage services). Three concession contracts are awarded to private operators – Véolia, in Banská Bystrica and Poprad - and Suez, in Trenčín. About 5 percent of the population is directly served by municipalities³¹⁴. Water and waste water services are mainly funded by fees from users. Since 1998, average water and sewerage charges have been increased to cover the costs of services provided. At the same time with the increasing drinking prices, a fall of consumption was noted (decrease of about 30 percent between 1990 and 2006³¹⁵ and this trend continues. Despite of this fact the price for water in Slovakia is one of the lowest when compared with other European countries, the economic situation of Slovak inhabitants limits efforts for significant increasing these processes while the actual price for water does not cover the cost for maintaining the drinking and waste systems. Therefore, the reconstruction and building of new systems are mainly financed by EU funds. No municipal subsidies are provided for water and waste water users/households.

Slovak municipalities are responsible for **waste** in full range since 2010. They are obliged to ensure separate collection of papers, plastics, glasses and metal. These compounds of separate waste are mainly consisting of packages. According to Act No. 119/2010 Coll. on packaging specified persons and eligible organizations have to collect, evaluate and recycle only a specified percent of waste (45-65 percent depending on commodities). If these percents are reached, producers and importers of packages do not need to pay any additional fee to the

³¹³ Milan Bučec, Juraj Nemeč, *op.cit.*, p. 541.

³¹⁴ Water Research Institute Bratislava, *Report on Water Management in the Slovak Republic*, Bratislava, 2011, p. 32, 39. http://www.vuvh.sk/download/dok/ms_10_en.pdf. Cf. Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 193.

³¹⁵ Jozef Kriš, Ivona Škultétyová, « Drinking Water Supply in Slovakia », Proceedings of the International Symposium on Water Management and Hydraulic Engineering, Ohrid/Macedonia, 1-5 September 2009, p. 537. <http://wmhe.gf.ukim.edu.mk/Downloads/PapersTopic2/A47-Kris-Skultetyova.pdf>



recycling fund. The obligation to separate the remaining waste, therefore, remains completely on municipalities. Separately must be collected also the WEEE from households, is provided by producers and collective system (eligible organizations for collection of WEEE associated in association ENVIDOM - Association of producers of Appliances for Recycling, which secures collection and recovery of the waste from the large and small household appliances, and which associates almost all producers/importers in Slovakia) at their own expense. Municipalities positively evaluate/appreciate an effort of the collective systems to collect all WEEE from households at their own expenses. Separately has to be collected also used portable batteries and accumulators. It is necessary to reach a clear financial and organizational responsibility for waste collection from producers, as is the case of WEEE. Currently is not solved the responsibilities of producers of textile, old furniture and construction waste. A problem for municipalities is also bio waste, which has to be separate starting with 2013. According to opinions expressed in GOLD III survey, in Slovakia, a good waste management strategy is missing – that is a system reflecting priorities in waste management and financial tools. The separated collection is for municipalities 4.5 times more expensive than landfill which remains the cheapest method for waste disposal. In Slovakia there are only two incinerations and some cement factories are burning dangerous waste. There is therefore lack of capacities. Awareness in Slovakia is tuned against the incinerations – organized protests etc. – and there are not specified localities for establishing incinerations. The level of separation is also lower, due to population, and the separated waste is often “so dirty” that must be located in landfill or incineration. Another problem is that the country does not fulfill the obligations of EU Directive 1999/31/EC on landfill of waste: in 2010 to increase bio waste in landfill at level of 75 percent of year 1995 and in 2013 to increase at level of 50 percent of year 1995 and in 2020 at 25 percent of 1995.

As regards biowaste, the problem is the obligation for municipalities to separate bio waste starting with 2013. Bio waste collection and recycling is not economically viable and a good strategy for limiting bio waste storage in landfill is missing. Many municipalities do not know how to process kitchen bio waste. Green waste is disposed, in many municipalities, it is not processed. Kitchen waste is not collected and mixed communal waste is disposed in landfill. Concerning composting, there is a particular problem for smaller municipalities, which do not know what to do with the collected compost; municipalities do not have purchasers. Towns and cities use it for fertilization of park and green areas. The disposal with bio waste is individual from municipality to municipality – some municipalities does not have problem with using bio waste in some is accumulated without using it and this is causing problems. The bio waste system is already implemented (it do not allow to burn it); the problem is what to do with the accumulated bio waste.

In Slovakia, there is not established cooperation between municipalities, as it can be seen in other West European countries. Each municipality solves its responsibilities individually. It is difficult, for instance, to imagine that one municipality will “take care” about waste collection in other municipalities. Much common are cooperations established by one waste collection company with several municipalities in region or with all municipalities in regions based on agreement on collection of mixed and separated waste between company and each municipality individually.

The Recycling Fund is currently an important tool to help municipalities to meet the requirement to separate the collection of municipal waste. It was established mainly for supporting the waste management in municipalities. There is also the Slovakia EnviroFund, whose main income is coming from various fines, but there is not too much finances and there is a wide range of activities that can be supported, not only waste. Therefore, service operation and investment costs are mainly funded by fees from users.

Local public transportation services are provided only in big cities (Bratislava, Kosice, Zilina, Presov, Banska Bystrika). In Slovakia **the local public transport - within the town/municipality** (by bus, tram, and trolleybus) is provided by town and municipalities. Only capital cities of the regions (8) have established the Local Transport Company, which are owned only by cities and have the form of Ltd. or Inc. In other towns and municipalities, which do not have established a local transport company, local transport is provided by a private company, specifically by SAD - Slovak Bus Transport Inc. owned by National Property Fund of the Slovak Republic (from 38 to 51 percent) and by other private entities. In this case the towns and municipalities are making a contract with the SAD or any other private company, and are paying them for performances in public interest. Local self-government provides and supports transport by adjusting the amount for travel cost and social discount. Local public within the town/municipality is financed by town/municipality budget, subsidies from the regional self-government, loans, business activities (surface for advertisement, tours, and holiday transport, penalty a fines, own business involuntary activities – rent of free spaces). **The suburban local transport** is provided by 17 SAD companies (mentioned above) and other private companies. Nowadays there is an effort of the regional self-government to buy shares of the National Property Fund (state’s share) in SAD companies. **Interurban/Intermunicipal transport** is provided by private companies. Regarding the affordability of prices for users no relevant data seems to be available.



Childcare services. Elderly care. Each municipality has a responsibility for services to dependent persons by reason of age, health state (together with regional self-government), and persons which inadequate meet basic needs (homeless). During the process of fiscal decentralisation (2002-2004) there were transferred to local level only ground social services (home care and social transport services). Newly defined competencies (in 2009) were transferred without financial coverage. Simultaneously, there are not created conditions for adapting services to local conditions, relations and possibilities. Providing services, which are not registered (at regional self-government), is out of law. Only services stipulated in a law may be registered, if they meet prescribed standards. An effort for standardization and formalization of provided services lead to decreasing in capacity services paradoxically.

Deinstitutionalisation of social services is in a phase of pilot testing. Strategies to deal with the impacts of population's ageing³¹⁶ are in seclusion in comparison with seeking ways to address more urgent needs for maintaining current system.

Childcare services are perceived mainly through the pre-school education services (kindergarten and nursery). Responsibility for establishing and financing pre-school facilities belong to municipalities. These services can be also provided by private organisations. Generally, municipalities finance their own facilities. Pre-schools facilities located in the region with higher rate of employment are deficient services. Nurseries (for children from 0.5 year) are very rare and expensive from because of the high standards of professionalism, personal and space capacity. They are financed by parents and municipality. Private childcare services are financed by own sources of parents. Services in pre-school facilities are not considered as generally demanded.

Social services are provided by various providers, from public through the private non-profit providers and church organizations. Therefore, financing is relatively complicated. Currently, multi-sources financing is applying – the state provides approximately 50 percent of economically eligible costs through the municipality to providers (regardless the type of provider); the rest of costs bear with the dependent person (or its relatives or municipality) up to the limit stipulated by law. Currently, provided grants are not systematic, and in 2013 it is expected the preparation of deeper revision of setting the system of competencies and financing.

In case of social services there is an interest of the state to ensure the right to service if the conditions or requirements were achieved; but non-systematic financing effect corresponding guarantees.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In Slovakia, the level of local services affordability is various, according to the service. In the field of social services, a community planning of social services at local as well as regional level legally ensures the participation of providers, users and the representatives of the target group. There is a consultative body of the mayor focused on specific problems of elderly, youth and disabled in some municipalities.

Ways for adapting social services availability to marginal groups are seeking where legislative conditions permit.

4/ The future of basic public services: key challenges existing and emerging

The most crucial challenge will be to tackle with the impact of demographic crisis (ageing population, change in the structure of age of the population). The key policy challenge will be to guarantee the conditions for the reproduction of society besides increasing demand for services for the elderly. Reducing the purchasing power of elderly by parametric changes in pension schemes will put pressure on the affordability of public services. The financial crisis has affected the above challenges only partially. Changing the ratio of productive and unproductive population segment of the population will have an impact on the chance to escape from the financial crisis.

However, during the crisis, central and local public revenues fell by about 20 percent while responsibilities remain unchanged. According to GOLD III survey, the revision of the financial models is needed to cover municipal responsibilities, as well as a more flexible design of municipal competences allowing them to adapt to the local situation.

Connection the inhabitants to drinking and waste water systems, decreasing of waste dumping, increasing of the waste recycling, also constitute notable issues, as well as the lack of financial sources.

³¹⁶ Recent research note that “by 2050, Slovakia will have the steepest increase in the old-age dependency ratio of all EU member states and will rank second after Poland in level.” See C. Klein, R. Price, A. Wörgötter, “Improving the Fiscal Framework to Enhance Growth in an Era of Fiscal Consolidation in Slovakia”, OECD Economic Department Working Papers, No. 1018, OECD Publishing, p. 8.



As regards local transports, the main problem is considered to be the need for the reconstruction of roads managed by self-governments (roads of 3rd and 4th class).

5/ The EU impact

Concerning water, sanitation and waste, local authorities tend to consider that the main commitments resulting from the EU legislation, especially EU directives are met.

Within balancing of regional differences, it is desirable that the funds will be focused on measurable increase in the efficiency of public services. Within the law making, it is important to formulate rules to avoid excessively increase their expenses to meeting the rules and reflect the different starting position of the Member States in meeting the rules. An essential role for the EU should be the effective exchange of experience in improving the efficiency of public services in its Member States. Currently, the costs of implementation require in some states no or minimal costs while in others they suppose enormous costs. The implementation period is very important for systemic changes. Or very often, the conditions of implementation are unrealistic to ensure effective setting. This leads to formal or highly inefficient implementation measures.

It is important to ensure a closer contact with local governments, since many measures decided at ministerial level are implemented at the local level, often concentrated in a system of several services / processes. EU regulations incompatibility with the conditions of life (due to the "ministerial perception" in the process of implementation in the national law) undermines the confidence of EU citizens to the EU. Often, measures aimed at improving the quality of life for citizens of the EU are changing by increasing the administrative burden for citizens, employers, local governments, by arguing that it is a requirement of the EU, where it is possible to achieve greater efficiency without oversized/excessive bureaucracy.

Some respondents consider that European law/law-making is too remote from municipal realities, which have not only little knowledge about it but also few possibilities to meet the objectives it defines. In the process of implementation of EU law, there is a practice at national level to impose unitary schemes, mechanisms, forms and models while unwinding municipalities' flexibility to act autonomously and to influence the process of governance. European rules should facilitate the provision of basic services while the opposite is felt.



