

Work package number 2

**LOCAL PUBLIC ADMINISTRATION AND LOCAL SOCIAL POLICY IN GERMANY**

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### **Some general facts about Germany**

System of government: Federal parliamentary republic; Head of State: German President; Head of Government and the cabinet: German Chancellor. The legislative branch consists of a bicameral parliament system, the Federal Council, the upper house (Bundesrat), representing the federal state governments, and the Federal Parliament, the lower house (Bundestag), which is currently run by a government coalition of the CDU (Christian-Democratic Union) / CSU (Christian-Social Union) and the SPD (Social-Democratic Party of Germany). In total, there are four parties represented in the 18<sup>th</sup> Federal Parliament. The highest courts are the Federal Court of Justice and the Federal Constitutional Court (Bundesverfassungsgericht).

Population: second largest nation (after Russia) in Europe with a population of 82.2 million (December 2015, Statistisches Bundesamt), 8.7 million of which are foreign citizens and 17.1 million have a migration background. Religions: Protestant (34 percent), Roman Catholic (34 percent), Muslim (3.7 percent). With a median age of 46.8 years and a population growth rate of -0.16 percent, Germany is among the oldest populations in the world.

Economy: fifth largest economy in the world and largest in Europe; one of the world's biggest and technologically advanced producers in the iron and steel industry, and in the machinery, electronics and automobile branch with an industrial production growth rate of 1.1 percent in 2015. German exports goods were worth \$1.309 trillion in 2015 (fourth country in the world). Main export partners are the United States (9.6%), France (8.6%), the United Kingdom (7.5%), the Netherlands (6.6%) and China (6%) (2015). The GDP of Germany was \$3.841 trillion in 2015 (\$46,900 per capita). The total budget deficit decreased over the past years, resulting in a budget surplus of 0.9 percent in 2015. The unemployment rate is 4.6 percent. In 2015, the public debt was at 71.2 percent of the GDP; the inflation rate is 0.1 percent (CIA World Fact Book).

## **1 INTRODUCTION**

Municipalities represent the traditional communal unit in Germany. In general, every task concerning the community is legally a municipal activity (principle of universality). New challenges and occurring problems are responded in situ and are generally in the responsibility of the municipality.

The basic communal structure in Germany was established early in history in conjunction with the peasant's independence from landowners and feudalism around the year 1200. To gain more independence from the rule of the local lords, communities tried to communalize activities and introduce administrative and representative positions. This was the beginning of the mayor's office. Some towns even became free imperial cities. Communities could influence their local rulers through the tax system as they depended on the communal tax revenues. This dependency developed until the end of the monarchy in Germany in 1918. The modern communal self-administration originates in the city order from 1808, influenced by the Prussian reformer Heinrich Friedrich Karl Freiherr von und zum Stein and written down by Johann Gottfried Frey, to reorganize and modernize Prussia and bind the citizens to the state. This magistrate constitu-

tion introduced a municipal council (*Stadtverordnetenversammlung*) with a magistrate as administrative head, which still exists today in the federal state of Hesse. Until the 19<sup>th</sup> century, life was based on the territorially isolated communal space in a local supportive society. A new municipal model became necessary only subsequent to industrialization, modernization and growing mobility. In 1918 a standard communal suffrage was introduced to democratize municipalities. After the breakdown of the Weimar Republic and during the Nazi regime, the municipalities lost their democratic standing. In 1945 after World War II, the local governmental administration was re-organized with great influence of the occupational powers, leading to different arrangements in the municipal law (Wehling 2007).

## 2 LOCAL PUBLIC ADMINISTRATION AND GOVERNANCE

Different definitions of the term “Kommune” exist in the field of political science, describing municipalities by their local administration design based on constitutional-urban studies, looking at municipalities concerning the political decision-making framework (Zoll 1972: 249), or defining municipalities on a sociological basis as a space of neighborhood and relations in separation to other communities (König 1958: 9, 45). German political science differentiates several research perspectives. Local political research (*lokale Politikforschung*) analyzes decision-making on the local governmental level since the 1970s. The perspective of the social-scientist community research (*sozialwissenschaftliche Gemeindeforschung*) or community sociology concentrates on social interaction in societal subsystems. A third perspective is provided by urban studies or municipal science (*Kommunalwissenschaft*), referring to the legal framework and administration of municipal self-government. The political-scientist community research (*politikwissenschaftliche Gemeindeforschung*) looks at political structures, processes and contents in municipal subsystems within the overall political system (Naßmacher/Naßmacher 2007: 17).

### 2.1 Structure and set-up of local government and administration

The German constitution (the *Grundgesetz*, or Basic Law) defines the municipalities (*Kommunen*) as the lowest administrative unit in the federal system, labeling them as the origin or basis of democracy (Holtkamp 2010: 80; Vogelgesang et al. 2005: 32f). The federal government of the “*Bund*” and the state governments of the 16 “*Bundesländer*”<sup>1</sup> are the two legally embedded political levels of the German federal system. The states can be differentiated into territorial

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<sup>1</sup> The Bundesländer are Baden-Wuerttemberg, Bayern (Bavaria), Berlin, Brandenburg, Bremen, Hamburg, Hessen (Hesse), Mecklenburg-Vorpommern (Mecklenburg-Western Pomerania), Niedersachsen (Lower Saxony), Nordrhein-Westfalen (North Rhine-Westphalia), Rheinland-Pfalz (Rhineland-Palatinate), Saarland, Sachsen (Saxony), Sachsen-Anhalt (Saxony-Anhalt), Schleswig-Holstein, and Thuringen (Thuringia).

states (*Flächenländer*) and city-states (*Stadtstaaten*). In larger territorial states, an intermediate administrative district level is set up between state and local level (*Regierungsbezirke*).<sup>2</sup>

The German municipalities are the third level of public administrative authorities. Constitutionally, they are part of the federal states and therefore are bound to their control and instruction (Art. 109, IV GG) and do not have governmental sovereignty (Bogumil/Holtkamp 2014: 40). The term municipality includes different local administrative and territorial structures in Germany, such as local communities, districts (*Kreise*), cities associated to districts (*Kreisstädte*) and independent cities (*kreisfreie Städte*). In Germany, there are 11,084 municipalities in total, including 2,059 cities (municipalities with city rights)<sup>3</sup>. For special purposes, municipalities can collaborate in administrative unions (for example in the field of transportation or waste disposal management) (Bogumil/Holtkamp 2014: 47f.).

