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compatible with sustainable practices?

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Liberalisation of municipal waste handling - compatible with sustainable practices ?

Abstract

Outsourcing and competitive tender of waste collection in Danish municipalities is framed by a complex of ideologies, objectives and considerations as well as regulation. Both in the EU and at national governmental level extreme demands for marketization of the public sector have been balanced by social and environmental considerations associated with the superior goal of sustainability. When a public service is contracted to a private provider the competence to define qualitative requirements is left with the municipalities. Waste collection has been the public service most outsourced in Denmark since the EU-guidelines on public procurement entered into force. In this respect Denmark is leading in Europe. A recent study shows that this has led to a deterioration of the working conditions of the employees with implications for the environmental quality as well, questioning the institutional framework of outsourcing and competitive tender.

Following an outline of the normative and regulative framework and the general tendencies in outsourcing and competitive tendering of public waste collection through the last 20 years, the paper identifies the main dynamics in the process of outsourcing public services in general and waste collection in particular. Finally, assuming that outsourcing not *per se* leads to less sustainability and that the institutional context is crucial, the present reality in the waste collection sector is analyzed institutionally and some central means to influence the institutional context discussed.

Normative and regulative framework of outsourcing and competitive tender

Marketization and privatization of public services have been on the agenda in EU and its member-countries for long. The modelling of the public sector after the private sector and opening for private companies to deliver the public services is seen as a precondition for the development of competitiveness and dynamic in the Union needed to manage the external and internal challenges (EU's Lisbon-meeting). In short, the 'single market' must be extended to encompass all kinds of services that are run by public finance.

The EU, however, is more than just economic cooperation; it is also a political union, meaning that beside economic objectives and requirements social and environmental objectives must be considered. EU has adopted a "strategy for sustainable development" which among its main targets includes "environmental protection", "a healthy and safe

society”, and “high-quality employment” (EU 2005)¹. Besides, EU has in both the environmental and the social field a series of specific strategies and requirements that the member-countries have to consider and implement in national legislation. In the waste area a “Thematic strategy on the prevention and recycling of waste” (EU Commission 2005) has been issued, and a detailed regulation of waste flows, including municipal waste, exist, to satisfy requirements of resource-savings and recycling rates.

In the social area a detailed regulation of occupational safety and health requirements, implemented in the member-states, exist as well as regulations concerning working conditions and employment more generally, e.g. the guideline on ‘Employees’ Rights in the Event of Transfers of Undertakings’ (The TUPE-directive). This guideline is important in connection with outsourcing and contracting. There is no regulation specifically addressing working conditions related to contracting, but in the Commission’s strategy for ‘Health and Safety at Work 2002-2006’ this issue attracts special attention (EU Commission 2002)².

The tendency to balance issues of competition and efficiency with environmental and social considerations is evident in the latest version of the EU-directive regulating the award of contracts to providers of public service (the public procurement directive). Fundamentally, the directive states that it is up to the public body, e.g. the municipality, to decide if it wants to outsource a service, but when it so does, the process of competitive tender must follow this regulation. The directive, however, makes it quite clear that social and environmental considerations can and should be taken into account. Prior to the revision the Commission in 2001 issued two communications on guidelines for taking social respectively environmental considerations into account in public purchasing (EU Commission 2001a & b). By publication the commissioner of the single market declared: “This communication will be a useful tool to help public authorities to apply social (or environmental) considerations to their purchasing, whilst at the same time ensuring value for money for taxpayers and equal access for all community suppliers.” (IP/01/1418).

At the national level similarly both overriding objectives and regulation, balancing economic with other societal demands to the performance of public services, including waste handling, exist. The neoliberal philosophy was most marked in UK, where Margaret Thatcher in the late 80s ordered ‘compulsory competitive tender’ (CCT), forcing public bodies to outsource. Denmark has not witnessed the same massive pressure to liberalize as UK, but establishing and boosting of institutions to clear the way for marketization have taken place³. Recently, a new law entered into force (Law on Service Strategy and on the Right to Challenge) putting a pressure on the municipalities. Danish municipalities, however, have had a markedly pragmatic attitude towards outsourcing, independent of the political colour of the local government, and have in general chosen to only outsource ‘hard’, ‘technical’ services, where the wishes to the performance and quality of the

¹ EU is in the process of revising its present strategy on sustainable development, adopted at the Göteborg summit in 2002. The final revised strategy shall appear in June 2006.

² The EU-Parliament in 2003 asked the Commission to speed up initiatives in this field and go front by applying the consideration in EU-purchasing and awarding of financial support (OJ C300, 11.12.2003)

³ The Danish ‘National Competition Authority’ as well as the ‘Board of complaints over awarding of contracts’ are zealously monitoring the follow-up of the EU provisions on competition and procurement, a national ‘Council for Outsourcing’ is pushing for contracting out, the different economic ministries are deploying significant resources to investigate and proliferate the advantages of contracting out and in the state sector special obligations to outsource services exist.

delivered service is thought to be relatively simple to transfer to the contract and the requirements monitored (Ejersbo & Greve 2002).