Area	20,273 sq km
Population	2,052,843 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“Local self-government in Slovenia is guaranteed.” “Municipalities are self-governing local communities. The territory of a municipality comprises a settlement or several settlements bound together by the common needs and interests of the residents.” (Article 9, 139 of the Constitution)
Politico-administrative division – 2 tiers of local self-government (since the Constitutional revision of 2006; however, in 2013, provinces were not yet created)	- 58 provinces (<i>pokrajina</i>) - 210 municipalities ³¹⁷ (<i>obcine</i>) (of which 11 have the status of urban municipalities/ <i>mestna občina</i> ³¹⁸). Each municipality can be divided into sub-municipal sections (districts, quarters or villages)
Population disparities between municipalities	- more than half of municipalities (110) have less than 5,000 inhabitants ³¹⁹ - 22 percent of municipalities have between 5,000 and 10,000 inhabitants - 23 percent of municipalities have between 10,000 and 50,000 inhabitants - 1 municipality has between 50,000 and 100,000 inhabitants - two municipalities have more than 100,000 inhabitants

In Slovenia, local government was established in the middle of the 19th century, under the Austro-Hungarian monarchy. After the World War I, Slovenia became a part of the Kingdom of Serbs, Croats and Slovenians and a new system of local government was established at municipal level³²⁰. Between the end of the II World War and the declaration of independence of 25 June 1991, Slovenia, along with five other republics formed the socialist Federative Republic of Yugoslavia. In the recent history as independent state, Slovenia undergone a complex transition: from a socialist to a market economy, from a regional (as part of the Yugoslavian federation) to a national economy, from a manufacturing toward a service economy, from a part of SFR Yugoslavia, to an independent state and, since 2004, a Member State of the European Union.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

According to the Act on Local Self-Government of 2005, “a municipality shall, in accordance with the Constitution and laws, independently regulate and perform the matters, duties and functions vested in it by law” (Article 2§2).

Local issues that municipality can regulate autonomously and which affect only the inhabitants of the municipality fall within the competence of the municipality. The state may delegate to local authorities the exercise of certain tasks within its competence if it also provides the necessary means (Article 140 Scope of activity of local self-administered communities).

Article 21 of this law states the primary duties and functions of municipalities: - managing the assets of the municipality; - providing the conditions for the economic development of the municipality and in accordance with the law carrying out tasks in the areas of catering, tourism and agriculture; - planning spatial development, carrying out tasks in the areas of activities affecting the physical space and the construction of facilities in accordance with the law, and ensuring the public service of building land management; - creating the conditions for the construction of housing and providing for an increase in the rent/social welfare housing fund; - regulating, managing and providing for local public services within its competences; - promoting the services of social welfare for pre-school institutions, for the basic welfare of children and the family, and for socially threatened, disabled

³¹⁷ Compared to 147 in 1995.

³¹⁸ A town may attain the status of an urban municipality in accordance with such procedure and under such conditions as provided by law. An urban municipality performs, as being within its original competence, particular duties within the state competence relating to urban development as provided by law (Article 141 of the Constitution of Slovenia of 1991). According to the Local Government Act, an “urban municipality” must have at least 20,000 inhabitants (Celje, Koper, Kranj, Ljubljana, Maribor, Murska Sobota, Nova Gorica, Novo mesto, Ptuj, Slovenj Gradec and Velenje) and a municipality at least 5,000 inhabitants (only exceptionally less inhabitants, due to geographic, border location, ethnic composition, historical or economic reasons). The capital Ljubljana has a special status following the adoption of the law on capital city of the Republic of Slovenia.

³¹⁹ According to the law, it should be an exceptional situation.

³²⁰ Franc Gad, “Local government in Slovenia, in Angel-Manuel Moreno (ed.), *Local government in the Member States of the European Union: a comparative legal perspective*, INAP, 2011, p. 555, 556.



and elderly people; - providing for the protection of the air, soil and water sources, protection against noise and the collection and disposal of waste, and performing other activities related to environmental protection; - regulating and maintaining water supply and power supply facilities; - creating conditions for adult education, important for the development of the municipality and for the quality of life of its population; - promoting activities related to upbringing and education, information and documentation, associations and other activities on its territory; - promoting the development of sports and recreation; - promoting cultural/artistic creativity, ensuring accessibility to cultural programmes, ensuring library activity for general education purposes, and being responsible for preserving cultural heritage in its territory in accordance with the law; - constructing, maintaining and regulating local public roads, public ways, recreational and other public areas; regulating traffic in the municipality and performing tasks of municipal public order; - exercising supervision of local events; - organising municipal services and local police and ensuring order in the municipality; - providing for fire safety and organising rescue services; - organizing assistance and rescue in elementary and other disasters; - organising the performance of funeral and burial services; - determining offences and fines for offences violating municipal regulations and inspecting and supervising the implementation of municipal regulations and other acts on the basis of which it shall regulate matters falling within its competences unless otherwise determined by law; - adopting the statute of the municipality and other general acts; - organising municipal administration; - regulating other local matters of public interest.

According to Article 24§2 of the Act on local self-government, individual tasks which fall under national competences and which may be carried out more economically and more efficiently by municipalities may be transferred to municipal competences, particularly in the areas concerning the regulation of local public transport, the opening hours of catering facilities, the implementation of tasks in the fields of activities affecting the physical space, the construction of facilities and carrying out geodetic services, and for ensuring a public network of grammar schools, secondary and vocational schools, as well as secondary-level public health services.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

The Act on local Self-Government lays down the tasks of the town administration in the area of public services, organisational forms of their implementation, and relations to the providers of public services. In accordance with the Act, the town administration carries out the control over the legality of work of public companies and the implementation or activity of public services³²¹.

According to this law, a municipality shall be deemed capable of satisfying needs and fulfilling duties and functions in its territory if the following conditions are met: - eight years of education (complete elementary schooling); - primary citizens' health care (health centre); - provision of municipal services (drinking water supply, removal and purification of waste water, electricity supply); - postal services; - library (general education or school); - premises for local community administration (Article 13§2 of the Act on Local Self-Government).

Municipalities shall independently take decisions on joining into wider self-governing local communities and into regions. For the purpose of ensuring public services more economically and efficiently, two or more municipalities may jointly set up a public institution or public enterprise³²².

The ways and conditions for performing local public services shall be defined by the municipality, unless otherwise provided by law³²³.

Public services in Slovenia are performed by specific legal persons (public institutions, public commercial institutions, public enterprises etc.) established by the state or municipality. These organisations have their own legal personality and are not part of the state (ministries) or municipality (administration). They are independent from the national or local budget. In Slovenian municipalities, public utility services are performed primarily in two ways: through public enterprises and by awarding a public service concession. The law on institutions enabled the participation of private sector in non-commercial public services (e.g. education, culture, health, etc.)

³²¹ "A municipality shall provide the performance of local public services, which it determines by itself, and the performance of public services determined by law (local public services)" (Article 61§1 paragraph 1, Chapter VII Municipal public services - 2005 Act on Local Self-Government).

³²² Article 61§3, Chapter VII Municipal public services - 2005 Act on Local Self-Government.

Self-governing local communities shall voluntarily co-operate with each other for the purpose of joining forces to regulate and conduct local matters of public importance. For this purpose, they may merge their funds and, in accordance with the law, set up joint bodies and joint municipal administration bodies, establish and manage funds, public institutes, public companies and institutions, and link together to form communities, unions and associations (Article 6 of the same Act).

³²³ Article 62, Chapter VII Municipal public services - 2005 Act on Local Self-Government.



by concession. The law on economic public services allows the delegated management by concession. Both laws gave only the basic legal framework. How certain public service should be “produced” effectively is to be regulated by each specific law for each type of service. In practice there are many cases of awarding a public service concession in different areas of public services³²⁴.

The Public-Private Partnership Act (ZJZP³²⁵) was adopted at the end of 2006 with the purpose to enable and encourage mutual help and cooperation between entities from the public and the private sectors to ensure economical and efficient provision of public services and other goods or services in the public interest³²⁶. This law became fully operable in the middle of 2007 and PPP are carried out in the areas of financing, design and engineering, construction, supervision, organisation and management, maintenance, and provision of public services and other activities (Article 6 of the ZJZP). The Act introduces no special institution for public-private partnership. Every concession that is not a classic public procurement is considered a public-private partnership. There are few PPP investment project developed in practice (e.g., sport facilities, local transport infrastructure - such as parkings), but a lot of concession agreements for delivering different services of general interest were concluded³²⁷.

Slovanian municipalities are responsible for environmental management. They develop on a voluntary or compulsory basis (12 larger cities have such a legal obligation) environmental protection programmes addressing water quality and consumption, waste management, energy consumption, etc.

Water and waste water management in Slovenia is mainly based on Water Act of 2002 and National Programme of Water Management. The provision of water and waste water falls within the responsibility of municipalities which also ensure the financing for operation and financing (fees and taxes)³²⁸. Price control by the government was abandoned in 2009 and price-setting became the responsibility of municipalities. In 2007, the level of cost-recovery has been below 80 percent for both water supply and sewage collection (in 2000, some 30 percent of water costs were recovered through pricing³²⁹) but close to 100 percent for sewage treatment (in 1996, a wastewater tax on industrial and communal wastewater was introduced). Nevertheless, there are large differences among municipalities, some of them covering up to 50 percent of costs (water leakage is estimated at about 25-30 percent). A new pricing methodology was established by the Ministry of Environment in 2011, which should enable indicator-based comparison between utilities³³⁰.

On average, about 80 percent of Slovenian population is connected to a public supply network. The lowest rates (25 percent) are in the less populated area. Population not connected to public water supply is served either by small public systems (up to 1,000 people) or individual wells. As regards wastewater, in 2009, about 63 percent of the population was connected to wastewater treatment plants (compared to 52 percent in 2006 and 23 percent in the early 2000s)³³¹.

Up to 1998, water services were exclusively provided by public municipal companies. That year, private sector (Suez and Aquaplust) entered in one municipal water utility (in Maribor, the second biggest city in Slovenia). A concession for 22 years was given in July 1998 to a multinational consortium formed by Suez-Lyonnaise (France) and Stewag and Styrcon (Austria) who have majority ownership of the new company (Aquasystems d.o.o.) (the

³²⁴ http://www.mf.gov.si/slov/jav_zas_partnerstvo/Porocilo_jav_zas_part.pdf

³²⁵ www.mf.gov.si/slov/javnar/53646-ZJZP_EN.pdf

³²⁶ Article 2 defines PPP as a relationship involving private investment in public projects and/or public co-financing of private projects that are in the public interest. Such relationship is formed between public and private partners in connection with the construction, maintenance and operation of public infrastructure or other projects that are in the public interest, and in connection with the associated provision of commercial and other public services or activities provided in a way and under the conditions applicable to commercial public services; or of other activities where their provision is in the public interest, and of other investment of private or private and public funds in the construction of structures and facilities that are in part or entirely in the public interest; or in activities where their provision is in the public interest.

³²⁷ Report on Public-Private partnership in Republic of Slovenia for year 2008

http://www.mf.gov.si/slov/jav_zas_partnerstvo/Porocilo_jav_zas_part.pdf, page 29, 34.

³²⁸ Recently, it was stated that « the considerable autonomy enjoyed by municipalities, and the absence of a regional administrative level, have resulted in an important environmental governance gap between the national and local levels.» Also, « many municipalities are now too small to provide public services efficiently» and « further progress is needed to strengthen co-ordination between the central and local governments and consolidate efforts to fully utilise economies of scale and scope». OECD *Environmental Performance Reviews : Slovenia 2012*, p.18, 35.

³²⁹ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 195.

³³⁰ According to OECD, to achieve full cost-recovery for water services supply “utilities should be separated from municipalities and operated as commercially autonomous bodies”. “This should be accompanied by the creation of an autonomous and professional regulatory agency to regulate prices and to benchmark utilities’ performance.” OECD, *op. cit.*, 2012, p.90, 91.