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<sup>2</sup> In total, there are 19 administrative districts in Baden-Wuerttemberg (4), Bavaria (7), Hesse (3) and North Rhine-Westphalia (5). The other states either abolished this intermediate level (Rhineland-Palatinate in 2000, Saxony-Anhalt in 2003, Lower Saxony in 2005 and Saxony in 2012) or never had administrative districts.

<sup>3</sup> In Germany, there are different city and communal types. The smallest unit is a "Landgemeinde" (rural community) with less than 5,000 citizens. "Kleinstädte" (small towns) have between 5,000 and 20,000 citizens, "Mittelstädte" (middle cities) 20,000 to 100,000 inhabitants. A city in Germany is called "Großstadt" (large city) when inhabited by more than 100,000 people. In Germany there were 77 large cities in 2014, including only four cities with more than a million inhabitants - Berlin (3.563 million), Hamburg (1.831 million), Munich (1.438 million) and Cologne (1.037 million). 73 of these cities are independent municipalities. 75.3 percent of the German population lives in urban areas (World fact book).

Figure 1: Political structure of Germany – States, governmental districts and municipalities



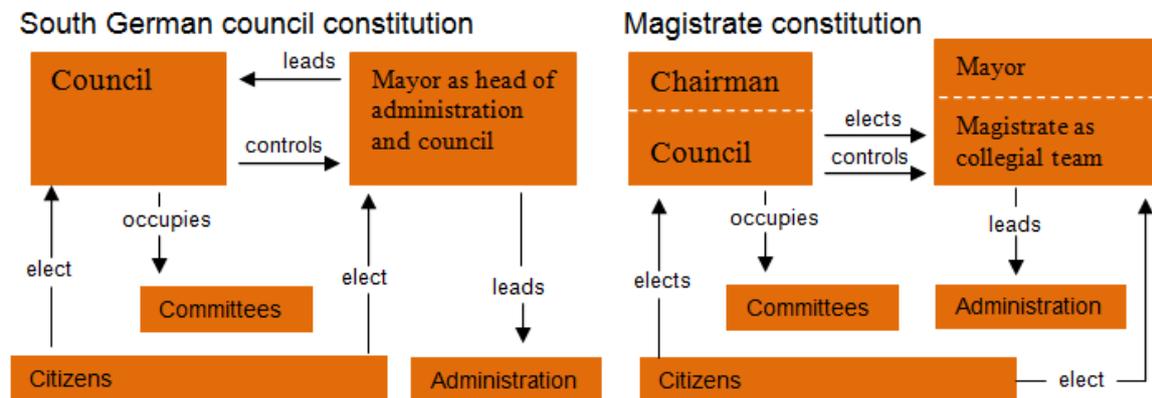
Source: Wikimedia commons<sup>4</sup>

Within the federal states in Germany, there are different communal arrangements and divisions with a general trend towards nationwide standardization. Since reforms in the 1990s most communal constitutions adopt similar structures (Naßmacher/Naßmacher 2007: 11). Today, the

<sup>4</sup> available at [https://commons.wikimedia.org/wiki/File:Germany\\_administrative\\_divisions \(%2Bdistricts\) - de - colored.svg#/media/File:Germany\\_administrative\\_divisions \(%2Bdistricts\) - de - colored.svg](https://commons.wikimedia.org/wiki/File:Germany_administrative_divisions (%2Bdistricts) - de - colored.svg#/media/File:Germany_administrative_divisions (%2Bdistricts) - de - colored.svg) (last accessed 15 Dec. 2016).

two most common forms are the South German council constitution (*Süddeutsche Ratsverfassung*) and the Magistrate constitution (*Magistratsverfassung*).

Figure 2: Communal Constitutions in Germany



Source: Schubert/Klein 2016.

The communal constitution of the federal states defines the structure and capacities of the municipalities. Thus, they differ in size and form depending on their constitution, including different communal power-sharing structures or suffrage systems. Depending on the communal constitution, the institutional arrangement and competences of local bodies differ. However, basically the municipal council and municipal administration are the two spheres of local governance, with the mayor as a connecting element as head of administration and chairman of the council. Because of the special dual character of the city-states Berlin, Hamburg und Bremen being a federal state and a city, their communal constitution differs from the other federal states (Naßmacher/Naßmacher 2007: 47-49, Bundeszentrale für politische Bildung 2013). Many aspects can have an influence on specific local governmental politics, such as the political culture in the region, the local party system, the existence of political competition, the local suffrage system, socio-economic conditions and the fiscal situation (Naßmacher/Naßmacher 2007: 16).

Before taking a closer look at the local political institutions, it is important to distinguish between government and governance. The term “government” usually refers to the group of people (such as elected representatives) who are legally entitled to regulate and govern a country or society. Research on these formal structures usually includes the public actors responsible for policy implementation, i.e. it analyzes the political-administrative system. Referring to the local level, this comprises the city council and committees as well as the local public administration. Governance, in contrast, describes the entire setting of the complex modern society and includes actors from the profit sector and third sector actors. They can be involved in policy-

making or implementation e.g. through the establishment of boards or advisory commissions, or by contracts with the public sector.

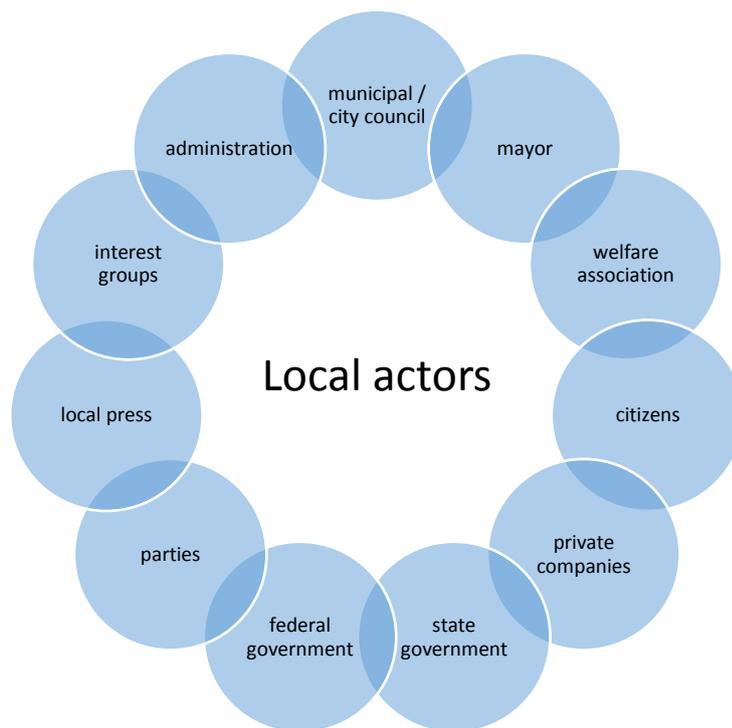
Local citizens elect the municipal or city council, which is the main governmental body. Constitutionally, it is an administrative body, not a legislative organ like a parliament (Wüstenbecker 2005: 9). Regarding the administration, the council has a controlling role, can delegate tasks, set frameworks and elect managing staff (Kost 2010: 240). In many states, a basic political task in the municipalities is the establishment of committees, consisting of council members and qualified citizens. There are obligatory committees such as the main, the administrative and the financial committees with decisional and controlling functions and voluntary committees such as a sports committee with an advising function only (Günther/Beckmann 2008: 29–30).