The term best capturing the strategy of Danish municipalities is 'Cost-effectiveness' or 'Value for (tax)money', which appears to be also the prime recommendation of OECD (Elmeskov & Lundsgård 2003). Efficiency in public service is a two-sided concept on the one hand meaning productivity, which may be measured in quantitative terms, on the other hand meaning quality, which may be assessed on the degree to which how, with what result and with what outcome the service is performed, including considerations of the users or receivers of the service and other local social objectives (Christiansen 2002). Just as an increase in the level of outsourcing is expected and implicitly demanded by the central authorities, so is an increase in quality foreseen (ibid.). In the new Law on Service Strategy the requirements to the municipalities to ensure a rise in efficiency and quality of public services are coordinated. The final interpretation of 'cost-efficiency' and the coining of quality requirements are in Denmark as in most other EU-countries, however, left to the single municipality to decide.

A dual strategy on the liberalization of the public sector in this way is officially confirmed in Denmark. It is in UK again, however, that the most pronounced political adoption of the strategy has taken place. When the labour government in 1997 took over government they launched the 'Best Value' strategy, which underlines that all parties, including citizens and business, should benefit from outsourcing, and it includes other considerations than competitiveness and market (S. Martin & J. Hartley 2000).

Parallel to the institutions that regulate the extension and form of the municipalities' outsourcing and awarding of contracts other institutions exist at national level, including legislation and collective agreements that may and to some extent must be taken into account when contracts are written. National environment protection and safety and health regulations must be abided to. This is clearly stated in the procurement directive, also requiring that the contracting authority lay down the condition that the contractor abides to the national regulations on safety and health and the environment. In Denmark the municipalities are entitled the primary responsibility to ensure that national and supranational objectives and requirements to environmentally safe handling of waste are carried out. Besides legislation, official objectives and strategies for sustainable development exist in Denmark as in other countries. The national strategy focuses on the resource consumption and pollution associated with waste and highlights indicators of amounts and recycling-percentages of recyclables from households.

To summarize: A complex of ideologies, objectives and considerations together with regulation, are providing a framework for and influencing the municipalities' practice of outsourcing and competitive tender. In its content it expands from extreme demands for marketization and privatization of the public sector to considerations of local, national and global objectives of sustainability. From the authoritative centres a balance is established between market-based and societal considerations, and it is important to notice that although the idea of the procurement directive is to render more competition and market, nothing prevents the municipalities when they award contracts to lay down conditions that the service providers not only comply with international and national regulations and agreements, but also meet other societal needs defined by the municipality. At national

level the balance is expressed by the dual demand for efficiency and quality in the municipalities' practice of outsourcing and awarding of contracts.

Outsourcing and competitive tendering in waste collection in Denmark

There is a long tradition in Denmark for the municipalities to contract private providers for collection of municipal waste, but earlier there was not an open, accessible market in that a local provider always got the contract, and the competition was limited as the contracts were not awarded, but negotiated. In the late 80s the situation started to radically change. Firstly, waste and the waste management of municipalities came in the spotlight due to the growing environmental awareness in society. Denmark in 1989 got a new environmental legislation focusing on cleaner technology and recycling in the environmental efforts instead of pollution control and environmental protection. Also an environmental subsidy programme spurred the planning efforts and initiatives to increase recycling in the municipalities. In a short time the budgets of local governments for waste handling exploded. This ignited the attention of Danish and foreign companies, specializing in waste handling. The perspective of liberalisation of the public waste sector, including the capital-intensive disposal side, tempted. Secondly, the first EU-directives on public procurement of services to level the playing field entered into force in 1993 and most local governments chose to follow the new regulations and their possible advantages.

Public waste collection consequently was exposed to a massive marketization through the 90s and after. A survey carried through by the Municipal League (the national association of all municipalities), shows that waste collection through 1994-1999 was the operational area within the municipal technical sector that most often was put to tender, actually by 71 % of the municipalities. The purpose of the municipalities to outsource and put to tender in 72 % of the cases was "value for money", in 24 % "the wish to have a private provider", in 17 % "savings" and only 3 % answered: "the wish to focus more on quality and development of quality". The survey, furthermore, shows that the result from outsourcing and competitive tender in waste collection was "major savings", the same or slightly increased "level of service", while the quality either was unchanged or reduced. Amazing 54 % of all competitive tenders resulted in a new provider. For the technical sector as a whole the survey shows that the municipalities, even if they had laid down conditions to the level of service and quality, "typically selected the cheapest offer" (KL 2000 and 2001).

The tendency to outsource and invite for tender has continued in the technical sector, spurred by the League. Denmark is, when it comes to waste collection, at a high international level of outsourcing, only comparable to that of the USA (Elmeskov & Lundsgaard 2003), and in contrast to most other European countries, "where the public sector remains dominant" (Hall 2006:5), the private sector is clearly dominating in Denmark. A clearly opposite tendency is active in the well-fare sector, where the municipalities, the League and many political actors are cautious or directly reluctant.