³³¹ The rest of the population used wess pools. Government objective aims at obtaining 70 percent of population connected to wastewater treatment by 2015. Important EU structural funds are allocated to this respect. OECD, *op. cit.*, 2012, p. 87, 88.



first BOT wastewater treatment awarded in central and Eastern Europe). At the beginning of the 2000s, more (partial) privatisations of water companies were planned (between 5 and 52 percent of their capital), as well as the introduction of concession for the right to use water³³².

Slovenian municipalities are also in charge of the collection, treatment and disposal of municipal **waste** and cleaning of public areas. The proportion of the population covered by regular municipal waste collection increased from 76 percent in 1995 to 96 percent in 2010, but coverage varies significantly between municipalities (with the lowest level of coverage at 7 percent, in the least densely populated areas). Waste services are largely provided by a large number of relatively small public authorities. Also, there is no coherence or consistency between prices across regional or municipalities (per capita/per tonne/per m³) and the level of recovery through charges for collection and treatment costs varies (very low in some municipalities). As in the field of water, there is no regulatory body for waste services in Slovenia. Currently, 60 operators provide municipal waste collection and transport and 49 operators for treatment and disposal household or assimilate waste. According to the Public Utility Act, compulsory environmental public services may take four different forms: a “service unit” (the case of smaller service requirements – can be found in 4 municipalities), a public utility organisation, a public company, a private company operating through a concession. Most waste services providers are organised as public organisation or public company. Some of them provide other public services, too (e.g. wastewater). In the capital-city Ljubljana, the public operator of waste is part of a large holding that also supplies heat, gas and water, wastewater collection and treatment. All municipal landfills are operated by public operators.³³³

In the field of **local public transport**, several municipalities are redeveloping systems existing prior to 1990. Thus, in Ljubljana, 24 bus lines cover 97 percent of the municipal territory and public transport corridors are developed to ensure the mobility of passengers from neighbouring municipalities.

³³² Vesselina Penevska, Working Paper for « Intermediaries» International Research Project (FP 5), « Current Status of Water Sector Restructuring in Slovenia», September 2003, http://www.irs-net.de/forschung/forschungsabteilung-2/intermediaries/WP1_Slovenia.pdf. For a list of private sector contracts awarded see Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 196.

³³³ OECD, *op. cit.*, 2012, p. 157.



Area	505,997 sq km
Population	46,174,601 inhabitants
State structure	Regionalised unitary state
Local self-government – constitutional provisions	“The state is organized territorially into municipalities, provinces and the Self-governing Communities that may be constituted. All these bodies shall enjoy self-government for the management of their respective interests.” “The Constitution guarantees the autonomy of municipalities...” “The province is territorial division recognized by the Spanish Constitution with its own legal personality, arising from the grouping of municipalities, and designed to carry out the activities of the state...” “Local treasuries must have sufficient funds available in order to perform the tasks assigned by law to the respective Corporations, and shall mainly be financed by their own taxation as well as by their share of state taxes and those of Self-governing Communities” (Articles 137, 140, 141, 142 of the Constitution)
Politico-administrative division – 3 tiers of local self-government	- 17 autonomous communities (<i>Comunidades Autonomas</i>) ³³⁴ - 50 provinces (<i>provincias</i>), 2 autonomous cities (Ceuta and Melilla) and 11 islands (<i>islas</i>) - 8117 municipalities (<i>municipios</i>) ³³⁵
Average density of population Population disparities between municipalities	Average density of population: 91,4 inhabitants/sq km - 84,49 percent of municipalities (more than 6,000) have less than 5,000 inhabitants - 8 percent of municipalities have between 10,001 and 100,000 inhabitants - 59 municipalities (0,73 percent) have over 100,000 inhabitants (13 have more than 300,000 inhabitants)

Spain is a regionalised unitary state whose organisation includes both a concentrated level of state administration and decentralised communities. Before evolving into a highly decentralised democracy, which today is one of the European models of regionalism, the country has experienced an authoritarian political regime centrally directed by Franco (1936-1975).

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

The Spanish local government has been legally defined from the beginning of the political transition based upon two main principles: local autonomy and financial self-sustainability³³⁶. The Law on the basic regulation of local authorities of 2 April 1985³³⁷ establishes the competences of different levels of administration and the services which must be provided by all municipalities: water and waste water supply, public lighting, waste, maintenance of public roads, etc. Waste treatment, public parks and markets and public libraries are compulsory tasks only for the municipalities with more than 5000 inhabitants. Municipalities having more than 20,000 inhabitants shall also provide social services, civil protection, leisure (sport) infrastructures and protection against fire, and larger municipalities (with more than 50,000 inhabitants) are also responsible for public passengers transport and environment protection.

The central state and the autonomous communities can delegate competences to municipalities (for example in the field of education as regards schools infrastructure, management of education programs).

³³⁴ “In the exercise of the right to self-government recognized in section 2 of the Constitution, bordering provinces with common historic, cultural and economic characteristics, insular territories and provinces with a historic regional status may accede to self-government and form Self-governing Communities (Comunidades Autónomas) in conformity with the provisions contained in this Part and in the respective Statutes”. (Section 143 paragraph (1) of the Constitution).

³³⁵ Their number has been reduced between 1960 and 1980. Since 2012, the government is preparing a municipal streamlining plan affecting municipalities of less than 5,000 inhabitants, i.e. 84 percent of current municipalities. He plan would merge or encourage municipalities to cooperate within inter-municipal groups. To facilitate these mergers, competencies would be distributed depending on population size. These competencies are expected to be reduced and clarified. Part of the competencies of municipalities with under 20,000 inhabitants could be taken over by the provinces.

Dexia – CEMR, *Subnational public finance in the European Union*, Summer 2012.

³³⁶ Spanish Constitution of 1978, Articles 137, 140, 141, 142

³³⁷ In Spanish on http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25119-ides-idweb.html



Because of the high number of small municipalities many of them are not able to provide the compulsory public services. County councils play an important role in this regard. They are responsible for providing and coordinating services especially in those provinces composed of sparsely populated municipalities³³⁸.

Besides, municipal associations play a growing role in the field of local affairs, in particular for the smaller municipalities. In the last two decades their number has more than doubled (in 2007, there were more than 1,000 *mancomunidades*). About 70 percent of all associations have less than 20,000 inhabitants (of which more than half have less than 5,000 inhabitants). They accomplish various tasks: refuse collection (531 intermunicipalities), sewage disposal (497 intermunicipalities), water supply (318 intermunicipalities), social services (316 intermunicipalities), environment protection (153 intermunicipalities), public lighting (103 intermunicipalities), urban transport (73 intermunicipalities), sewer system (95 intermunicipalities), etc. Some of them provide services that are not compulsory, in various fields such as education and culture, tourism, health, waste water management, electricity, etc.³³⁹

In February 2013, the national government announced a project of “Reform for Streamlining and the Sustainability of Local Government” which aims at clarifying municipal competences, avoid overlaps, define which powers correspond to which public administration service, how those services are provided and with what money, guarantee account sustainability, suppressing the wages of 82 percent municipal councillors and of the mayors of the small municipalities and save 7.139 billion euros between 2013 and 2015. According to the draft bill, the provincial council will become an important manager of public services for those municipalities of smaller size (less than 20,000 inhabitants), which are the majority.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

The competent public body may politically decide whether to directly deliver the service, either through its own administrative units or through a separate legal person (local public enterprise, joint stock company or limited liability company), or to delegate the provision of service to a private party through a contract of indirect provision of public service, specifically regulated under the Public Contracts Act of 2007.

A major part of the local public services are provided directly by the administration but Spain has also a long tradition of delegating management of local public services to the private sector. Since the opening of many sectors to competition, the model of delegated management has been more widely used (in the area of water for example). The delegation of a public service to a public entity may take four different forms: a concession (*concession*) to a private undertaking that will provide the public service and assume the economic risk resulting from the operation of the service; the “interested” management (*gestión interesada*), a technique which is rarely used (the private party provides the service, but both this party and the public body share the results of the activity according to proportions previously agreed in the contract); the “agreement” (*concierto*) between the public administration and a private party that receives a fixed compensation for the service provided; and an institutionalised public-private partnership in the form of a mixed capital entity, held jointly by the contracting entity and the private partner.

Concessions and mixed capital companies are the most frequently used delegation forms in the area of economic public services, especially at local level. The *concierto* is habitually employed in the field of social public services, such as education, hospitals and social care services (e.g. elderly homes).³⁴⁰ Since 2003, Spain developed PPP, mostly in the sectors of transportation, infrastructure and hospital care³⁴¹.

Water resources falls within the competence of the central state (Ministry of Environment, Rural and Marine Environment and Water Directorate). National Water Council participates as advisory body to water planning (national and basin plans). At basin level, the management of water resources (planning, construction and operation of major water infrastructures, quality monitoring, inspection, etc.) falls within the competence of a basin agency (in some conditions, water management competence belong to Autonomous Communities), which also play an important role in determining the framework for the provision of water and sanitation services. The provision of water services is a responsibility of municipalities and local entities, which may organise their provision either through a municipal public company or an inter-municipal cooperation, or through concessions to

³³⁸ County councils exercise the government of the provinces and there are a total of 41 in Spain.

³³⁹ José Manuel Rodríguez Álvarez, José M. Ruano de la Fuente, “Municipal associationism in Spain : facts, trends and problems”, Conference Paper to the Annual Conference of “Europa” Association, Limoges, 25 November 2011.

³⁴⁰ Luis Arroyo Jimenez, in *op. cit.*, 2009, pp. 320, 312.

³⁴¹ Dominique Hoorens (ed.), *Les collectivités territoriales dans l'Union européenne. Organisation, compétences et finances*, Dexia, 2008, p. 288.



mixed or private companies. In fact, Spain is one of the few EU countries where the management of water services is largely delegated to private operators³⁴². Thus, water and waste services are often managed by concession (e.g. for water and wastewater, public monopoly in Madrid, private monopoly in Barcelona, PPP).

Private sector involvement dates back to Aguas de Barcelona's original water provision contract in 1911. Private sector progress was limited during the Franco era, but since 1976, it has made steady inroads. FCC and Aguas de Barcelona (now Suez Environnement) were the only private sector players until 1985. Effective competition has only emerged since 1991, after which Aguas de Barcelona has gained some 50 percent of all contracts. Aguas de Valencia (33 percent held by Suez) has been gaining a number of small contracts in recent years. Dragados entered the water and sewerage market in 1991, having been responsible for approximately 30 percent of Spain's water and sewerage construction work since 1951. Ferrovial, Acciona and Gruppo ACS are also building up portfolios of contracts³⁴³.

With respect to the governance of local services and in particular about who decides the objectives (quality standards, fees, etc.), according to GOLD III survey it can be said in decisions about the services of water supply and sanitation it is usually a greater choice while, in the rest of sectors studied, the power of decision services tends to be a shared decision between the actors involved in the management. According to some sources³⁴⁴, "the main problem for those seeking to modernise the management of Spain's water resources is that the great disparities in water availability and need means that regional interests will continue to block plans to integrate its water management". It is also observed that in comparison to most of the major western economies, Spain's sewerage and sewage treatment infrastructure was for some time at an undeveloped stage. However, the proportion of Spain's population connected to sewerage services increased from 18 percent in 1980 to 86 percent in 2000. As regard the implementation of the full cost recovery principle, tariffs does not cover the majority of costs in many municipalities.