The administration executes the political decisions of the council and runs the daily administrative businesses. The mayor leads the local administration and represents the municipality politically and legally (Geis/Madeja 2010: 24f). The local administration is traditionally hierarchically structured and divided into departments (*Dezernate*) and subject areas (Bogumil/Jann 2009: 140). The department distribution plan (*Dezernatsverteilungsplan*) provides an overview of the structure and responsibilities within the local administration (Bogumil/Holtkamp 2014: 67ff). The municipal budget plan gives information on annual municipal tasks for a particular year (Naßmacher/Naßmacher 2007: 82).

In addition, there are actors of local participatory governance, such as advisory councils (*Beiräte*), round tables and work groups (*Arbeitsgemeinschaften*). They function as intermediating instances between the local government and citizens. Advisory councils provide professional advice on special issues and topics. Regarding the integration of migrants, there are foreigner advisory councils (*Ausländerbeiräte*) or integration councils. These advisory councils are usually elected together with the council election. Work groups try to coordinate activities, resources and competences of different local actors. Round tables are participatory forums to enhance the cooperation of local government and citizen's interests. Some of these forums and councils are open for citizens, others are restricted.

In sum, there is a wide range of actors influencing local governance and the political processes outside the governmental institutional structure and the public administration.

Figure 3: Actors present at the local level



Source: own compilation.

## 2.2 Decision-making and actors in local government and administration

The decision-making process depends on the communal constitution. The local administration is either controlled by an executive leadership from the communal council, or an influence group of members from the administration and the government decides about local matters (Rudzio 2011: 361-363). Besides the federal regulation, the degree of consensus or competitive democracy on the local level depends on the municipal size and political culture. Although reforms of the communal constitutions in recent years tried to reduce party polarization, it is still influential in many municipalities which have a long history and tradition of competition (Holtkamp 2012: 117-120). Party membership is important regarding the political career on the local level. In addition, the political situation at the federal level influences local politics. Moreover, there are growing possibilities for the local population to get involved in local politics through referendums (Rudzio 2011: 349ff).

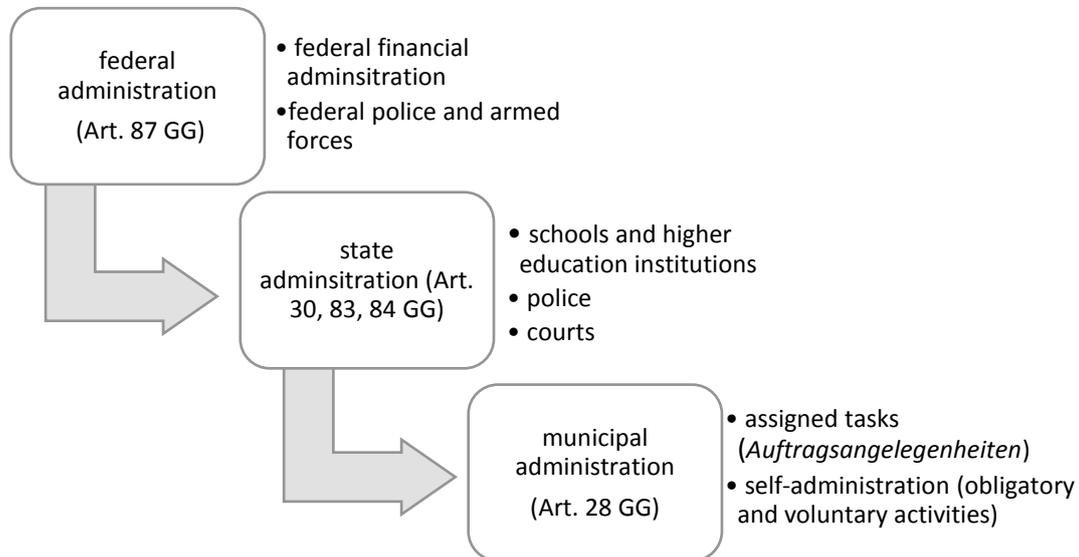
## 2.3 Responsibilities and capacities of local government and administration

The central question for the local administration refers to the division of responsibilities, competence and capacities between central state, federal states and municipalities. Basically, local governments in Germany have the right of communal self-administration (Art. 28 II GG). Accord-

ing to this law, municipalities are able to administer and organize their matters and activities independently, unless federal or state law explicitly makes other arrangements (Vogelgesang et al. 2005: 49–57).

Different sections of the German constitution regulate the responsibilities of the three levels of administration. The tasks of the central administration are defined in Article 87 GG, including the fields of defense and foreign affairs, military and national police, national shipping and waterways, and national financial administration. The second level of administration comprises the 16 federal states. Their responsibilities and competences are defined in the articles 30, 83 und 84 GG. Key responsibilities of the federal states are the administration of schools and higher education institutions, state police and law courts. Article 28 GG lays out the responsibilities of the municipalities on the third and lowest level of administration. According to article 28 I 1, 2 GG the municipalities are bound to national state principles by the so-called homogeneity law (Geis/Madeja 2010: 11f). The municipalities undertake tasks in the social and health sector, public bodies and economic development. Moreover, the municipalities execute most of the administrative activities (Bogumil/Holtkamp 2014: 41).