Together with the pressure from the national institutions to increase competition and market in the waste sector the pressure from private providers in the field has been constant. Companies have repeatedly used the different institutions monitoring competition to seek their interest. Large municipalities that used to have their own waste utility have

chosen to outsource totally or partly through the last years (Aarhus, Odense, Aalborg). The largest city, Copenhagen, has decided to do it.

It is an interesting feature of the development of the market and competition in the sector that some of the big international players that entered in the first part of the 90s (Waste Management, Sita/Suez, Onyx/Veolia) have later left the market again. The assessment by Danish companies in the business and their association is that competition through the process of marketization has become so sharp and prices fallen so much that the prospects of returns for these companies have diminished (Busck 2005). A further reason is probably that the expected liberalization of the disposal side of waste management has not taken place.

How the working conditions of the employees have developed

Working conditions is a broad, difficultly defined concept with a both quantitative and qualitative side and an objective as well as a subjective dimension. In this context I shall concentrate on a few central themes, which are all enshrined in EU's 'social dimension' pointed out in the statements on sustainability and included in the social considerations the procurement directive validates and calls attention to. Correspondingly, they are enshrined in and to some extent enforced by national institutions. The analysis is based on an empirical investigation commissioned by the social partners in the Danish transport sector covering the private providers of public sector waste collection (Busck 2005). The research focused on the conditions of occupational safety and health of refuse collectors (binmen), but the empirical material allows for the analysis of other aspects of the working conditions. The themes selected are: safety and health, primarily concerning the physical hazards, education and competence-building and job-security.

The purpose of the research was to identify and define 'best practice' in the management and safeguarding of safety and health considerations by outsourcing and competitive tendering of collection of municipal waste. Collection of municipal waste is carried out in an interaction between three parties: municipality, service provider (contracted waste collection company) and binmen. The employees are grasped as an independent party because their real and experienced working conditions is the research object, and because their working conditions only partly are determined by the policies and management of the company. To a large extent they are determined by the conditions under which the actual collection work at the citizens is carried out, which again are laid down by the municipality partly by internal regulations of the citizens' performance, partly by the specifications set by the municipality in the contract documents.

The contract document, elaborated in the political and bureaucratic context of the municipality, is thus a central determinant of the working conditions. Through the prerequisites and specifications of the contract the conditions of the job performance are laid down and through the award criteria further conditions for the performance and quality of the service and the job are determined. In the contract, furthermore, conditions concerning the relation and cooperation between the three parties are laid down. Besides the contract, however, the follow-up by the municipality on the contract, including

monitoring, controlling and cooperating, is of crucial importance to the working conditions, as the research shows.

Method of research

The investigation primarily built on qualitative material established through an iterative process. By a survey of existing literature and interviews with all important actors in the field, including the local officials of the Labour Inspection, a 'gross list' of relevant elements in 'best practice' was elaborated. In the same process the number of municipalities and inter-municipal companies responsible of waste collection, where indications of compliance to one or more of the elements in the list existed, was reduced from close to 300 to 30. From these 30 bodies the contract documents and relevant adjoining material, including minutes from council or committee meetings and assessments of tenders, were scrutinized. Hereafter systematic interviews with representatives from all three involved parties in the actual service and job performance were conducted, including the municipalities' officers in charge and supervising staff, the providers' administrative and operational management, shop stewards and safety representatives of the binmen. As a result of this seven cases of 'best practice' were selected. In the final phase of the project local and national representatives of the three parties were asked to respond to a summary of the preliminary conclusions and recommendations of the research. Based on the oral and written reactions the final conclusions and recommendations of means to improve the management and safeguarding of safety and health considerations were revised. The reactions of the parties, furthermore, were summarized and included in the report.

The results of the research showed for the municipalities in common a general deterioration of the working conditions of the binmen in all three parameters, physical hazards, education and competence-building and job security, associated with the marketization of the service and the municipalities' taking into use and management of the procurement procedures. This deterioration appears to be not only an expression of lack of respect and accommodation of the social considerations in the institutional framework, but also has repercussions on the environmental quality of the waste collection practice.

In the following, first a more detailed account of the results in the three aspects of working conditions is presented in connection with important institutional factors. Secondly, an explanation is sought in the fundamental drivers and mechanisms that have been active in the marketization and liberalization of the waste collection sector, uncovered by the investigation. Finally, introducing an institutional approach, the analysis is summarized, and drawing on the lessons from the 'best practice' cases possible means to change the institutional setting of the procurement procedures and contracts and hence improve the working conditions in the short run and sustainability in the long run are presented.