The competences of public authorities in the field of **waste** management are provided by the Law on waste and polluted soil n°22/2011. A National Waste Plan is adopted at national level (currently, PNIR 2008-2015) which is financed by the Ministry of Environment. The Autonomous Communities are responsible for setting up waste plans for their territories while municipalities shall organise the management of urban waste. The provision of waste services is often done by intermunicipal associations but direct and delegated management to private operators also exist.

The provision of **urban transport** (bus, metro, tram, taxi³⁴⁵) is a compulsory responsibility of large municipalities and of regional administrations (provinces), under the general framework from the state. In the main urban agglomerations, these services are often provided through intermunicipal syndicates taking the form of transport independent agencies (*consorcios* - in 2007, there were 18 such authorities). In several cases (e.g. Madrid) the representatives of the upper level of government (state, autonomous regions, provinces) take part in the syndicate. In Madrid, trade unions, operators and consumers' associations are also represented in the transport syndicate (CRTM). These agencies are the organising authorities of transport in their area of competence for aspects related to planning, regulation, contracting, operation, tariff setting, monitoring, etc. Overall, direct management of passengers transport services by municipally owned enterprises largely prevails in Spain. These companies hold important "tactical and strategic decisions", even if separated transport authorities acquired an increasing role in the largest urban areas. Private operators play a complementary role (for example, intermunicipal passengers transport is frequently entrusted to private operators)³⁴⁶.

The distribution of **electricity** doesn't fall within the competence of municipalities which are only responsible for public lighting.

In Spain, telecommunications are services of general interest that are performed under a system of free competition, which has allowed the emergence of multiple operators for various services, resulting in a greater choice for users.

³⁴² In 1997, Spain considered developing a water market to encourage external investment and open the market up for more private participation while restricting the role of the state (the drought of 1995 and 1996 and the brief respite of 1997 and 1998 eased political pressure for reform). The 1999 reform creates a market in water with the aim of rationalising the use of resources by allowing water rights to be bought and sold. In addition, the legislation allows for the establishment of water banks, as seen in California, which will allow the Spanish Government to redirect water resources to priority sectors of need. Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 202.

³⁴³ *Idem*, p. 202.

³⁴⁴ *Idem*, p. 201.

³⁴⁵ Regional and local authorities regulates tariffs, transport conditions, schedules etc.

³⁴⁶ Andrea Zatti, « New organizational models in European Local Public Transport: from Myth to Reality », Ciriec International Working Paper N° 2011/06 ; Pablo Martin Urbano at al, « Spanish Local and Regional Public Transport », CIRIEC International Working Paper N° 2010/02.



With respect to broadband more and more villages are covered by aid programs funded by the Ministry of Industry, Tourism and Trade. In addition, this Ministry, through the National Broadband Extension in rural and remote areas, provides support to telecom operators to expand coverage of these services in the areas of population whose characteristics have lower commercial interest operators.

Also noteworthy are the programs developed by the Public Enterprise Broadband Internet such as School, Internet in Libraries and Rural Internet, targeted as a priority for municipalities that are outside the coverage area of conventional broadband technologies.

As regards **social services**, in Spain, where traditionally the family played an important role in the welfare regime, the role of the welfare state is less developed than in other European countries. Thus, in case of elderly care³⁴⁷, a service of regional competence, the role of the family remains important. Nevertheless, there are three categories of social services available for **elderly** but a small part of this population access them and disparities exist among municipalities and regions:

- home care services (9,4 percent of the elderly population used them in 2008),
- public and private day care services and public and
- private residential care (339,009 places in 2008, of which 72 percent for dependent persons; they cover 4.4 percent of elderly population).

Their financment is based on the principle of co-responsibility (co-participation public funds and users fees) and they are largely provided by regional authorities³⁴⁸.

In **childcare** field, according to the Spanish National Statistics Institute, 26 percent of 0-3 year old children had access to public kindergarten in 2010. Access to kindergarten is open to children from 0 to 6 years old but it is not compulsory and sufficient, and (free) access is not guarantee while access to private nurseries seems not to be affordable for all families. If progresss have been made in the last decade, the family continues to play an important (but decreasing) role. The management of kindergarten services is a competence of Autonomous Communities and municipalities and their operation is realized through public and/or private institutions.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Special tariffs for some groups of passengers (students, unemployed, retired...) were decided by many municipalities.

Regarding existing mechanisms for responding to complaints of citizens GOLD III survey mainly highlighted the use of suggestion boxes and claims submitted electronically, as well as the role of offices of customer service.

In relation to employees it is important to exercise controls on services quality and citizen services and the implementation of new technologies for user access to services. To this respect, the main obligations are set out in the Law n° 11 of 22 June 2007 on electronic access of citizens to public services. Also, many Autonomous Communities have approved their own regional laws and many municipalities have adopted by municipal regulations rights and obligations in this regard.

4/ The future of basic public services: key challenges existing and emerging

GOLD III survey addressed some of the main general problems in relation to the provision of local basic services: a limited capacity to intervene in the case of indirect management, the high cost of provision, the lack of financial support from regional governments to local governments.

In the case of public transport, the adaptation of the equipments to the requirements aiming at the integration of people with disabilities (ramps, ground floor, barrier, etc.) is not generalised and require important investments.

A lack of coordination with other services, especially as regards children and elderly care (at this point many of the answers match) was also noticed.

³⁴⁷ Population over 64 years represents about 16.6 percent of the total population.

³⁴⁸ Rosa Díaz Martín (coord.), Instituto de Mayores y Servicios Sociales (IMSERSO) –Observatorio de Personas Mayores, Serie Documentos Estadísticos, *Las personas mayores en España. Datos estadísticos estatales y por Comunidades Autónomas*, Informe 2008, Tomo I, Ministerio de Sanidad y Política Social, 2009, <http://www.imserso.es/InterPresent1/groups/imserso/documents/binario/infppmm2008.pdf>



Other interesting questions regard the impact of the economic crisis in the funding of local public services. To this respect, some municipalities has observed no immediate effects, while others (most of municipalities participating at the survey) emphasized several aspect: budget cuts, non-payment by users, the higher fees to balance income and expenditure, reduction of personnel, material and decrease in the efficiency of delivery. From the point of view of mayors consulted, most of them considered that crisis hasn't change the situation of local basic services. However, regarding the challenges that affect local basic services in the next 10 years almost all the answers indicate that the current economic crisis will be decisive in the quality of services provided within that period.

Respondents expressed an overall satisfaction regarding the quality of infrastructure but also pointed out the need of improvements, such as the implementation of computerized and investment in new technologies to improve their management and, in the case of urban public transport, increasing bus lanes and roads.



Area	441,369 sq km
Population	9,449,213 inhabitants
State structure	Unitary state
Local self-government – constitutional provisions	“... Swedish democracy ...is realised through a representative and parliamentary form of government and through local self-government. ”The local authorities are responsible for local and regional matters of public interest on the principle of local self-government ... By the same principle, the local authorities are also responsible for other matters laid down in law.“ “The local authorities may levy tax for the management of their affairs.” (Articles 1, Chapter 1 Basic principles of the form of government; Article 2 and 4 Chapter 14 Local authorities of the Constitution – The Instrument of Government)
Politico-administrative division – 2 tiers of local self-government	- 18 county councils (<i>landsting</i>) - 290 municipalities (<i>kommuner</i>) (since 2011) The county councils of Västra Götaland and Skåne have the status of regions. In Gotland, an island in the Baltic Sea, the municipality also has the responsibilities and tasks normally associated with a county council.
Population disparities between municipalities	- the average population per local authority: about 29,700 inhabitants - the smallest municipality has about 4,000 inhabitants - the largest municipality has about 800,000 inhabitants - 61.9 percent of population in municipalities having less than 50,000 inhabitants - 11.9 percent of population in cities having between 50,000 and 100,000 inhabitants - 5 percent of population in cities having between 100,000 and 250,000 inhabitants - 5.4 percent of population in cities having between 250,000 and 500,000 inhabitants - 15.8 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants ³⁴⁹

Finland and Sweden was one nation up to 1809 and have a long common history of local self-governing going back at least to the Middle Age.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

Local government has a long tradition in Sweden. The country's municipalities and county councils (created in 1862 by the first Local Government Act³⁵⁰), and the regions are responsible for providing a significant proportion of all public services³⁵¹. There is a highly decentralised public system in most areas³⁵². In matters such as social services, education and health care, overall rules and regulations, including national goals, are decided upon by the Government and/or central authorities. Legislation is usually general in character and details are discussed and interpreted by authorities at regional and/or local level to implement rules according to regional/local circumstances. The Government legislates relatively independently but sometimes gets responses from municipalities. Otherwise, it is the organisation representative of the municipalities, the Swedish Association of Local Authorities and Regions (SALAR), which respond play a role to this respect.

The principle of local self-government is one of the fundamental principles of the Swedish democratic system. It forms the basis of activities undertaken by municipalities³⁵³. The main responsibility for providing various types of public services in Sweden rests with local government (the municipalities) and the county councils.

³⁴⁹ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

³⁵⁰ Sweden counted for about 2,500 municipalities in 1862. The mergers decided in the last century reduced their number to 1,037 (in 1952), then to 278 (in 1974).

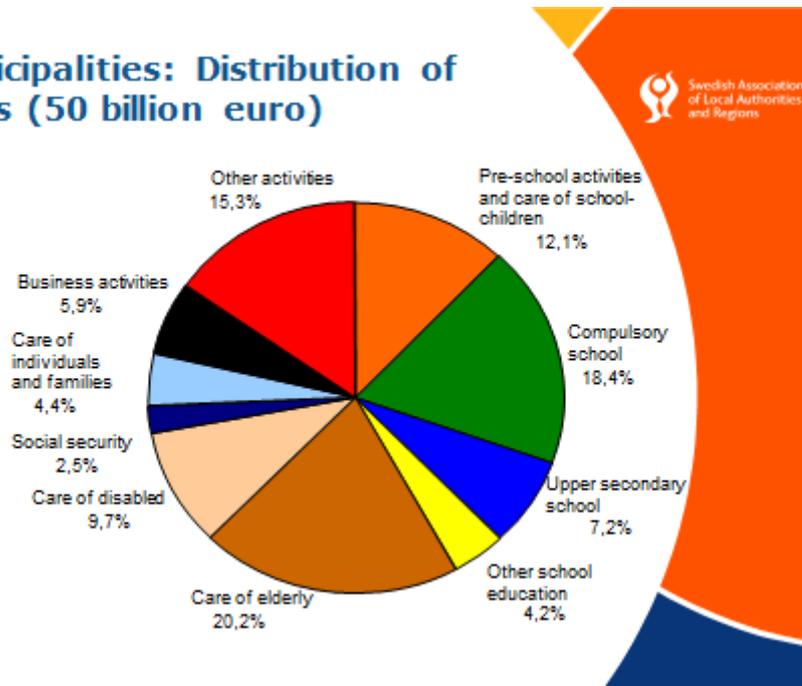
³⁵¹ Overall, municipalities and county councils employ more than one million people, corresponding roughly to 25 percent of total employment in Sweden. Swedish Association of Local Authorities and Regions - www.skl.se.

³⁵² See the Local Self-government Law (*Kommunallagen*) of 1991 <http://www.regeringen.se/content/1/c6/03/91/65/16f96742.pdf>

³⁵³ Tom Madell, in, M. Krajewski, U. Neegaard, J. van de Gronden, *The changing legal framework for services of general interest in Europe. Between competition and solidarity*, T.M.C. Asser Press, 2009, p. 424.

Municipalities exercise mandatory and voluntary tasks. They are responsible for planning, constructing and operating facilities for water and wastewater, waste management, and mandatory tasks in the social field, such as childcare service (0-6 years), elderly care, assistance to persons who are not otherwise able to support themselves, health, adult day-care activities, short-stay care, emergency alarms, etc. The voluntary tasks of municipalities concern different fields, such as energy, housing, cultural activities.