Figure 4: Structure of tasks within the German administrative system



Source: bpb 2013.

Legally, there are two different kinds of municipal responsibilities. Depending on the federal state, one speaks of an own and an assigned sphere of activities or of instruction and instruction-free tasks (Geis/Madeja 2010: 21). On the one side, there are tasks of the assigned sphere of activities (*Aufgaben des übertragenen Wirkungskreises*). These are tasks and responsibilities of a respective higher authority, whose administration is assigned to the lower level (central –

federal state – municipality). On the other side, there are self-administrative responsibilities in the communal sphere of activities. Still, these tasks are influenced by national and state law as they have a legal and technical right of supervision over municipal activities. The different kinds of municipal responsibilities therefore are complex and intertwined. The German municipalities are thus limited regarding an independent self-administration (Naßmacher/Naßmacher 2007: 49-54, 114f).

The state can transfer tasks to the municipalities (*Auftragsangelegenheiten*, Art 83 GG). These are mandatory tasks for the local administration and are supervised and controlled by the state. Examples are the execution of elections, pass and identification matters and food control. Due to the growing standardization process of the federal government, the number of transferred activities in contrast to self-administration tasks is increasing (Günther/Beckmann 2008: 141). Regarding self-administration matters (*Selbstverwaltungsaufgaben*), one must separate obligatory and voluntary tasks. Obligatory activities aim to satisfy the citizens' needs for appropriate living standards (Henneke 2009: 18). Besides other activities, school administration, waste disposal management, youth welfare services and local infrastructure are obligatory tasks of the municipalities. Concerning voluntary tasks in their responsibility, municipalities have the freedom to choose whether to adopt a task and if so, how to structure, implement and execute it. These tasks include the building and maintenance of sports grounds, swimming pools, libraries or cultural facilities (Geis/Madeja 2010: 13f; Bogumil/Holtkamp 2014: 42).

De jure, German municipalities are a sovereign level in the federal administration system and have a comprehensive jurisdiction. Municipalities are also guaranteed special rights – fiscal sovereignty, territorial sovereignty and legal power over people and property within their territory, the right to enact rules and norms, personal sovereignty within the local governmental administration, the right to organize and regulate internal departments, cultural sovereignty, as well as sovereignty in construction and urban development planning (Bogumil/Holtkamp 2014: 41). Nevertheless, as more and more federal and state activities are transferred to the local level and embedded in legal frameworks, the municipalities are de facto bound to higher governmental legislation. They therefore lack independent decision-making competences as well as the resources to fulfill their comprehensive jurisdiction. Per legislation, if a higher authority transfers tasks to the local level, it must also secure the financing of these tasks. Even so, most municipalities complain about insufficient financial support for too many tasks. According to Bogumil and Holtkamp (2014), the number of voluntary activities taken up by municipalities decreased due to critical municipal financial circumstances and new legal obligations by federal states, national governments and the European Union.

## 2.4 Local government and administration finances

Municipal fiscal sovereignty (Art 28 II 3 and 106 VI GG) is of central importance to finance local administrative activities (Geis/Madeja 2010: 15-18). It provides the German municipalities with the opportunity to levy taxes independently from federal and state regulations. It encompasses real taxes such as local trade tax, property tax, excise tax and expenditure tax. The municipal tax revenues are composed of local taxes and a proportion of state and national tax income. Most local revenue comes from the local trade tax, a share of the income tax of 15 percent, a share of the sales tax of 2.2 percent and the revenue from the property tax. In the year 2015, local trade tax accounted for app. 41.4 percent of local tax revenues (Bundesministerium der Finanzen 2015). Regarding the trade tax and the property tax, the local administration has the municipal factor option (*Heberecht*) and can set the tax rates autonomously. However, it has to pass on around 22 percent of the trade tax to the federal government and the federal states through the trade tax allocation process (*Gewerbesteuerumlage*) (Bogumil/Holtkamp 2014: 44).

There is a vertical and a horizontal fiscal compensation for the municipalities. Regarding the vertical compensation, tax income on the state level is calculated including a fiscal equalization between the federal states (*Länderfinanzausgleich*). The remainder is redistributed between states and municipalities according to tasks and expenses. Regarding the horizontal financial compensation, tax revenues are redistributed on the local level to reduce financial inequalities between municipalities. These redistributions are to 43 percent earmarked or demand-driven funds, reducing the autonomous controllability of the municipalities, while federal government and states can influence which local activities are supported and funded (Rudzio 2011: 374). Taxes that are financed through the fiscal compensation make up 38 percent of local financial income. Besides own tax revenues and fiscal compensation, municipalities can charge fees or communal contribution rates (Bogumil/Holtkamp 2014: 45). In total, local administration and government depend largely on federal and state decision-making concerning their financial income. They are thus limited in their autonomous activities in a complex and intertwined taxation system.

Regarding local governmental and administrative expenses, personnel costs make up 25 percent, material expenditure makes up 21 percent and the costs for welfare benefits make up 24 percent of local public spending. The most cost- and personnel-intensive areas are the social and health sector as well as the administration of public institutions. Many expenses cannot be influenced by the local administration as they are fixed expense items (Bogumil/Holtkamp 2014: 46f), because they derive from obligatory or delegated tasks by higher authorities.

## 2.5 Challenges of local government and administration

The role of the local level of administration changed due to Europeanisation, globalization and growing local responsibilities as well as new challenges (Bogumil/Grohs 2010; Bogumil 2007b). Currently, municipalities must handle the development that federal and state law constantly convert voluntary tasks into obligatory tasks (“task creation”). In addition, federal and state institutions delegate more and more activities to the municipalities (“communalization”). The aspired benefits are the clarification of responsibilities and competences, a homogenization of task perception and increased transparency. Nevertheless, communalization runs the risks of control loss, a lack of personnel resources and specialization as well as the question of financial resources. The form of communalization depends on the legal framework and kind of task transformation, whether voluntary, obligatory self-administrative tasks or transmitted tasks are involved (Burgi 2010: 24).

Another challenge for local administration and government are new coordination requirements with other actors and institutions of municipal administration, especially in the field of social policy. It aims at improving problem solving, but can also negatively affect transparency and raise transaction costs. A main challenge is the financing of new and old tasks and the question of responsibility allocation in hitherto un- or under-regulated areas. Current societal developments and challenges create new municipal tasks. These new activities are rarely defined by law. Here the municipal right to identify tasks autonomously (*eigenständiges Aufgabenfindungsrecht*, Art. 28 Abs. 2 GG) allows municipalities to develop and create new activities (Grohs/Reiter 2014: 22ff). One relatively new field of local government and administration that is hardly regulated is the local refugee and integration policy.