Occupational safety and health

In 1993 the Danish Working Environment Authority (DWEA) issued a regulation on the specific requirements to safe and healthy performance in waste collection, including physical specifications to the access- and transport-roads at the waste collection sites inside the citizens' premises. It was laid down that waste containers only exceptionally should be carried manually, but be transported in wheeled containers or carts in case of paper- or plastic-bags. The Municipal League was opposed to this regulation. They saw it,

and still see it as inconsistent with the principles of administrative law as it requires the municipalities to administer the provisions of another authority (DWEA) that otherwise holds the employer responsible. Hence, the League has consistently recommended the municipalities to refrain from dealing with safety and health considerations in both their internal regulations of the citizens' performance concerning waste and in their contract documents.

Most municipalities, nevertheless, to some extent at least, have complied with the requirements of the DWEA's regulation. Some have chosen the 'easy' solution to require of the citizens to place the site close to the road, where the binmen can get it easily, but most municipalities have chosen to keep the high level of service typical to Scandinavia and Northern Europe, where the container is placed somewhere inside the premises. Contrary to the arguments of the League, most municipalities have also formally laid down the requirements of DWEA in their regulations on the citizens' duties and performance concerning waste.

The employer, i.e. the service provider, in principle and generally has the responsibility for healthy working conditions for his employees. To this end he must plan the work properly. But he is cut off from this when the work is performed inside the premises of the citizens. Thus he as well as his employees is dependent on that the municipality uses its authority towards the citizens. In this we touch at a central and not only Danish problematic in connection with the outsourcing of public services. The private employer that takes over the service also takes over the responsibility for the safety and health of his employees, but as the job is performed under conditions, including physical frames that are defined and set by the public authority, be it the premises where cleaning jobs are done or be it the schedules that buses are set to comply with, a 'vacuum of responsibility' occurs. Depending on the context, including market and competitive conditions and a set of institutional factors, a negative impact on the working conditions is possible.

The research shows that in spite of the formal existence of regulations on access-roads in the municipalities and notwithstanding a certain effort over the years to make the citizens comply, in all municipalities a certain number of 'problem-addresses' existed, where the accessibility was not in order and consequently the work could not be performed in a proper way. The service to the citizens in general was given priority to considerations of safe working conditions. The reading of contract documents and interviews with municipal officers at the same time revealed that the municipalities in the competitive tendering as well as in the follow-up on contracts in general renounced all responsibility for the safety and health of workers when collecting at the citizens and were reluctant to enforce their internal regulations on the citizens.

The statistics of DWEA on reported accidents and muscle-skeletal disorders for waste collection workers in the period from 1993-2002 show a general reduction, close to a halving in both areas until 1998-99, where after stagnation and a tendency to an increase enters. This appears to reflect that the regulation from 1993 to ease the physical load of the binmen in the first instance have been effective, but that the positive effect at some point has stopped or has been counteracted by other tendencies.

In December 2001 a new regulation from DWEA⁴ consequently entered into force obliging the authorities involved in competitive tendering of public services to take the safety and health conditions into account in the contract documents and to cooperate in the safeguarding of the working conditions. The investigation, however, showed that the regulation did not influence the practice of municipalities in competitive tendering and follow-up on the service-delivery. By explicitly addressing the responsibility of the provider for the safety and health conditions and by referring in the contract documents to the formal existence of safety and health provisions in the internal regulations, the municipalities meant to comply with the regulation. Practice, however, showed different. An extraordinary effort from the Labour Inspection is needed to make the municipalities comply. This, however, does not seem feasible for the time being, as the DWEA is increasingly relying on a voluntary approach and the municipalities with their League seem a fierce adversary.

Education and competence-building

Ever since the environmental demands posed new challenges to waste collection, the binmen in their companies and through their union have been united in the struggle for building of qualifications through education. In the first half of the 90s they succeeded in cooperation with the employers in the sector to establish training and education in a series of companies and to institutionalize training modules in the national vocational training system. Many actors involved saw a need for new qualifications and competence-building among the personnel in the sector (Busck 1991). The investigation shows that although continued interest among both companies and employees exist, the demand for educated personnel is almost totally lacking among the municipalities. The contract documents may address qualifications by the employees. Wordings like “qualified manpower needed” and “the personnel must be ready for training” are not atypical, but without effect as documentation of education or training courses are as good as never required and follow-up training never established or demanded. Practice shows that a statement from the provider that “qualified personnel are at hand” suffices.

In connection with the modest interest for the qualifications of the personnel, there is very little attention to an active use of the resources of the employees in ensuring more quality in the service and its performance, including the achievement of environmental targets and requirements. In one company, the largest in the country, providing the service in Copenhagen, which is constructed as a PPP and due to a long concession with the municipality has cleared free of the wave of marketization, internal education and competence-building have been carried through, allowing the company to hand over the responsibility for the organisation of collection of all waste fractions in some districts, including all contact with the users and citizens, to the binmen. But in all other municipalities, where the service is provided through competitive tender, competence-building is non-existent. A few municipalities acknowledge the potential of the direct contact with the waste producers and use the binmen to control the quality of the sorted recyclables at the households. Others see the binmen as the “ambassadors” of the municipality, but except from requiring clean appearance and uniforms, ability to communicate in Danish and acceptable behaviour, they do not address the qualifications and competencies of the personnel.