Municipalities: Distribution of costs (50 billion euro)



2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

Sweden had, by tradition, a very strong public sector. However, since the 1980's and the New Public Management influence, the scene has changed a lot when it comes to service providers. Nowadays, there are both public and private actors in almost all areas of local basic services.

Many municipal owned companies in Sweden operate in a lot of different areas³⁵⁴, such as water supply, waste water, transport, electricity etc.³⁵⁵ There are also cases where a private institution, often subsidized by the state or the local municipalities, is engaged in social or cultural areas and, consequently, operates similar services or identical to those managed by public bodies.

In the early 1990s, the Swedish Parliament decided on a principle that allowed the services provided by municipalities and county councils to be run by entrepreneurs under contract, apart from those activities involving the exercise of public authority. Municipalities and county councils are therefore free to decide the forms in which municipal and county councils services may be organised: by municipalities themselves, by municipal companies or by providers that have been procured under contract procured under the Public Procurement Act by co-operative companies, private individuals and associations.

The main legal regimes that play an important role are the Public Procurement Act³⁵⁶ which states the rules for public authorities as contracting entities and the Company Law³⁵⁷. The Local Government Act of 1991 stipulates that before a regional municipality hands over the management to a private entrepreneur it has to make sure that it will have the capacity to control and to be able to follow up on the activities (Chapter 3 Section 19).

In the fields of **water** and **sewerage**, municipalities own the facilities and are responsible for running and maintaining them; they are also responsible for the provision of water and sewerage services (often by the same

³⁵⁴ "Municipalities and county councils may engage in business activity if it is conducted without a view to profit and is essentially concerned with providing communal amenities or services for the members of the municipality or county council." Section 7 of the Local Self-government Law of 1991.

³⁵⁵ Tom Madell, *op.cit.*, p. 424.

³⁵⁶ http://www.konkurrensverket.se/t/Page___490.aspx

³⁵⁷ <http://www.sweden.gov.se/sb/d/9171>



organisational entity) and to decide the level of taxes and fees. At national level, the responsibility of water protection falls under the Minister of Environment while the supervision of the quality of drinking water is divided between the national Environmental Protection Agency, the county administration and the municipal committees for environment and health. The five River Basin District Authorities are responsible for the co-ordination of water activities in the Basin Districts. They are supervised by the county administrative board. Municipalities have the right to decide the management mode of water and sewerage services and in-house or municipal companies used to be the most common operation mode. Thus, in 1998, 252 municipalities supplied water and sanitation as a unit within the municipality, whereas 39 were running as a municipally owned company, 8 utilities were organised in inter-municipal companies co-operation over municipal borders but still owned by the participating municipalities and 7 municipalities had a management contract with a nongovernmental company (six of which outsourced to Swedish companies while Nortel municipality conclude a management contract for water and sewerage with Véolia in 2002). While traditionally having a limited territorial competence for the provision of local services, since 2006, the new Water and Sewerage Act allow municipalities or municipal companies to participate in a call for tender for the provision of water and sewerage services in other municipalities. Recently, the inter-municipal solutions³⁵⁸ (through jointly owned limited corporations, local government federations) became more common because of increased technological, environmental and financial constraints. As shown before, only few municipalities have delegated water and sewerage services operation to a private operator and no great change is expected in the medium term. At national level, almost 90 percent of the population is connected to water and sewerage services³⁵⁹ the rest using private infrastructures (e.g. private wells). Households pay for distribution and treatment of water and wastewater at cost. Overall, almost all cost for water production, delivery and wastewater treatment are currently recovered through pricing policies already in force (99 percent cost recovery has been experienced since 2000). The proportion of the population connected to sewerage services increased from 82 percent in 1980 to 93 percent in 1995³⁶⁰.

In the field of **waste**, Swedish municipalities are responsible for household waste (including hazardous waste from households). Many municipalities provide the service through a municipal unit/department (156 units in 2009) or a municipal (or inter-municipal) owned company (51 municipal companies and 16 inter-municipal companies in 2009). Cooperation between municipalities is also common (joint committees, municipal associations, municipal regional corporations). However, the major part of services is provided by municipal companies: at national level they operate more than 70 percents of collection, more than 80 percents of the treatment (incineration) and more than half of the landfills. Competitive tendering is common in particular in small municipalities. Fees are established by municipalities and must cover all (but only) actual costs (profit is not accepted in monopoly activities). There is a basic fee compulsory for all households. In 2007, 26 municipalities had introduced a weight-based fee³⁶¹. In Sweden, about half of municipal solid waste is treated in incinerators with energy recovery and waste incineration plants provide about 20 percent of district heating.³⁶²

Swedish municipalities are also responsible for **local public road transportation**. In the early 1980s, regulatory public transport authorities (often organised as private law companies owned by the municipality(ies) concerned) have been created in some territories (usually at county or metropolitan level) to ensure bus networks planning and coordination, define service to be provided, set up tariffs, integrate fares, organise and manage tendering procedures, or procure internal bus transport service, etc. They also own the main infrastructures and facilities. Competitive tendering to entrust transport services is generally used³⁶³ and operators (mainly private³⁶⁴) have little or no role in service designed. The publicly owned companies are responsible for the operation of the public transportation system. Private providers may be used to supply services on behalf of the public companies. Beside the public transportation system, there are in some areas privately owned companies competing with the public transportation companies. GOLD III survey didn't allow having an overall picture of the level of access to transport services but most municipalities consulted considers that less than 5 percent of their population has limited or no access to transport services.

In Sweden, **electricity** was traditionally view as a shared responsibility between central governmental bodies and municipal and private parties. In the establishment of the electricity system in the 19th century, municipalities

³⁵⁸ For example, in Kävlinge, drinking water supply is provided by a joint venture with a dozen other municipalities.

³⁵⁹ Ola Mattisson, Anna Thomasson, "The water sector in Sweden", CIRIEC International Working Paper n° 2010/12.

³⁶⁰ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 204-205.

³⁶¹ Ola Mattisson, "The waste sector in Sweden", Conference Paper, CIRIEC International seminar on « SGEI in Europe : the case of local public transport, water and waste management », Pavia, 16-17 April 2009.

³⁶² IEA Bioenergy, "Sweden Country Report Update 2012", 2012, www.ieabioenergytask36.org

³⁶³ After the UK, Scandinavian countries were among the first European countries which reformed their institutional transport service in the second half of the 1980s.

³⁶⁴ In some cases, public owned companies were privatized or taken over.



played a central role in the production and distribution of electricity. At the beginning of the 20th century, municipal owned companies distribute electricity produced by major private sector companies. This model (“The Swedish Model”) remained in place until the 1990s.³⁶⁵ Today, municipal authorities ensure electricity provision through their own companies or through external, private operators.

Swedish state plays an important role in **broadband**. The role of the municipalities is to ensure access to necessary infrastructure. Private companies deliver the actual services and compete with each other. Municipalities are involved in the service provision on a voluntary basis (for example, in Karlstad and Skellefteå). In general, service are provided against fees but some municipalities (e.g. Österåker) subsidized the service (in this municipality for about 50 percent of operational and investment costs).

Over the past 50 years, responsibility for several major public services such as social care and elementary schools has been shifted from the state to municipalities. In the last two decades, some changes occurred in the Swedish welfare policy, with decentralisation and privatisation and decrease of the size of the public service while maintaining the levels and goals of the welfare state.

In Sweden, **childcare** services expanded in the 1970s and 1980s by increasing the responsibilities of the local authorities. As in other Nordic countries (Denmark and Finland), in Sweden childcare is framed as a social right (Act of childcare of 1995) and the use of corresponding services is one of the highest in Europe.³⁶⁶ Access to service is highly subsidized by local budgets (with public financing covering nearly 85 percent of costs of pre-school services), but a financial participation from parents is also perceived. For example, according to GOLD III survey, fees cover about 6 or 7 percent of operational costs and investments in Karlstad and Skellefteå municipalities while in the Kävlinge municipality they represent 15 percent of these costs. A maximum level of fees was introduced in 2002 (1-3 percent of a family’s income, depending on the number of children) and the right to childcare has been recently extended to cover children of unemployed parents and parents on parental leave. There are lower fees for families with low incomes. All children, also children with parents who are unemployed or who take care of smaller children, are entitled to child care for free 15 hours every week. Sweden organise childcare system on a full-time basis, opened to children aged 1-12 years. In 2003, about 80 percent of children between 1-5 years old attended childcare services. Most municipalities also offer night-opening childcare arrangements to parents who work nights. The public provision of the service prevails but since the 1990s, the provision of childcare through private operators increased in larger municipalities (in early 1990s, the government removed all remaining restrictions on ownership for receiving public funding to provide childcare services). Overall, parents may choose from a variety of providers, such as municipal services, parent co-operatives, worker co-operatives, voluntary associations³⁶⁷, religious groups, for-profit firms, etc. Today, alternative providers enrol between 20-25 percent of all pre-school children³⁶⁸. At national level, childcare was transferred in 1998 from the Ministry of Health and Social Affairs to the National Agency for Education.

Elderly care is a very important field of welfare policies in Sweden. Today, about 18 percent of Swedish population are pensioners (aged over 65) and more than 5 percent are aged 80 or over. Elderly care falls within the competence of municipalities and services are funded by municipal taxes, government grants and fees. The municipal budgetary costs are different, according to municipalities. For example, according to GOLD III survey, municipal taxes cover more than 90 percent of elderly care operational costs and investments in Karlstad, Skellefteå and Österåker municipalities while in the Kävlinge municipality they represent 70 percent of these costs (since 2011 maximum fees are in force). Services are mainly provided by municipalities but private sectors become more and more involved in the last two decades, in particular in large urban municipalities. In 2011, private sector provided about 18.6 percent of elderly home care (e.g. delivery of meals). Users have the right to choose between public and private providers. As the county has responsibilities in providing health services, GOLD III survey remarked that some coordinating problems may occur in the relation with municipalities. Some municipalities are searching for new governance models. For instance, Karlstad municipality is just about to implement such a new model that consists of target areas and commitments as regards the performance of local basic services.

³⁶⁵ Jennu Palm, “Emergency management in the Swedish electricity market: the need to challenge the responsibility gap”, *Energy Policy*, 36/2/2008, p. 843-849.

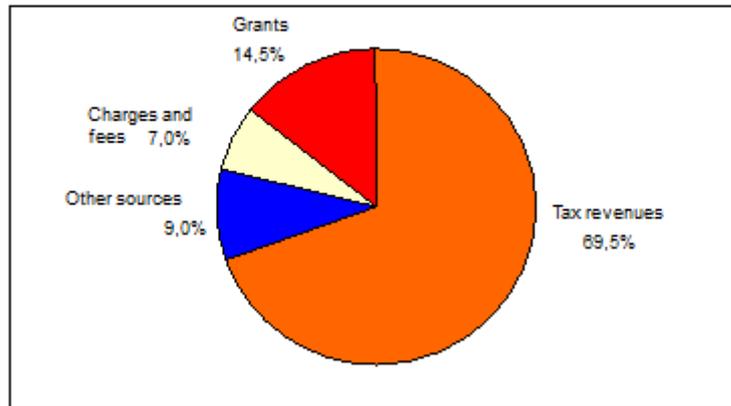
³⁶⁶ Anita Nyberg, “The provision of childcare services in Sweden”, in EGGE (European Commission’s Expert Group on Gender and Employment Issues) *The provision of childcare services. A comparative review of 30 European countries*, March 2009.

³⁶⁷ Created on the initiative of parents wishing a special pedagogical profile, such as Montessori, Reggio-Emilia, Steiner and Waldorf schools.