## 2.6 Reforms of local government and administration

Over time, activities and responsibilities of the municipalities in Germany have changed, influenced by the development of the modern welfare state, legislation on federal and state governments, but also by the opinion and engagement of the local population. In summary, the kind and scale of municipal activities is a result of social development and political decisions (Naßmacher/Naßmacher 2007: 110f). In order to face new developments and challenges, many reforms of local government and administration have been implemented over the years. One kind of reform targets the form and size of municipal territories. In this context, the number of municipalities in Germany has been reduced by merging smaller municipalities (from 14,805 municipalities in 1995 to 11,116 in 2014; Statistisches Jahrbuch 2015: 29). The territorial reforms aim to maximize administrative efficiency and effectivity. On the other hand, these reforms can

have a negative effect on the sense of community and local identity (Stammen 1986). Until today, districts and municipalities differ in size, depending on the federal states (Bogumil/Holtkamp 2014: 51f).

Reforms of the communal constitution change the competence distribution. Many federal states implemented reforms to strengthen the role of the mayor, including longer terms of office, direct election and empowerment of the position as chief of administration and chairman of the council and main committee (Kost 2010: 231; Bogumil/Holtkamp 2014: 54f). Other constitutional reforms strengthen direct democratic elements, including public petitions and local referendum. Citizens are no longer considered to be recipients of political results only, but also are clients and active contributors in local political processes (Kost 2010: 237, 244ff). Depending on the state, the form and influence of direct democratic elements differ considerably, according to Holtkamp/Bogumil (2014: 57). This people's legislation (*Volksgesetzgebung*) consists of two or three levels. The arrangements of the people's legislation have a huge influence on local policy processes, outcome and legitimation.

The (re-)arrangement of local political and administrative structures follows an output-oriented administrative modernization. Basic concepts are the evidence-based practice, reviewing the effect of management measures (Otto et al. 2009) and the concept of New Public Management (NPM), which evaluates political output and outcome in a goal-oriented manner (Dahme/Wohlfahrt 2010: 99f). To judge and pilot impact-orientation, new methods of evaluation and controlling are created and implemented (Polutta 2011: 374f). In addition, optimization of administrative activities and controlling mechanisms are a key feature of the concept of the communal joint office for administrative management (*Kommunale Gemeinschaftsstelle für Verwaltungsmanagement*, KGSt)<sup>5</sup>. It includes a contract management of single administrative units with private business and non-profit service providers (KGSt 1993: 15–24). This new steering model (*Neues Steuerungsmodell*, NSM) focuses on decentralizing management units and introduces subject responsibilities, output control, increasing competition and the focus on citizens as clients of political processes (Bogumil et al. 2007: 23ff). This orientation as well as the new challenges in local management also influence the work of welfare service institutions in their need to reform the framework of social management towards private business and output orientation management practices (Grohs 2010: 64-69).

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<sup>5</sup> The KGSt is an advisory institution working independently from the state and political parties. It aims to work out concepts and solutions to current and relevant challenges of German municipalities relying on the work of experts of local administration and management. The members of this institution are cities and municipalities and it cooperates with associations, private companies and higher education institutions ([www.kgst.de](http://www.kgst.de)).

Privatization and liberalization of service provision dominate the entire reform process concerning social services. The professionalization of social service supply happens in the course of a municipal service supply management (Schubert 2011). This privatization process includes a privatization of formal organizations such as private municipal hospitals, a privatization of material organizations, where the responsibility of service guarantee remains with the state and task performance is transferred to private suppliers, and a functional privatization, transmitting warranty responsibilities to private actors. A form of social service supply liberalization falls under the term public private partnership, standing for general long lasting and contracted cooperation of the public and private sector to complete tasks (Sack 2011; Bugumil/Holtkamp 2014: 76ff).

There are certain risks and potential problems with these reform trends. Increasing need for coordination leads to additional costs and issues of clear delimitation of responsibilities. The aspired improvement of efficiency and effectiveness in practice encounters missing personnel resources as higher qualification and specialization of employees becomes necessary. Besides, financial resources are a general subject of discussions between the public, private and non-profit sectors. Changes in competences also affect political decision-making processes and involvement of local actors (Bauer et al. 2007; Holtkamp 2007).

### **3 LOCAL SOCIAL POLICY**

Social policy constitutes a key area of German local government and administration. About one fourth of municipal finances is spent on social policy related purposes (Holtkamp 2010; Bogumil/Holtkamp 2013). The majority of the municipal personnel is working in social policy related areas. However, local social policy is part of the overall German welfare state arrangement and therefore embedded in the system of German co-operative federalism. The Federal Government in Berlin is usually responsible for legislation and regulation. The 16 governments of the German States (Länder) in close co-operation with local governments are responsible for the implementation of social policy laws as well as for the provision of social services. Municipalities are the level of government where crucial social problems emerge first, which is why German local governments are assigned the task of social policy implementation. Hence, although not in the driver's seat of designing social policy, German local governments are primarily responsible for the wellbeing of German citizens.

Education policy is often not counted among the core areas of social policy. It is also regulated differently from other policy fields as it falls under the near exclusive jurisdiction of the German Länder due to German federalism. Thus, the educational systems differ among the Länder.

The following chapter provides an overview of key fields of local social policy. It starts with an analysis of how local social policy is embedded in the overall framework of the German welfare state. Against this background, the governance of local social policy will be outlined.

### 3.1 Key Characteristics of the German Welfare State and Local Social Policy

In international comparison, Germany's welfare state stands out for specific characteristics. Firstly, Germany is an insurance-based "conservative welfare regime" (Esping-Andersen 1990) that puts a high emphasis on personalized transfer payments. Indeed, Germany was among the first industrialized countries to introduce obligatory and government-regulated insurances at the end of the 19<sup>th</sup> century. The so-called Bismarckian Model of financing cash allowances through social insurances based on contributions of employers and employees constitutes a key characteristic of the German welfare state. The current system comprises health insurance, nursing care insurance, insurance for accidents at work, and old age insurance. The former three are mainly following the principle of benefits in kind, e.g. health care is usually provided free of charge to the patient. In contrast, individualized cash allowances for wage-related pensions make up the largest share of old age insurance. Local governments are usually not involved in the distribution of cash allowances financed through the social insurances.