⁴ ‘Order on duties according to Law on the Working Environment for competitive of public services’ December 2001

Job security

The binmen have constantly experienced an increase in job insecurity during the period. When the contract of their employer with the municipality runs out, they are in a great risk of getting fired. The investigation shows several factors influencing job insecurity.

Firstly, the municipalities prefer short periods of contracts and hereby follow the recommendations of the Municipal League and the various institutions to monitor and speed up competition and privatization. The EU procurement directive does not lay down provisions on the length of the contract period. In average the contract periods in the municipalities are 3-6 years (KL 2001). Secondly, in more than half of the competitive tenders a new provider takes over (ibid) resulting in a major turbulence in the market and for the personnel. In some cases the new provider takes over the personnel - or some of it - voluntarily, but he is seldom obliged to do so.

Denmark has implemented the EU TUPE-directive (EU 2004b). This ensures in principle the re-employment of workers in connection with outsourcing and competitive tenders, when a new provider takes over, but it contains a series of ambiguities and reservations, especially concerning the field of coverage, that makes it rather useless in the field of waste collection. One of the obstacles consist in that the new company must take over a certain part of the equipment to make the regulation cover, and this is seldom the case in waste collection. In any case the regulation does not protect the employees if the transfer is connected with "economic, technical or organisational changes that may lead to occupational changes" (EU 2004b). Only if the municipalities explicitly state in the contract documents that the regulation must be followed the employees can be certain, this is, however, very seldom the case. The providers are split in their attitude to this requirement. Some welcome it, others prefer to be free. It should be noted in this connection that the regulation of the labour market in Denmark is famous for being very 'flexible' by international comparison, heralded by OECD for instance. This means that a company at any time can lay off personnel without much hindrance.

Drivers and mechanisms in the marketization of waste collection in Denmark

The explanation of the broad-spectre deterioration of the working conditions of the binmen is intrinsically linked to the general tendencies characterizing the marketization and intensification of competition in the waste collection sector in Denmark. The literature as well as the referred investigation uncovers a series of drivers, movers and mechanisms in the outsourcing and competitive tendering of waste collection practiced by the municipalities, which to some extent also applies to other outsourced public services, at least in the 'hard', technical field. They may also be found in other countries, depending on the institutional context, but it should be remembered that Denmark is the leader in outsourcing of waste collection. The found drivers and mechanisms are summarized below.

1. *'Vacuum of responsibility and interest'*

If a company wins a contract on the delivery of a commodity or a project to another company or a public authority, it has the power by itself - paying attention to the norms

and rules that applies to the working conditions, including agreements with the employees - to decide and change the conditions under which its employees work. It is also capable to decide and manage the development of the working conditions in such a way that suits best its interests. This is not the case when providing a service to an authority, as it implies that the work is performed under conditions that the authority directly and indirectly (e.g. by regulating the citizens behaviour) determines. A double barrier is established between the company and its employees and between the authority and the employees, whose working conditions are no longer thought to be its responsibility. The employees find themselves working in a kind of 'no man's land'. This 'vacuum of responsibility' also reflects a 'vacuum of interest in that the interest in creating secure and motivating working conditions is non-existent with the authority and disappears with the employer, when he is not in charge and the motivation is not demanded. The binmen have become a sort of 'cowboys', hired and fired when convenient and without a principal to look after them.

2. *Buyer's market*

In so far the condition of a well functioning market with competing tenders is fulfilled, which is the case in waste collection, the commissioner or buyer has all the advantages. When norms, values, needs and requirements concerning the performance of the service, including the job performance and working conditions, have not been specified and institutionalized the commissioner, i.e. the public authority is free to follow its own, may be short-sighted interest.

3. *Price determining*

Notwithstanding that the EU procurement rules do not prevent the awarding of contracts on other criteria than the price allowing for social or environmental considerations, the municipalities almost exclusively have focused on the price. Other award criteria may be present in the contract documents but always with inferior priority compared to the price, and very seldom these criteria concern the working conditions. Through the period the price for collecting a waste container has diminished by 20-30 % in average. The 'pragmatism', with which the practice of outsourcing and competitive tender in Danish municipalities is characterized by themselves and by research, when it comes to the 'hard', technical services turns out to signify cost savings.

4. *'Discount-companies' winning*

Waste collection companies inclined to human resource management, cooperation and dialogue with the employees, keeping up to safety and health regulations and realizing that quality in the service performance is based on motivated, qualified and content employees are loosing market shares. They experience that although the municipalities may include requirements to observe the safety and health regulations and to certain qualifications of the personnel in the contract documents, they are not willing to pay for it and do not control whether the requirements are fulfilled. It is usual to demand of the bidders a 'quality assurance system', but the goals herein are primarily output-oriented, i.e. concern the quantitative requirements of the contract on the number of collects and no-collects. The requirements to the systems in some cases include safety and health targets, but are according to the companies without effect, as there is no control or follow-up from the part of the municipalities. It becomes a question of ethics or corporate social responsibility of the company for which the tough competition in waste

collection leaves no space. Companies that have implemented ISO 14001, EMAS or OHSAS 18000 have experienced internal benefits from these systems, but no commercial advantage.