³⁶⁸ See “Co-operative provision of childcare in Sweden”, in M. Mendell *et al.*, “Improving Social Inclusion at the Local Level Through the Social Economy: Report for Poland”, OECD Local Economic and Employment Development Working Papers, 2009/01, OECD Publishing, p. 28.



Municipal revenues (~50 billion euro)



3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

In Sweden there is a tradition to work together with users in a form of consulting based dialogue. Citizen Dialogue (meeting between politicians and citizens around strategic issues) is, in a broader perspective, a well-established form of work with participation. But municipalities decide themselves how they want to work. Formal systems to collect feedback, comments and complaints are familiar in services' practice and administrative and judicial appeals may also be used by users. Moreover, since many years, the principle of transparency is one of the foundations of the Swedish democracy. The current trend is very much about to present qualitative results from operations to the citizens, also in comparison to other municipalities. At the same time, no special (sectorial) form of participation was revealed by GOLD III survey.

Users may receive compensation in case of failure of service provision, which depend on sectors and/or municipalities. It may be conferred on a case by case basis or on the basis of a general regulation. For example, electricity interruptions are compensated as follows: for interruptions between 12 and 24 hours, a 12.5 percent reduction of the annual fee will be applied; for interruptions between 24-48 hours a reduction of 37.5 percent, for interruptions between 48-72 hours, a reduction of 62.5 percent and an additional reduction of 25 percent for each 24-hour period over 72 hours. However, GOLD III Survey revealed the fact that in Sweden it is common to work with service guarantees, but it's not so common to work with compensation, so that electricity appear as one of the few sectorial examples.

Employees play a certain role in the governance of local services, in particular through their collaboration (municipality, employees, and representative organisations), staff meetings, regular surveys, which are standard practices in Swedish municipalities. Employees also insured participation and influence by MBL and AB (collective bargaining agreement). Union has the right to take part in the organization's change proposal and request a hearing.

4/ The future of basic public services: key challenges existing and emerging

As regards the local services sectors included in GOLD III survey, the challenges they are confronted with seem not much to be caused by the current economic crisis. In general, respondents noted the tighter economic conditions, a slightly decrease of the tax base (in some cases), but in general with no impact (no change) on the service offered. However, few municipalities noted improvements of the situation of some services in the last years. For one municipality cost and quality are the main challenges of financing services, their investment and guaranteeing universal access (social and territorial). In the field of elderly care one municipality underlined the growing elderly population and the reduced tax base while the requirements from users are increasing and differentiate themselves.



In general for the self-government, two key issues are also underlined by GOLD III survey: the local responsibility must not be too narrow and central government must accept variations in welfare offered, and local authorities must have a financially strong position and it is essential that a financing principal be established.

5/ The EU impact

Within the framework of GOLD III survey, EU public procurement rules and the principle of equal treatment of EU companies were particularly mentioned as regards their impact on procurement process (for elderly care and waste services³⁶⁹).

³⁶⁹ The new rules mean that state and local government purchase goods and services from companies that they own. Buying from state and municipal companies has long been problematic from procurement law perspective. The general rule has long been that the state and municipalities to procure even when the purchase of their own companies. The Court of Justice's case law chiseled certain exceptions to the general rule. The Swedish Supreme Administrative Court in the so-called Sysav judgment, concerning waste management, however, made a very narrow interpretation of the law and basically ruled out the possibility of exceptions. Through a new bill, the government has ensured that the Swedish authorities should have the same possibilities for exemptions other European authorities.



THE UNITED KINGDOM

Area	243,820 sq km
Population	62,752,472 inhabitants
State structure	Unitary state with 4 nations: England, Wales, Scotland and Northern Ireland
Politico-administrative division	<p>The home nations of the UK are organised into two levels of decentralised local government:</p> <p>In Scotland, Wales and Northern Ireland:</p> <ul style="list-style-type: none"> - a Parliament/Assembly with different degrees of legislative powers - Local Authorities (22 in Wales, 32 In Scotland³⁷⁰, 26 in Northern Ireland), a single level of authorities at the local level with different degrees of powers - Community councils – voluntary bodies at sub local level (In Scotland and Wales) <p>It is worth noting that while in Scotland local government is almost exclusively a competence of the Scottish Parliament, the UK Parliament still legislates on some aspects of local government for England and Wales together (with Welsh Assembly legislation to cover Wales-specific matters). Northern Ireland Local Authorities have a special situation due to historic circumstances.</p> <p>In England:</p> <p>The territorial organisation is different and unlike other home nations it does not have its own parliament or executive, but is represented and governed by the UK Parliament and the Government of the United Kingdom. In urban areas – 36 metropolitan districts – there is a single local level. Similarly in some rural areas – 47 <i>English shire unitary authorities</i>. In other parts of the territory there are two levels of local government: 34 <i>county councils</i> and 238 <i>district councils</i>. There are also <i>parish councils</i> in the rural areas to represent the sublocal level. The capital enjoys a special status: <i>the Greater London Authority</i> is the regional assembly of the London metropolis and locally there are 33 London Boroughs.</p>
Population disparities between municipalities	<ul style="list-style-type: none"> - 42.8 percent of population in municipalities having less than 50,000 inhabitants - 8.7 percent of population in cities having between 50,000 and 100,000 inhabitants - 13.9 percent of population in cities having between 100,000 and 250,000 inhabitants - 7.3 percent of population in cities having between 250,000 and 500,000 inhabitants - 6.9 percent of population in cities having between 500,000 and 1,000,000 inhabitants - 8 percent of population in cities having between 1,000,000 inhabitants and 5,000,000 inhabitants - 12.4 percent of population in cities having more than 5,000,000 inhabitants³⁷¹

The United Kingdom is a unitary state comprising four constituent or home nations: England, Wales, Scotland and Northern Ireland.³⁷² The constituent nations of the UK have distinct cultural and legal characteristics (as is seen, for example, in the case of Scotland), and the institutional structure of public administration, particularly in local government, shows significant regional variations. This is particularly the case in Scotland where local government is almost exclusively a Scottish Parliament power.

The territorial organisation of the United Kingdom is very complex and differs considerably from one constitutive nation to another, due to the asymmetric evolution of the country and because of the unbalanced process of devolution³⁷³. Elected assemblies have been established in Wales and Northern Ireland, and a Parliament in Scotland. The degree of legislative competence given to these Assemblies and Parliament is also very different. Therefore, the laws which apply In England and Wales are different from those in Scotland and Northern Ireland.

³⁷⁰ Scottish local authorities are the largest in Europe. There are only 32 of them for an average size of 160,000 inhabitants. They are also the largest employer in Scotland at 10% of the workforce. In the context of the current crisis, suggestions are being publicly made to reduce the existing 32 local authorities to only 15 municipalities.

³⁷¹ Data 2006 – source: Lewis Dijkstra, Hugo Poelman, *Cities in Europe. The New OECD-EC Definition, Regional Focus P1/2012*, European Commission, p. 5.

³⁷² The union of England, Scotland, and Wales is known as Great Britain.

³⁷³ There were separate reforms of local government in England, Wales, and Scotland in 1974-5, establishing a two-tier system of local government. Most of these reforms were reversed in the 1980s and 1990s and there has been a gradual move back to single-tier local government. ***, Committee of the Regions, *Study on the division of powers between the European Union, the Member States, and regional and local authorities*, EUI, 2008, p. 306

There are three jurisdictions in the UK: England and Wales (with Wales having some devolved powers on Welsh matters as defined by the successive Wales Acts), Scotland and Northern Ireland.

In England, the territorial administration of the state was organised at sub-national level (9 *Government Offices* headed by a regional Minister) but, since 2011, that is no longer the case. Regional bodies, such as the Regional Development Agencies, and Regional Assemblies were also closed down along with the Government Offices, with the preference being for devolution of responsibilities to the local level instead as part of the Government's 'localism' agenda. In Scotland, Wales and Northern Ireland, the British government is represented by three territorial offices under the direction of a Secretary of state member of the Cabinet.

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In the early XIXth century, utilities developed very locally or by the will of towns, church, artisans' corporations, or by the state defining public service obligations. Most cities were more active than the national government regarding the development of services.³⁷⁴ They intervened first to ensure health (water and sanitation), education and, subsequently, gas, electricity, telephone, public transport, cultural services and leisure, etc.

Currently local authorities exercise the powers defined by the laws of Parliament. However, this principle has been relaxed for the local communities in England and Wales under the Local Government Act of 2000, which allows them to pursue any project they deem to be in the interests of their citizens.

The Open Public Services White Paper of July 2011³⁷⁵ argues that "Good public services are an essential part of everyday life and being able to access those services is one of the most basic requirements that we as citizens demand from government in return for our taxes." It proposes a reform of public services based on five principles: increased choice wherever possible, decentralisation to the lowest appropriate level, opening markets to a range of providers, ensuring fair access, accountability to users and taxpayers. The White Paper identifies Three different categories of public services: individual services (used by people on an individual basis – e.g. childcare, adult social care), neighbourhood services (provided very locally and on a collective, rather than an individual, basis – e.g. community safety) and commissioned services (local and national services that cannot be devolved to individuals or communities – e.g. tax collection, prisons, welfare to work, emergency healthcare).

The Localism Act of November 2011 (into effect in April 2012)³⁷⁶ gives new freedoms and flexibilities for local authorities, new rights and powers for individuals and communities³⁷⁷, "to decentralise power as far as possible". The idea is to give local groups (cooperatives, mutuals, neighbourhood communities, citizen and volunteer groups, charities, social enterprises, etc.) a much greater role in local service provision. Social initiatives are being particularly targeted as well as culture and education (free schools for example). The Localism Act also gave local authorities a general power of competence to do whatever they see fit to enhance the wellbeing of their local area (but not the ability to raise taxes). The economic power of major cities and London was extended to the areas of housing and economic development. Local councils also became responsible for public health starting in April 2013³⁷⁸.

The Local Government in Scotland Act 2003 established Community Planning Partnerships (CPPs) in Scotland. CPPs are made up of Local Authorities, Health Boards, the Enterprise Networks, Police, Fire and Regional Transport Partnerships as well as voluntary and private partners operating in the area. The purpose of CPPs is to deliver integrated policies and services locally and is unique in Europe as they are statutory (i.e. real decision making not merely advisory) bodies.

³⁷⁴ June Burnham, « Les services publics en Royaume-Uni », in (dir.) Jean-Claude Boual et al, *Les services publics en Europe*, Publisud, 2007, p. 42-43.

³⁷⁵ <http://www.openpublicservices.cabinetoffice.gov.uk/wp-content/uploads/2012/03/OpenPublicServices-WhitePaper.pdf>.

³⁷⁶ <http://www.communities.gov.uk/localgovernment/decentralisation/localismbill/>.

³⁷⁷ It gives councils a general power of competence, allows councils to choose to return to the committee system of governance and allowing for referendums for elected mayors in certain authorities, abolishes the Standards Board regime and the model code of conduct, and introducing local accountability and a criminal offence of deliberate failure to declare a personal interest in a matter, gives residents the power to instigate local referendums on any local issue and the power to veto excessive council tax increases, allows councils more discretion over business rate relief, provides new powers to help save local facilities and services threatened with closure, and giving voluntary and community groups the right to challenge local authorities over their services.

³⁷⁸ Dexia – CEMR, *Subnational public finance in the European Union*, Summer 2012.