Secondly, the German welfare state distinguishes between "social security" or social insurance (*Versicherungsleistungen*) and "welfare/social assistance" (*Fürsorge*). While the national level - the Federal Government - has always been responsible for "social security", local governments have to take care of "welfare" and hence are responsible for assisting the needy and the poor. Monetary transfers supporting citizens in need constitute the largest share of the local budget allocated for social policy. Regulated through Federal Social Law (*Sozialgesetzbuch XII*) and financed through local tax money<sup>6</sup>, local governments are responsible for organizing monetary transfers for different social groups such as persons with disabilities and citizens in an acute situation of financial need.

Finally, the German welfare state has traditionally not put a high emphasis on social services. Due to the conservatism of the German welfare state, caretaking and in particular child and elderly care used to be perceived as a principal duty of the family and specifically of women. Due to the principle of subsidiarity, the state has not assumed direct provision of the services even when the demand grew after the Second World War. Instead, at the local level Germany looks back upon a long tradition of co-operation with private - mostly non-profit - providers,

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<sup>6</sup> A system for the redistribution of taxes between the municipalities exists at the level of the Länder, even if it is not always directly tied to their financial needs (cf. Geißler/Niemann 2015).

related either to the Churches or to other umbrella organizations that are tied to societal milieus. They are providing social services in key policy fields such as health care (hospitals), care for the elderly and childcare. Already at the end of the 19<sup>th</sup> century, when local governments started to address the so-called “social question”, which came along with urbanization and industrialization, German local governments started to co-operate with local charities, voluntary organizations, and social groups. These private organizations and initiatives were gradually integrated into the provision of social services, organized by local governments. Non-profit providers of social services were initially protected against commercial competition and enjoyed a privileged position in social service provision that developed rapidly alongside societal modernization, change of gender roles and demographics.

Today, non-profits that are usually members of the Welfare Associations (see page 21) are key providers of social services in Germany. Currently, they are running about 105,000 institutions, employ about 1.7 million workers, and about 2.5 million Germans are volunteering for the German Welfare Associations (Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege 2015: 7). Indeed, co-operation with private social service providers constitutes a further key characteristic of the German welfare state, and since the provision of social services is a central area of responsibility of local governments, co-operation with private social service providers translates into a key feature of local social policy. Finally, there is no general pattern or one-size fits all model of co-operation between local governments and private social service providers. The arrangement of co-operation and the particular organizations involved differ from community to community. In addition, local governments do not finance the provision of services all by themselves. Instead, the providers draw on a financial mix encompassing earned income (dues) as well as public subsidies. Local communities differ significantly regarding the level of public subsidies supporting the provision of the services. A detailed analysis of community-specific arrangements and financial mixes of social service provision in selected policy fields will be part of the case studies focusing on the municipalities of Berlin and Frankfurt.

### 3.2 Local Social Policy: Between Self-Governance and Order Management

German local governments are embedded in a complex system of shared and divided tasks, which leaves little room for local governments to maneuver independently. The capacity of autonomously initiating social policy measures to address specific local social problems furthermore depends on the economic wellbeing of the respective local community (Kaufmann 2003: 259). Local communities in the south of Germany fare much better economically and therefore are able to be more active in the area of social policy than those located in the rust-belts – the

former centers of heavy industry – or in the east of Germany (the former German Democratic Republic (GDR)), both of which suffer from high rates of unemployment.

In general, there is a distinction between:

- a) social policies that local governments implement on behalf of the Federal Government and therefore are subject to “order management”, and
- b) social policies that fall under the community’s right of self-governance and self-administration.

Figure 5: Local Social Policy Embedded in Co-operative Federalism

Self-Governance and Administration		Order Management
Voluntary tasks	Obligatory tasks	Delegated tasks
Financed through local taxes /municipal budget	Financed through local taxes /municipal budget	Financed through federal / state budgets
Examples: <ul style="list-style-type: none"> <li>• Institutional Care for the Elderly</li> <li>• Support of self-help groups and Counseling Centers</li> <li>• Social Housing</li> </ul>	Examples: <ul style="list-style-type: none"> <li>• Social Assistance / Welfare Allowances According to SGB II</li> <li>• Children and Youth Welfare According to KJHG</li> <li>• General social services</li> </ul>	Examples: <ul style="list-style-type: none"> <li>• Residential allowances</li> <li>• Surveillance or public health and and epidemic control</li> </ul>
+	local autonomy	-
(if and how)	(how)	(neither if nor how)

Source: Grohs/Reiter 2014: 9.

Some tasks are highly regulated by the Federal Government. Local governments implement these tasks with tax money provided by the Federal and regional governments. Those policies are titled “delegated tasks”. Indeed, local governments are working according to an arm’s length principle by simply operating on behalf of the Federal Government without having a say in how the policy is enacted.

Federal Law also significantly shapes the self-governed domain of local social policy. Indeed, federal legislation regulates and mandates the majority of local social policies, which are consequently “obligatory”. This translates into a situation in which the local government has to implement social laws (*Sozialgesetzbücher*, SGB), put in place by the Federal Government. This is criticized as a complex and somehow unfair system since the Federal Government designs the laws while local governments have to implement and finance the policies out of their budgets. As mentioned already, social assistance or welfare allowances for the needy constitute the most

cost-intensive local social policy. Furthermore, childcare and youth welfare as well as the broad field of general social services belong to this category. In these areas, federal legislation stipulates that local governments and administrations are obliged to provide and finance facilities (e.g. kindergartens, nurseries, hospitals) as well as to enact policies according to the legislation for children and youth (*Kinder und Jugendhilfegesetz / SGB VIII*). However, the particular ways in which the community provides the service are not specified. Accordingly, local governments have a leeway to decide how “they want to do the job”. In the case of childcare provision, either local governments can decide to operate a public facility or they can opt in favor of co-operating with a nonprofit or a commercial provider. The financial means to be dedicated to the task are not legally prescribed. The communities can thus decide how much to invest, depending also on its budget and financial wellbeing. For instance, the Federal Government has introduced a legal entitlement for parents to obtain a child care place for all children under three years of age in 2013. Thus, local governments have to provide this particular social service and implement the federal legislation. However, there are no regulations with respect to the provider of the service (commercial, nonprofit or public; or if the services are provided in institutional care or by private childminders). Moreover, federal law does not outline any quality requirements (e.g. regarding the size of the institution or the number of children per caregiver). Accordingly, the quality of the service provided depends on a variety of parameters of the respective local community and government, amongst which the overall fiscal situation of the municipality and the local tradition of service provision are most prominent. Therefore, local social policy constitutes a very diverse and interesting subject for scientific analysis (Grohs 2010: 42ff).