5. *Quality reduced to productivity*

Although Quality is given equal priority to productivity in all the overriding guidelines for outsourcing and competitive tender in the public sector, and 'value for money' is the preferred term in the self-image of the municipal world, (KL 2000), it turns out that in the first place quality only in rare cases appear to be the purpose of outsourcing of technical services (KL 2001), secondly, quality, interpreted as 'level of service' comes out as only a matter of operational reliability and efficiency, when it is concretized in the contract documents. In the waste collection sector this is measured by minimizing no-collects and complaints⁵.

6. *Innovation substituted by intensive exploitation of manpower and equipment*

In the first part of the 90s on behalf of the major public interest in and demands to a safer and more environmentally benign waste handling a series of projects and system-innovations occurred in waste collection, where both municipalities and companies were movers. One major company in the sector (Bates) invested heavily in a new concept for collection of refuse and recyclables integrating considerations to the environment, safety and health and citizens participation in the technology. Some municipalities, at the time sharing the same ideas, chose to implement the concept and required the contracted waste collector to acquire the technology. After only one contract-period, however, the municipalities surrendered to the general tendency to go for the price. The development-work as well as the purchased equipment was wasted.

7. *Short contract-periods and frequent change of provider undermines building of trust and cooperation*

The turbulent market including turnover of personnel has a negative influence on the quality of the service both by a broad and a narrow interpretation of quality⁶. The collection companies' management as well as employees were unanimously referring to how the short time horizon reduced the motivation to perform a bit better, offer a good service to the users, take care of the equipment, be innovative and considerate (e.g. in the traffic). The companies' interest in developing qualifications and competences of the personnel is undermined by the limited time horizon. What is left is cash settlement, strictly complying with the requirements of the contract and only that of it that is controlled. The winners in the market have been consultants, besides legal assistance servicing the municipalities with refined quality assurance systems, not paying off, and lawyers defending the companies' interests.

⁵ This postulate is supported by research that has looked into the effects on working conditions of outsourcing and competitive tendering in other technical services, including public transport (Wiegmann 2004), Cleaning (DKK 2000) and in general among outsourced employees (DKK 2000 and SID 2003)

⁶ The significance of cooperation, dialogue and trust for developing quality and good performance in outsourcing and competitive tender has clearly been demonstrated in research. Also the significance of process-oriented follow-up on results in stead of an output-focus to have a good final outcome has been demonstrated (Ejersbo & Greve 2000 and Greve 2005)

8. *A vicious circle: Price determining - 'dirty' fight for survival among providers - piecework-contracts with personnel - 'the binmen-culture'*

The waste collection business has been "shaved to the bone" as the managers of waste collection companies unanimously put it. The mode of survival of the companies has consisted in the intensification of the exploitation of manpower and equipment. Fewest possible binmen are employed and the vehicles are used all day through two-shift arrangements or overtime-work. At the same time the collectively bargained piecework-agreement offers a way out as it encourages extra pay for fewer men and faster work. The employers are forced to cling to this un-sane agreement as the conditions of business are. The employees and their union have been slow to react. Probably, as the conditions in the sector developed, they did not see any alternative. Meanwhile the so-called 'binmen-culture' has been institutionalized, meaning that the job is valued for its 'freedom'. You are your own master in the way that you can return home earlier or with some extra pay than in most other unskilled jobs, just you get the job done, refrain from safe but slow methods and keep a high speed, which in fact means running while collecting! You are also 'free' from anyone watching and rebuking you. No one cares about you, just you collect.

The 'binmen-culture' has traces back in time when binmen operated only during night, emptying latrines, but certainly it has exploded since the late 80s, where there was even a tendency to eradicate it by giving the binmen new environmental functions, qualifications and competencies. Due to marketization this tendency was eroded and under the pressure of productivity all other values in the job have disappeared. By now the speed is what counts. If you cannot match it you are out and the new, younger persons entering, tempted by the perspective of short working hours or better pay, fits better in. If not, gang-pressure will make them leave⁷.

The culture is nurtured by the frequent changes of contracts and employees, but first of all kept alive by the fact that no other qualifications or competencies are demanded than speed. Except from the pay there is much likeness between a Danish bin man and a Chinese coolie. Some of the managers deplore it, but admit to depend on the 'binmen-culture'. The municipalities, except from a few cases, where other values are in play, defend themselves by claiming that although having enforced their regulations on access-roads towards citizens they experience an 'unholy alliance' between providers seeking profit and binmen seeking spare time and extra pay. Reaction creates counter-reaction, a vicious circle is established.