2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In the UK, local authorities can provide public services via local public companies (joint stock companies or guarantee companies), although they rarely do so. Most local government (public) services are still delivered in-house, but there is an increasing degree of externalisation³⁷⁹, as local authorities move from being service providers to service commissioners. In the fields of utilities, the public sector intervenes in the form of a national authority to define and regulate the service. Utilities services are mostly provided under a concession or PPP by the private sector. On the other hand, most hospitals and schools (more than 90 percent) are still under public sector management. Because the UK local authorities are the largest by population in the EU, inter-municipal cooperation is not universally used to organise and provide local basic services (except in the field of police and fire services). However the so called “shared services” agenda is a growing trend even before the current economic hardship. Local authorities are therefore increasingly sharing ‘back office’ functions such as finance, IT, and human resources, and well as front line functions, such as street cleaning, or waste collection in an effort to make efficiency savings and meet tough spending reductions demanded by Government.

The UK is today unusual in its lack of municipal enterprises, partly because local authorities no longer have responsibilities for key functions such as water and electricity, and partly because of political constraints placed on local authority trading activities³⁸⁰. In 2004 there were 185 local public companies operating primarily in the field of economic development, health, and social services (health and social facilities, retirement homes).

The public authority may also act as a surrogate buyer on behalf of service users to purchase the service at a lower price and required quality as provided by the private or public sector. In 2005 the level of outsourcing of government services (purchase of good and services vs in-house provision) was nearly 80 percent in United Kingdom.

Many PPPs are governed by ‘Partnerships UK’, a special body operating under the supervision of the Treasury. The *Private Finance Initiative PFI* is the most common form of PPP activity. The PFI was launched in 1992. Since its creation more than 700 projects have been developed *at local level* (health³⁸¹, education, transport) and more than 200 were projected for the period 2006 and 2010. However in the recent economic downturn some private contractors in the construction sector fell into insolvency. Government also froze the development of many PFI projects. Whilst the PFI model was suited to times of economic growth, it therefore appears to function less well in times of austerity.

The organisation of basic services evolved a lot in the last centuries. Thus, during the 19th century, energy provision was “municipalised” in England. Then Britain decided to nationalize the energy sector in 1947, water supply in 1948 and to create the National Health Service in 1958. Local government was assigned comprehensive tasks in social services provision carried out almost entirely by local government’s own personnel. After 1979, the situation was reversed by the Conservative government under Prime Minister Margaret Thatcher.

The **energy** sector was fully privatized in 1990, and production (generation), transmission and distribution activities were separated (unbundling).³⁸² The economic regulation of the sector is the responsibility of Ofgem. Nowadays, electricity production is dominated by large power stations. Several companies manage the transmission of electricity. The distribution of electricity in the 14 regions of the UK is managed by seven companies (EDF Energy; Central Networks; CE Electric; Western Power Distribution; United Utilities; SP; and SS).

In the **water** and sewerage sector there is a similar situation. In England and Wales, water and sewerage services are provided by private companies (ten regional companies operate both water and sewerage, 16 companies provides only water supply). The Water Services Regulation Authority (Ofwat, set up in 1989) is responsible for

³⁷⁹ In the current UK system, the direct provision of services by the public sector is smaller than in the years 1940-1970. Profound transformation of the public services sector happened after 1987. A series of reforms made much bolder and larger scale use of market-type-mechanisms intensified organisational and spatial decentralisation of the management and production of services, laid constant rhetorical emphasis on the need to improve service quality, insisted that services should become more customer focused. Christopher Pollit, “Changing European states, changing public administration: antistatist reforms and new administrative directions: public administration in the United Kingdom”, in *Public Administration Review*, 56:1, Jan/Feb 1996, pp. 81-87.

³⁸⁰ See David Hall, “Public enterprise in Europe”, PSIRU Report, 1998.

³⁸¹ “The system [of PFI] nevertheless flourishes because it has the key attraction of reducing the government borrowing requirement. A publicly financed alternative which would be very likely to be cheaper is in practice not available because not constructed by the government. The PFI becomes the dominant way of financing hospitals by default, in the absence of any public sector option”, David Hall (PSIRU), *Services of general interest in Europe – an evidence-based approach*, written submission to European Parliament Committee on Economic and Monetary Affairs, 21 February 2001, www.psiru.org

³⁸² Hellmut Wollmann, “From public to private and returns? Discourse swings forth and back on public service provision”, Conference Paper, Congrès AFSP, 2011.



the economic regulation of water market; Environment Agency and Natural England are responsible for environmental regulation, and the Drinking Water Inspectorate (set up in 1990) for drinking water quality.

In Scotland, as well as in Northern Ireland, a public company (Scottish Water, and Northern Ireland Water respectively) provides water and sewerage services. The Scottish Water Industry Commission and the Scottish Environment Protection Agency (and the Northern Ireland Environment Agency) ensure the economic regulation and, respectively, environmental regulation of water and sewerage in Scotland. The Drinking Water Quality Regulator in Scotland and the Drinking Water Inspectorate in the Northern Ireland monitor supplies and quality.

Scottish Water was formed from the merger of North of Scotland Water, East of Scotland Water and West of Scotland Water in 2002, which themselves arose from the merger of 11 municipal entities in 1996. Unlike in England and Wales, in Scotland there was an evident political and public opposition to privatising water and sewerage assets. But PFI is being used to help funding the costs of the EU environmental compliance of these activities. As regards the Northern Ireland's Water Service (WS), the Government started considering its reform in 2003. WS was created as an agency of the former Department of the Environment for Northern Ireland in 1996. It serves 720,000 domestic, agricultural, commercial and business customers (1.7 million people) across Northern Ireland against a backdrop of historic under investment and ageing water and sewerage infrastructure. Northern Ireland, along with the Irish Republic does not directly charge for its domestic water and sewerage services. In August 2004, the Government decided that Water Services Northern Ireland would become a Government owned company from April 1, 2006. The implementation of household bills was devolved to Parliament in 2008, where it has been ignored. PFI is used to a lesser extent in Northern Ireland compared to Scotland³⁸³.

Waste services are largely contracted out by local authorities.

Public transport services were deregulated in the UK in the 1980s (White Paper on buses and the 1985 Law on transports). The reforms involved not only to insure a commercial provision of transportation services but also a progressive privatisation of most local bus operations outside London. Transport services by bus were liberalised in most of the country, excepting London, where a regulated competition (exclusive franchise) regime was implemented, and Northern Ireland. Therefore, since the mid of the 1990s, most of these services are provided by private sector companies. However in some areas, as in Scotland, the Regional Transport Partnerships are local public bodies which plan and organise transport in their area. Transportation services which are considered appropriate are supported by public subsidies.

A National Infrastructure Plan of 2011³⁸⁴ outlines among its 40 priority projects a £1,7 billion investment in local transport projects and £50 million to be distributed to local transport authorities (except London). Specific plans exist for Scotland and other devolved parts of the UK.

The National Infrastructure Plan of 2011 also provides for a project to connect cities (ultrafast **broadband** coverage to 1.7 million households and 200,000 businesses and high-speed wireless broadband for 3 million residents in 10 major UK cities). A second wave of projects (£50 million) will connect ten smaller cities. These actions are developed in the framework of the strategy of the UK Government aiming to provide highspeed broadband to at least 90 percent of premises in the UK and universal access to standard broadband (at least 2Mbps). In December 2010, the Department for Culture, Media and Sport of the UK Government set out its commitment to deliver "the best superfast broadband network in Europe by 2015" through public subsidy of necessary infrastructure in areas where it will not be provided by the market³⁸⁵. Economic regulation of the broadband sector is ensured at national level by OFCOM.

Within the UK's current welfare system, cash benefits are the most widely used form of welfare benefits, followed by health care (organized through the National Health Service and financed by taxes).

Childcare and elderly care are considered personal social services. In England, local authorities play an important role in childcare provision (Childcare Act, 2006). In Northern Ireland, personal social services are the responsibility of the Health Board. In Scotland Local authorities are responsible for care provided outwith hospitals. This includes care homes and care at home. Hospital care and payments for Free Personal and Nursing care are the responsibility of the state. For both Care Homes and Care at home there is a mixture of providers of these services including local authorities, private companies and the voluntary sector. Local authorities have a duty of

³⁸³ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 224-225.

³⁸⁴ National Infrastructure Plan 2011 http://www.hm-treasury.gov.uk/national_infrastructure_plan2011.htm and http://cdn.hm-treasury.gov.uk/infrastructure_delivery_update.pdf. About two thirds of the required investments are expected to be private. The Plan also includes commitments to achieve secure, diverse and reliable energy supplies while reducing carbon, and to maintain security and performance of water and sewage, to reduce impact on environment and waste.

³⁸⁵ http://www.culture.gov.uk/what_we_do/telecommunications_and_online/7763.aspx.



care to their citizens and are responsible for paying for those services provided free of charge. Where services are means tested they are responsible for paying for those who do not have the funds to pay for themselves. Some care at home services are universally free, some are means tested and thus might be paid by the local authority.

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Citizen consultation is part of the budgetary process. Many authorities are now making greater use of the Internet in doing this. Some local authorities have moved towards a more formal participatory budgeting model with mixed results. In England citizen participation is often ensured by 'citizen panels' or 'citizen juries'. These panels are run by the local authority and meet periodically throughout the year to ensure an extra element of citizen participation in the design and delivery of public services beyond statutory consultation activities. Many local authorities also conduct citizen satisfaction surveys to ensure local public services are functioning efficiently and delivering 'best value'.

In Scotland, the Community Planning Partnerships are statutory bodies defined by law. They are made up of local authorities, Health Boards, the enterprise networks, Police, Fire and Regional Transport Partnerships. As such they are unique in Europe and enable citizen and voluntary organisations to be directly involved in local decision making beyond the formal Council meeting. The CPPs are being reviewed during 2012-2013. Through the "Statement of Ambition" the Scottish Government and local government are reforming CPPs so they are able to engage closely with the needs and aspirations of their communities, within the context of local and national democratic control, with strategic oversight of other specific arrangements and accountabilities for key aspects of public service delivery. CPPs must therefore be able to influence and drive planning and investment decisions by partners towards achieving the outcomes set out in Single Outcome Agreements (SOAs) as described below.

4/ The future of basic public services: key challenges existing and emerging

In England economic pressures on local authorities mean that the trend to outsource the delivery of public services, to the private or voluntary sector, is likely to continue. The move away from the model of local authorities as direct providers towards local authorities as increasingly commissioners of service has led to several key problems: a dearth of expertise in procurement and in contract management, the need to equip local councils with the skills needed to accomplish the new role, accountability issues in case of the failure of the commissioned service the replacement of the traditional management style with a new one that can encourage innovation and flexibility.

Equally the trend to seek efficiency savings through sharing services with neighbouring local authorities is likely to continue. Inward migration, demographic change, and rising citizen' expectations are also all placing additional pressure on local public service delivery.

The ageing infrastructure of England's water and sewage system is a particular challenge. Much of it was built in Victorian times (over 100 years ago), and incentivising the private sector to make sufficient reinvestment in the infrastructure remains a challenge. Much money is being lost through leakage from old water pipes for example.

Despite the devolvement of some services and tax, financing of local government in England is still considered as being largely heavily controlled by central government in the UK. Ageing population and cost of adult care are likely to lead to increasing pressure on council budgets over the next few years.

Economic and financial crisis is now beginning to have a considerable impact as most councils in England and Wales are losing staff through natural wastage, voluntary and compulsory redundancy. Many services going altogether, some councils are cutting back as many non-statutory services as possible.

The demographic changes facing Scotland are well documented, with the number of people in Scotland aged over 65 projected to be 21 percent greater in 2016 than in 2006 and 63 percent greater by 2031; for those over 75, the projected increase is 21 percent and 83 percent respectively. The modelling work has revealed that the funding gap between demand for services and the resources available will rise to almost £3bn by 2016/17 (Local Authority budget is just under £13bn as of 2012).