Finally, there is the domain of the “voluntary tasks” of local social policy. Here, local communities enjoy full sovereignty. They are neither bound by federal nor state law to provide any service at all and if so, how to enact a specific policy. Municipalities are in the position to engage in a wide range of activities in the social policy domain (Dahme/Wohlfahrt 2011a: 11; Grohs/Reiter 2014: 8). For example, many municipalities have successfully set up counselling centers for self-help groups in recent years. Centres to facilitate and coordinate volunteering have also become very popular. Furthermore, support for senior citizens as well as local initiatives in the field of housing also qualify as “voluntary” social policy initiatives (Wolf/Zimmer 2012). “Voluntary tasks” provide communities with the opportunity of profiling and marketing themselves. However, whether and to what extent a community is in the position to allocate public resources for additional social policy activities depends on the overall fiscal situation of the respective community. Currently, many German communities are economically no longer in a situation of launching new social policy programs.

### 3.3 Governance of Local Social Policy

#### 3.3.1 Decision Making and Deliberation

As outlined in the first section of this report, local governance constitutes the outcome of an interplay between the local administration (*Lokalverwaltung*), town council (*Stadtrat*) and further institutional settings such as “advisory councils” (*Beiräte*) or round tables.

Key departments of the municipal administration dealing with social policy issues are the departments for public health (*Gesundheitsamt*), social affairs (*Sozialamt*) and children and youth services (*Jugendamt*). If we perceive education as a part of local social policy, the department of schools (*Schulamt*) also belongs to the responsible agencies. The respective (social) laws define tasks and obligations of the departments. Whenever the municipality has to address a new topic – such as integration of migrants – flexible adjustment is needed. There is no general pattern of how new issues are administratively handled. Similarly, the department structure is not fixed; municipalities enjoy leeway to tailor and design the setting according to their needs.

There is usually a close co-operation between the municipal administrations and municipal councils. Representatives of the departments dealing with social policy issues are participating in the central meetings of the council committees that are responsible for social policy development. The most important committees are:

- the committee for social affairs (*Sozialausschuss*) and
- the committee for children and youth services (*Jugendhilfeausschuss*).

The committee for social affairs constitutes the key arena for local social policy development. It is responsible for any aspect of social affairs except those that are dealt with by the committee for children and youth services (Zühlke 2011: 46). By law, the committee for children and youth services enjoys a special status within the local governance arrangement because representatives of local social service providers (Welfare Associations), members of the department of children and youth services as well as representatives of further local institutions are co-operating by serving on this committee. Municipalities are by law obliged to establish a department for children and youth services. The committee of children and youth services has to be staffed by members of the council and representatives of the respective department (60 percent of the members); 40 percent of the committee members are participating on suggestion of the locally active Welfare Associations. Moreover, representatives of a variety of local institutions, such as the Churches and local police, are serving on the committee in an advisory function (Zühlke 2011: 48; Bogumil/Holtkamp 2006: 162).

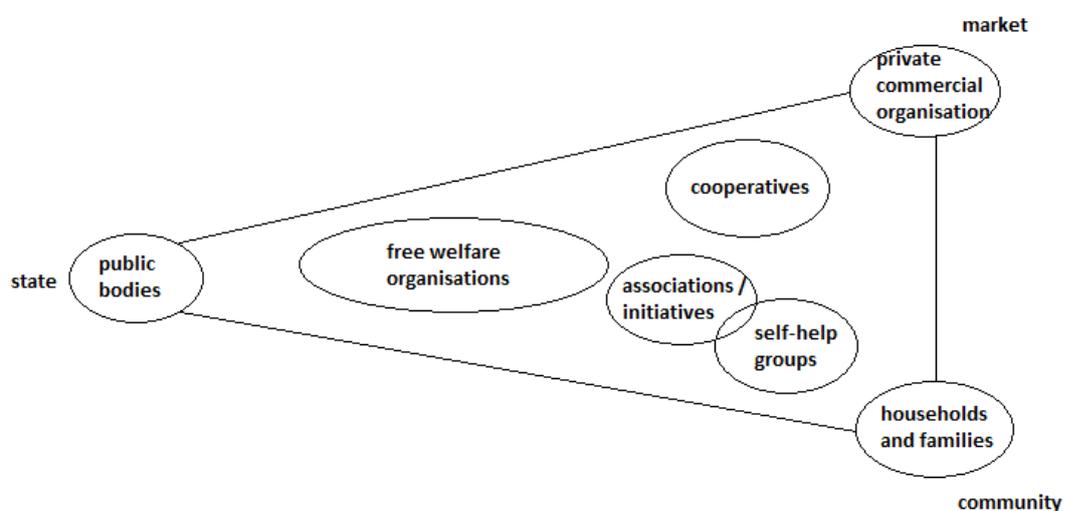
Besides these traditional units – departments and committees – municipal councils are free to establish further forums or advisory bodies in order to enhance deliberation and social policy development. A textbook example of such a council, which is of key importance for the case studies, is the Council for Integration (*Integrations-* or *Ausländerbeirat*). The council fulfils the function of taking care of and supervising any local activity that aims at a further societal and economic integration of local citizens with a migration background. Eligible for serving on this committee is every foreign citizen of full age, who has lived in the respective community for at least three to six month. In many communities, there are also Councils for Senior Citizens that aim at supporting and advising those local departments and committees that are dealing with social policy issues of the elderly. It has to be underlined that these councils exclusively enjoy advisory functions.

As the examples of the integration and the senior citizen advisory council underline, there is a tendency of supporting participatory governance at the local level in Germany. The underlying rationale of this trend is the concept of the “enabling state” that translates into a situation in which local government and administration are trying to activate local citizens to engage in local social policy related decision-making and/or in volunteering primarily in the social domain.

### 3.3.2 Service Provision

Local social provision is best described by the concept of welfare pluralism (Evers/Olk 1996), which refers to a variety of actors – social service providers – ranging from public entities to informal groups or for-profit providers.