Summary and conclusions concerning the institutional context: proposals for change

Notwithstanding the fact that international research on outsourcing in general finds cost savings as the main purpose and deteriorated working conditions as the most probable consequence (Hodge 2000, Greve 2005) it is not a rule that working conditions must deteriorate when public services are outsourced and put to tender. The contract and its

⁷ Danish research has documented the close association of accidents and disorders with the speed (AMI1998), also the gang-mentality has been proved. Expelling of binmen from the labour market has not been quantitatively researched, but internal data from companies suggest a high rate leaving with or without work-related injuries or illnesses

content may lead to better or worse working conditions, more or less sustainability in the performance of the service. C. Greve concludes on the international research of the interplay between the public and the private sector ever since E. Durkheim: "The essence of the research is that both the content and the form of the contract must be assessed in relation to the institutional context of the contract." (Ejersbo & Greve 2002:18). By 'the institutional context' Greve conceives partly a formal, legal context, partly a more informal, normative context. W.R. Scott, constructing an analytical framework based on a comprehensive overview of institutional research, adds a third 'pillar' of institutions, the 'cultural-cognitive', even more informal than the normative pillar (Scott 2001). In a simple form Scott's three institutional pillars may be named: '*What we must do*', '*what we should do*' and '*what we usually do*'. Inside this framework the analysis of the developed practice in outsourcing and competitive tender of waste collection in Denmark shall be summarized in the intent to identify what elements in the institutional context appear relevant and possible to influence and how, to the effect that the 'vicious circle' may be turned into more sustainable waste handling.

The waste collection sector in Denmark can be said to express 'two realities'. There is one reality, which is spoken and described in objectives, declarations, letters of intent, policies and even in regulations, i.e. by normative and legal institutions. But there is another, somewhat less flattering and orderly, which is the reel reality, in which the service and the job is being performed. This actual reality is, as elicited, very much determined by the market - and so by the mostly regulative institutions influencing the market, but it is also influenced by customs, cultural patterns and traditional behaviour associated with waste, refuse, dirt, something that we want to get rid of the easiest and quickest way. It is furthermore determined by interpretations, perceptions and reactions, e.g. the 'binmen-culture', i.e. by the cultural-cognitive institutions of the third pillar.

The concept of the 'two realities' is actually a well-known expression among the actors in public waste collection. No municipality will say or write that it does not care about the working conditions of the private employees performing a service for it. Nevertheless, in practice they close their eyes when breach of norms and regulations by both citizens and binmen occur although this leads to run-down of binmen. Similarly, although the municipalities support sustainable development and have been left the responsibility to ensure environmentally safe waste handling, including highest possible percentages of recycling, they close their eyes when citizens drop everything in the waste container, and refrain from the chance to use the person, who has the direct contact with the citizens, to guide these in more sane practices, collect recyclables at the source and control the purity of waste fractions. Social and environmental sustainability is lost.

Socially, it is not just about wearing down the binmen, but about setting aside solid knowledge on the consequences for the job contentedness and mental health of the binmen from lacking content and possibilities for development in the job.

Environmentally, it is a fact that the use of the capacities of the companies and their employees has been replaced by the 'discount'-solution', by which the majority of Danish municipalities fulfil national and EU-requirements to recycling of specific waste fractions. By limiting the disposal possibilities, opening of scanty container-deposits and sometimes taxing the refuse container the municipalities make the citizens deliver waste fractions and

recyclables by their own means, i.e. cars and trailers. Norwegian research has proven a very negative life-cycle balance by this practice (Ren Viden 2002). Only the refuse is consistently collected at the source by the binmen and transported to incineration plant. The arrangement is more governed by customs, lifestyle and increasingly individualistic forms of conscience and patterns of behaviour than regulation by society - not to speak of values and ethics. It has grown because it is popular - and cheap (when fuel consumption and environmental externalities are subtracted).

To improve the binmen's working conditions and at the same time activate their resources the institutional context conditioning the described practice, suspended between two realities, must be influenced and changed.

The *normative institutions* and their function, i.e. all the value-, moral-, but also knowledge-based ideologies, policies, strategies and solemn declarations on *what we should do* to use the resources more wisely all the way from creating sustainable development to enhance the job-quality in waste collection, seriously need to be strengthened. Means must be explored to make them efficacious.

The *regulative institutions* and their function, i.e. all the established, legally active principles and rules from the supranational to the local level, regulating as much the rules of the game in the market as the actors' use and consideration of human and natural resources, could clearly also be improved. As they are all the result of political struggles and compromises, however, they are difficult to change in the short run. At the same time they must be legitimate (Scott 2001), i.e. be embedded in existing institutions of both the normative and the cultural-cognitive pillar. New initiatives to regulate must be seen in connection with how these other institutions may change. However, a few concrete changes in regulations influencing the working conditions in waste collection will be proposed.