Like elsewhere in the UK successive reduction to local authority budgets are foreseen for the next few years, which contrast with higher demands for local services. While councils are internally organising their services more efficiently, there are also changes operating outside councils themselves: councils are progressing towards a "shared services" agenda. The Scottish Government also decided to centralise a range of previously local services such as Police and Fire and Rescue. It is also possible that some part of the social services currently provided by Councils could be provided on a Scottish-wide basis in the future.



Single Outcome Agreements (SOAs) between the Scottish Government and each Local Authority are a quite unique aspect of Scottish policy making. Each SOA is based on 15 key national outcomes. These cover economic development, social inclusion, environmental and a large set of other areas and define jointly agreed outcomes over a three year timescale. The key advantage is that it creates mutual accountability: the parties to the Single Outcome Agreement will be able to hold each other to account for the delivery of specific commitments they make to enable the delivery of the agreed outcomes.

5/ The EU impact

Notwithstanding their different levels of power, local authorities across the UK are directly affected by EU legislation and policies. The areas where this is most direct EU Internal Market and competition rules (public procurement and state aid rules decided at EU level with very limited scope for local decision making), and Environmental legislation (Waste, Energy Efficiency, Air Quality, Environmental Impact Assessment). EU employment law also directly affects the providers' ability to have a flexible workforce, as well as the level of social costs involved. Other areas such as urban mobility are increasingly affected by an expansive interpretation by the EU of its powers. Local Authorities are also beneficiaries of EU funds either by applying to transnational funding or by benefitting to EU funded programmes managed at UK and, more often, devolved level (Regional and Rural funds).

The EU Lisbon Treaty did bring some additional clarity to the distribution of competences between the EU and Member States. In addition to that the Protocols on Services of General Interest and on Subsidiarity brought additional protection to local authorities. Indeed local government is represented at EU level through the Committee of the Regions, which can bring the European Commission to the European Court of Justice if it considers that the Commission has abused its powers and disregarded the subsidiarity principle.

The three Devolved Administrations (Scotland, Wales and Northern Ireland) and their Parliament/Assemblies have comparatively been less affected by the last Treaty reform, other than the new Subsidiarity Early Warning that enables the three Devolved Parliament/Assemblies to be associated to the UK Parliament. As regards subsidiarity scrutiny, the UK is an interesting case as it has allowed, since Devolution started 13 years ago, for civil servants and Ministers of Scotland, Wales and Northern Ireland to directly work hand in hand with the UK Government in formulating the UK position and representing it in Brussels. This is facilitated by the small number of devolved administrations in the UK compared with federal states such as Germany or Austria. Coordination at political level is defined in the Joint Ministerial Committee (Europe) whereas officer level exchange is more informally defined in the Memorandum of Understanding between the UK and its devolved administrations.

Since the Conservative-Liberal coalition government entered into power in the UK in 2010 the Government has had an uneasy relationship with the European Union. In 2012 the Prime Minister David Cameron promised to hold an in/out referendum on the UK's membership of the EU, should the Conservative government win the next UK general election in 2015.³⁸⁶

³⁸⁶ <http://www.bbc.co.uk/news/uk-politics-21148282>



Area	603 628 sq. Km
Population	45,525,731 inhabitants
State structure	Unitary state (Act of Declaration of the Independence of Ukraine of 24 August 1991, approved by the national vote on 1 December 1991)
Local self-government – constitutional provisions	<p>“The people shall exercise power directly or through the state authorities and local self-government bodies.” “Local self-governance shall be recognised and guaranteed in Ukraine”</p> <p>“Local self-governing shall be the right of a territorial community - residents of a village or a voluntary association of residents of several villages into one village community, residents of a settlement, and of a city - for the purposes of an independent settlement of issues of local character in compliance with the Constitution and laws of Ukraine.” “Particular aspects of the exercise of local self-governing in the cities of Kyiv and Sevastopol shall be determined by the special laws of Ukraine.” “Local self-governing shall be exercised both directly and through local self-government bodies...” “Ravon and oblast radas shall be the bodies of local self-government representing the common interests of territorial communities of villages, settlements, and cities.” [Article 5(2), 7 and Title XI of the Constitution of ...]</p> <p>Deputies elected for a five-year term Heads elected for a four-years term</p>
Politico-administrative division – 3 tiers of local self-government	<ul style="list-style-type: none"> - Autonomous Republic of Crimea - 24 regions (<i>oblasts</i>) - 488 districts/rayons (<i>raions</i>) - 459 cities (<i>mista</i>); 782 towns (<i>selyshcha</i>); 10 278 villages (<i>sela</i>)

1/ The institutional framework of basic services: the responsibility of local authorities in delivering local basic services

In Ukraine, water supply and sanitation, waste collection and treatment, public transport and child care (pre-school education, centres for orphans, free meals for children coming from low-income families, financial aids) fall within the competence of local self-government. However, public transport and some social services (e.g. centres for orphans) seem not to be a compulsory task for (all) municipalities since it may not be organised in (small) ones. Broadband access is operated by private companies without any involvement of local government.

Elderly care is a competence of the state. It includes social services to elderly people and elderly homes functioning which are usually at regional level. The former is delegated to local governments and operated by social services which are usually municipal. The latter with the limited number of places are managed by regional state administrations. It's not typical for Ukrainian families to send parents to elderly homes; usually only childless live in such centres.

2/ The functioning of basic services: management systems and their funding, the role of local authorities in the regulation of these services

In majority of cases water and sanitation services are provided as one complex by communal undertakings (owned by community and managed by municipal council). In some cases, these undertakings are managed by regional council and provide services for the population of several communities in the region (e.g. in Yevpatoria and Vinnytsia). In the Ukrainian's urban areas, the average water delivery is for 17 hours per day. Water and sewerage services connection is very different in urban and rural areas, with almost 90 percent of the population connected in urban areas against only 25 percent to water and 10 percent to sewerage in rural areas (in 2008). Although cost recovery has been an official aim since 1998, in 2001, billings received met 77 percent of operating costs for water and wastewater services. This may also be due to the average duration for collecting bills varying between 11.0 and 16.9 months between 1997 and 2001³⁸⁷.

On the contrary, waste services are in many municipalities operated by private operators (in the West of Ukraine and in the big city by European operators). It is the same with the majority of bus routes, which are operated by private operators. Moreover, in some small municipalities (of about 25,000 inhabitants, for example), no public transportation service is organised.

The provision of social services may not always be provided through a specific municipality centre in Ukraine. Thus, small municipalities may help lonely elderly through their social workers, which ensure them the purchase

³⁸⁷ Pinsent Masons Water Yearbook 2011-2012, Pinsent Masons LLP, 2011, p. 218.



of food and medicines, or through NGOs, which may provide them with additional social services. Permits to settle elderly people in psychoneurological boarding houses and geriatric boarding houses are granted by the Department of Labor and Social Protection of the State Administration; in such cases, municipality may provide procedural assistance.

Tariffs for water, sanitation and/or waste services are regulated by the State Commission but they do not always cover the cost of services production and so other public transfers are needed. Public subventions (local and/or national) are more important in transport field where only half of the operation funds are ensured by tariffs paid by users. Pre-school education are mainly (in some municipalities exclusively) financed from municipal budget (in others from other public transfers) but some municipalities noted a lack of financing (in some cases, fees paid by users support a small part of service provision). Elderly care services would also need more funds to meet appropriate basic needs. In general, most respondents observed the aging infrastructure of these services, while others noted only sectoral or concrete investment needed (e.g. for waste treatment).

3/ Meeting the needs of the population: solidarity, social dialogue and citizen participation

Low-income families may benefit from state subsidies to access economic services. Free transport is foreseen for some categories of users: low-income families, pensioners, invalids, etc. But some municipalities noted that such subventions are not provided in time and does not cover all fares (similar situation in the case of elderly care).

Parents seem to be actively involved into decision making and the monitoring the quality of pre-school education. They pay for the children meals in kindergartens while free meals are foreseen for the children from low income families which financed from the local budget.

Financial and material assistance is also provided for some categories of elderly people from both the state and local budgets.

In some sectors, users/inhabitants may participate in the governance of services throughout parent committees/councils (early childhood care), public hearings/meetings, users surveys, citizens councils, local council. Still, it is difficult to assess the importance of their participation in the decision-making process or other aspects of services governance.

According to respondents, employees of local basic services or their representative organizations are not active or their role is not significant in the governance of these services.

User complaints are gathered and treated according to the Law on citizens appeals which has the special section on the complaints treatment. In some sectors (water, sanitation, waste) schemes for the compensation of users in case of service failure or of non respect of the contractual clauses by operators are available (e.g. a municipality noted reduction of payment for service in case of failure to provide service or its low quality – water, waste). Emergency services to reestablish services provision (including continuous free phone line and Internet for complaints) exist, too.

4/ The future of basic public services: key challenges existing and emerging

In water sector, more 90 percent tariffs does not cover the cost of services production and local government subsidies enterprises and services provision to the citizens. The infrastructure is old and not energy efficient. Losses of water are at the level 30-40 percent. The cost of energy makes more than 60 percent in the tariff and price for it is being constantly raised by the state without any compensation or change in tariff. The infrastructure needs repairing. But investments take less than 1 percent in the budget of the enterprises. The quality of drinking water in many industrial municipalities is bad. The State Program for drinking water quality improvement was adopted but the Parliament but its implementation is poorly financed.

In the field of waste collection and treatment, in majority of municipalities, technologies of waste treatment are old; landfills are old and overloaded, frequently polluting the neighbourhood. Municipalities lack landfills and free land for them. Small municipalities are ready to enter into inter-municipal cooperation to treat the problem by joint efforts. The practice needs legal support and now the necessary law is being prepared. Additionally, waste is not separated by households.



Electric transport (trams and trolleybuses) is not profitable (due to the high prices for energy for communal enterprises³⁸⁸). The state donates 50 percent of cost for the electric transport. Free transport is foreseen for some categories of users: low-income families, pensioners, invalids, etc. But the national government doesn't compensate the cost which damages the operation of communal transport enterprises. As for the bus transport (mainly operated by private operators) fees are too low to make it affordable to citizens. Therefore, to obtain profit, operators make drivers work 12-14 hours daily and overload buses raises the risk of accidents.

In the child care field, due to the national programs of birth increase there is a baby boom during 5 last years. As a result, municipalities lack places in kindergartens to satisfy the demand. Groups are overloaded – 25-35 children. Teachers though low paid are well-educated and committed.

The current crisis had particularly a financial effect that is differently felt by municipalities and services: decreased funds, in some cases insufficient funding from (local and state) budgets for the operation and/or modernisation of the service, worsening investment climate, as well as reduced payment capacity from users. Some municipalities consider that crisis had no effect (either in general, or in some sectors). For others, the fact that tariffs do not cover the price of service provision constitutes the main challenge of financing these services. Due to limited public financial resources, a decrease in the number of users is noted in some municipalities and services (early childhood care and elderly care).

5/ The EU impact

European Charter of Local Self-government is ratified by Ukraine as is taken as a part of Ukrainian legislation.

According to GOLD III survey, EU legislation has no impact in the country. Nevertheless, Ukraine has a Partnership and Cooperation Agreement with the EU which provided for trade liberalisation, competition, social cooperation (harmonious social development, social protection) and cooperation in network industries (energy, postal, telecommunications, and transport).

³⁸⁸ Electricity sector is regulated by the state and operated by private monopolists. Tariff is set by the state and is unequal. The tariff for the citizens is three times smaller than that for communal enterprises despite the fact that the latter provide services for the citizens (water supply, heating, sanitation) where energy makes 50-70 percent of the tariff. The state doesn't compensate the difference in tariffs and local governments are forced to subsidise the functioning of the communal enterprises from their own resources.