Figure 6: Welfare Mix of Service Providers



Source: Grohs 2010: 109.

The Welfare Associations have been the most important providers of social services at the local level for decades. The six Free Welfare Associations (FWA) comprise: the German Caritas Association (Caritas), the Welfare Services of the Protestant Church in Germany (Diakonie/Diaconia), the Worker's Welfare Service (AWO, *Arbeiterwohlfahrt*), the Association of Non-Affiliated Charities (Parity, *Der Paritätische Gesamtverband*), the German Red Cross (Red Cross, *Deutsches Rotes Kreuz*), and the Central Welfare Agency of Jews in Germany (*Zentralwohlfahrtsstelle der Juden in Deutschland*, ZWST). They initially enjoyed a privileged position with respect to both social policy development and implementation, which used to be legally safeguarded. However, changes of the social laws in the early 1990s removed many of these legal privileges, implying that for-profit providers now have the same rights as nonprofit providers to participate in social service provision.

### Box 1: The Welfare Associations

With more than 1.6 million employees, 2.5 million voluntary workers and about 105.300 service units, the six FWAs are highly significant providers of social welfare services (Bundesarbeitsgemeinschaft 2015). Their systems are loosely coupled, meaning that front-line providers are relatively autonomous, but affiliated to six ‘umbrella associations’, which represent them according to shared values. These six umbrella associations are in turn linked as a consortium.

- ❑ *Caritas*, closely affiliated with the Catholic church, and the largest FWA with more than 559,000 paid employees. Federal-level Caritas has 27 affiliated regional (Diocesan, Bishop-chaired) associations, with 535 regional and local member organizations and 17 issue-specific associations. About 500,000 volunteers are organized primarily at parish level by *Caritas-Gemeinschaften*.
- ❑ *Diaconia* is affiliated to German Protestantism (which has a Lutheran-Unitarian orientation), has 450,000 paid employees as well as 700,000 active volunteers, and comprises 19 regional affiliates, 9 free church congregations as ‘corporative members’ and 70 issue-specific associations and working groups.
- ❑ *Arbeiterwohlfahrt (AWO)*, the Worker’s Welfare Association, although now legally independent, was historically closely linked to Germany’s Left-leaning Social Democratic Party, whose administrative structure it continues to reflect. It is structured federally with 30 regional units, more than 400 sub-regional units and 3,600 local units. It has 180,000 paid employees, 362,000 members and 75,000 volunteers.
- ❑ *Parity (DPWV)*, the Association of Non-Affiliated Charities, does not correspond to any ideological or political milieu, and has become the ‘home’ for a wide range of groups, from unaligned service providers to self-help groups. It has 150,000 paid employees, 15 regional associations, more than 280 supra-regional associations and comprises more than 10,000 local associations. About one million people engage voluntarily with the Parity.
- ❑ *Deutsches Rotes Kreuz (DRK)*, the German Red Cross, has about 149,000 paid employees in its ‘service units’, 400,000 volunteers and 3.2 Million sponsoring members. It consists of 19 regional associations, 500 sub-regional associations, 4.500 local associations, about 25,000 members in 33 *DRK-‘sisterhoods’* and 17,000 *Rotkreuzvereine*, local level volunteer-based organizations. DRK is member of the International Red Cross and Red Crescent Movement.
- ❑ *Zentralwohlfahrtsstelle (ZWSt)*, the Central Welfare Agency of Jews in Germany, is considerably smaller than all the other FWAs. The local units are integrated into Jewish communities and are not separate legal entities. It has about 500 paid employees in 440 ‘service units’, and 17 affiliated organizations and 8 independent Jewish communities.

For more details see Bundesarbeitsgemeinschaft Freie Wohlfahrtspflege 2012.

Besides these “big players”, for-profit commercial enterprises have started to make inroads into the “markets” of social service provision at the local level. This is most prominently the case in health care (hospitals) (Statistisches Bundesamt 2015). Furthermore, the area of elderly care, particularly home care, has developed into a prime field of for-profit activity (Liebig 2010). The reason why this is the case is closely connected to the fact that the obligatory insurance for el-

derly care, introduced by law in 1994, does not encompass a specific regulations or better privilege for non-profit service providers that are organized under the umbrella of the Welfare Associations. In sum, the diversification of the welfare mix is an outcome of significant policy changes that can be characterized as marketization of local social service provision.

### 3.4 Recent Changes

Over the past years, there have been significant policy reforms within the field of social policy, which had a significant impact on local administration and social service provision. First and foremost, there is a trend towards reducing local self-government, as federal legislation undermined the sovereignty of local social policy. In many social policy areas, the Federal Government has legally standardized rights and procedures in recent years. This has been the case in the areas of elderly care, childcare and schooling.

There have been diverse attempts to buffer local communities from the (financial) burdens of tasks and responsibilities enacted by the Federal Government. One example relates to the reform of the system of social assistance and labor market administration ("*Hartz IV*"). It defines that municipalities should pay for the costs of housing of long-term unemployed persons, while the Federal Government pays for cash assistance and individual allowances. Besides, co-financed and co-administered local job centers were established. Overall, responsibilities of German municipalities in the social domain have increased constantly over the years, whereas many municipalities are currently confronted with severe budgetary crisis. Increasingly, German local communities are protesting and claiming that the financial support of the higher authorities does not cover the cost of the new responsibilities. Some municipalities already had to file for bankruptcy and hence they are no longer able to finance the services they are obliged to provide. In those cases, all expenditure needs to be approved by the state legislation and municipalities lose autonomous capacity to act.

Another trend is the overall neoliberal approach towards social policy. This encompasses the introduction of instruments of New Public Management (NPM) such as competitive tendering in local social policy governance. Marketization translated into a situation in which the members of the local community are no longer perceived as citizens but primarily as consumers and clients. Social service providers had to adapt their management and to introduce cost-containment strategies in order to improve the efficiency of their service provision. The process of adjustment of the service providers resulted also in the change of the legal form. Many social groups engaged in social service provision changed their legal form from "voluntary association" (*Ver- ein*) to a private nonprofit limited company (gGmbH) which facilitates internal decisions by cre-

ating smaller decision-making bodies. Today, commercial providers operate on equal terms with nonprofit associations in the local social policy domain. Indeed, commercial social service provision is increasing in many social services whereas nonprofit and particularly public providers are on the retreat.

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