The *cultural-cognitive institutions* and their functions, i.e. the underlying, implicit patterns of behaviour and perceptions, formed historically and socially, are of an indefinable, intangible nature that makes them difficult to influence by premeditated initiatives. But they are not unchangeable, according to Scott. They can change and new perceptions and behavioural patterns surge if the context changes, i.e. if something changes by the other pillars of institutions.

At a total glance at the institutional context of outsourcing and competitive tendering of waste collection in Denmark and guided by Scott's emphasis on actors, roles and power, focus concentrates on the role of the municipalities. As the regulation, the market and the subordinated position of the employees is constructed, it appears to be the municipalities that are in a key position to breach the vicious circle, leading to deteriorating working conditions and loss of sustainability. For a citizen in any of the municipalities it costs less than 2 Euro a year to have his or her waste collected from the household. For the double amount a sustainable collection is imaginable. Would the citizens say no to this, if they had the choice? - Hardly, but they have never been informed and asked.

The first mean to influence the institutional context and possibly make the normative institutions more efficacious comes out as ***civic intervention*** or ***public participation*** in

the policies and practice of the municipality in managing waste collection. The municipality in principle is the instrument of the citizens, but to what extent is the practice of the municipality in waste collection determined by neoliberal inspired market-economic philosophy and regulatory frameworks, and to what extent by the values and interests of its citizens? Only bringing it to test by informed public participation will show. Participation is a key issue in EU's strategy for sustainable development, but local bottom-up initiatives are necessary to make the institution active. It seems plausible that civic intervention would lead to a somewhat broader concept of quality. The municipalities and their officials define quality in waste collection as user-contentedness, interpreted as minimization of no-collects and complaints. But are the users satisfied - have they at all been heard?

A second mean to influence the institutional context and with the potential of strengthening the efficacy of normative institutions as well as regulative institutions comes out as **research and development**. More knowledge and information is especially needed about the costs associated with the present practice. No analysis of the transaction costs associated with the practice was ever made. No tools are at hand to the municipalities to actually calculate the effects of accidents, injuries, tear-down and expulsion of binmen. The major part of these costs are actually born by the municipalities themselves, but figures in another budget without connection to the savings realised in waste collection. Similarly the externalities accruing from resource depletion, emissions and pollution associated with the present practice could be calculated and internalised in the prices of waste collection. Knowledge and tools of this kind could inform the public as well as decision-makers in the municipalities and pave the way to rearranging the practice towards more sustainable solutions.

Besides such economic other relevant research would be life-cycle analysis approaches to the present management of recyclables and experiments with participative work-structures combined with delegated responsibility for the environmental quality to the employees. At the local level experiments and developmental work can be initiated, but to really matter the state must provide incentives for the municipalities to engage in such work together with research centres. In addition to such research and development *municipal officers ought to receive training* managing the far-reaching responsibility to ensure social and environmental considerations in outsourcing and competitive tender

A third mean comes out as an acknowledgement of the need at a national level to **ensure a rational use of the society's human resources**. The perspective of the municipalities for securing quality in the service and job performance by enhancing the qualifications and competencies of the binmen appears to short sighted. Denmark is renowned for being a society that through state intervention took care of the formation of a qualified workforce, which is stated to be one of the main reasons why the country in spite of a large public sector is performing well in the international competition. A concrete step would be to pass a regulation requiring relevant environmentally focused *education of employees* in waste collection.

Another issue, which needs to be addressed at national level, is the *protection of employment of the employees* in the business. With modest changes in the implementation of the TUPE-directive the employees can acquire better job security, as it happened in 2003 in UK, where the TUPE-directive was implemented with perceptive action, meaning that it cannot be put aside to the detriment of the employees

Approaching the cultural-cognitive institutions, but still with a regulative option at hand, a fourth mean comes out as ***initiatives by the social partners***. They are said already to be united in an 'unholy alliance' just to pick profits from the service provision. These profits are, as has been shown, acquired at the expense of good working conditions and sound business development and innovation. The negative interplay of the 'binmen-culture' and the companies' fierce intensification of labour-productivity has as its pivot the piecework agreement in the collectively bargained agreement, which it seems in the interest of both parties to skip. In a life-time perspective it is obviously incompatible with the interests of the binmen, and to the companies it works as a barrier to the necessary innovation and survival of the business in an EU that is in the process of liberalizing the service market and giving access to Eastern European companies with low-paid employees. The business is forced to find another model of providing service than the crutch offered by the piecework agreement and the present shape of the 'binmen-culture'. Two initiatives appear possible.

Firstly, based on both partners' interest in education *the piecework agreement should be substituted by another arrangement of the pay* partly based on acquired qualifications and performed quality in the job. Secondly, the companies and their organisation should elaborate and settle on a common *minimum-standard* for the working conditions when delivering services to the municipalities. If such a standard, preferably coordinated with the labour union, were agreed and declared publicly and did not surpass the level of working conditions, which is already embedded in national or supranational regulation, it would be legitimate.

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