
Between corporatism and lobbyism

German welfare associations

in transition¹

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Abstract:

German welfare associations are traditionally functioning as a key pillar of the welfare state. For about a century now they have been part of a tight meso-corporatist arrangement, supplying them with a privileged legal status in exchange for social service provision in many areas of the welfare state. In recent years, however, welfare corporatism has become challenged due to the integration of market elements into the welfare state as well as processes of state transformation that gave rise to the “managerial state”. The contribution focuses on the underlying forces of this development as well as its impact on welfare corporatism and the deriving modes of advocacy interest representation. It is argued that recent processes of state-transformation as well as Europeanisation have contributed to the change of welfare corporatism into a more flexible arrangement, including welfare lobbying. The lobbying activities of welfare associations, however, do not signal the abandonment of the corporatist arrangement. On the contrary, lobbying on the European level of politics is used to repel the destructive consequences of the managerial state back home. Thus, lobbying provides a means to protect and to advance welfare corporatism in an overall climate of insecurity and competition.

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1. Introduction

The German welfare state is dependent on the multiple functions and task fulfilment of large welfare associations. Organised welfare did not only impact on the historical development and institutional shape of the welfare state, it still assumes key functions to the advantage of state and society. These functions range from social service provision to advocacy interest representation² to the supply for organisational support to numerous self-help groups and voluntary activities on a grass roots level. Given this, the welfare associations have become part of a unique arrangement of welfare corporatism. Welfare corporatism traditionally rests on a political exchange relationship with the state. The state provides for funding and a protective legal status in exchange for the welfare associations reliable task fulfilment in many areas of the welfare state. For the welfare associations this development does not only imply benefits, it also involves political costs. The high level of integration into the system of public welfare limits their political autonomy vis-à-vis the state. Given this, advocacy interest representation has often become subjugated to the social service function. Against this background, recent processes of state transformation and the Europeanisation of social politics are examined with regard to their impact on interest mediation in corporatist settings. The main argument is that both these developments have contributed to the emergence of welfare markets that favour a more flexible arrangement of welfare lobbyism. Even though, this change does not suggest the dissolution of welfare corporatism, it signals a shift in the modes of interest

² Advocacy interest representation is defined as the representation of weak interests. Interests are considered weak if their agents suffer from a lack of power resources that results in a relative disadvantage in the political interest competition (Imig 1996, Willems and von Winter 2000: 14). If welfare associations defend weak interests, they act on behalf of vulnerable people who lack the resources to enter national politics, let alone its European equivalent. This involves the defence of equal access to basic needs-oriented public services as well as the just redistribution of income to eradicate poverty.

representation. In the context of an increasingly insecure and competitive environment the welfare associations are leaving the corporatist niche. They adopt to the absence of corporatist structures in European politics by using offensive lobbying strategies as a means to emphasise their non-profit charitable engagement and political partnerships with society and the state. This profile is stressed in order to positively distinguish their organisational self-understanding from commercial service provision and to preserve welfare corporatism and the competitive advantage of their unique legal status that derives from it.

The argument is developed in three steps. After a brief overview over the organisational shape and historical development of organised welfare, the second section examines the welfare associations' core functions of social service provision and advocacy interest representation in the context of welfare corporatism. Section three discusses recent contributions on welfare state transformation from the perspectives of policy analysis and research on associations (Verbandforschung). It presents theoretical insight and empirical evidence with regard to the issue of how state processes of self-transformation negatively affect welfare corporatism. Section four complements the analytic framework from the perspective of recent literature on Europeanisation, understood as the impact of advanced European integration on domestic politics. The application of a distinct concept of Europeanisation provides the basis for tackling the issue of how advanced mechanisms of European social policy-making, ranging from the open method of coordination to the EU Services Directive, affect welfare corporatism.

2. The tasks and functions of welfare associations in the welfare state

Charitable associations in Germany have grouped themselves in six central organisations, the German Caritas Association, the Welfare Services of the Protestant Church in Germany, the Association of Non-affiliated Charities, the Worker's Welfare Services, the German Red Cross, and the Central Welfare Agency of the Jews in Germany. Together these associations constitute Non-statutory welfare, covering all forms of social assistance that are provided within a voluntary non-profit and organised framework.

The welfare associations are complex organisations with a large bureaucracy and a constant exchange relationship with their various environments, formed by their member organisations, the state, competing organisations, close associates, clients and the public. German federalism provides for the division of regional, district level and local associations. Differences in size, ideological background, membership profile and affiliation not only influence the strategic choices of single welfare associations (Nährlich and Zimmer 1997), they also determine their various tasks and functions and its relevance to national social policy. Beyond these differences, however, the welfare associations share a high degree of ideological and organisational coherence, professionalism and bureaucratic accountability as well as the ability to function throughout the entire geographic territory of the nation state and in all areas of social welfare. Based on these features they work together within their legal amalgamation and organisational mouthpiece, the *Federal Association of Non-statutory Welfare*.

The tasks and functions of Non-statutory welfare in the welfare state comprise a broad range of social assistance measures. These include services for children and youth, support for families and single parents, help for the elderly, services for people with disabilities, nursing care for patients in hospitals, measures for migrants, and

assistance for people facing situations of social distress. Non-statutory welfare represents a significant social and economic factor in Germany. Its central associations employ over 1.16 million staff, they count just over 94,000 social services and facilities, they receive the support of an estimated 2.5-3 million volunteers, and they organise over 28,000 self-help and help groups (Federal Association of Non-statutory welfare 2003: 13).

The welfare associations look back over a tradition that is – in some cases – over a century old. Their organisational structure developed from a history of interaction with the state and civil society. As intermediate organisations they have to manoeuvre between politics and society as well as the tensions resulting from their different demands. The relationship between welfare associations and the state in Germany is best described as political exchange in corporatist settings. While the state provides financial support and allows for political influence, welfare associations serve as reliable social service providers on a non-profit basis. They offer information, and they protect the state from radical political protest against social inequality by means of channelling and pacifying civil society involvement into the welfare system. Since welfare associations relieve the state by taking on indispensable governing functions, they can profit from a unique legal status in the charity and foundation law, securing them various kinds of public funding. Funds range from tax reduction based on charitable benefit and the donation of privilege to investment aid for the construction of buildings and financial assistance for companies.

Welfare corporatism in Germany dates back to the Weimar Republic. The involvement of the central state in the regulation and financing of local welfare gave rise to an institutional mix of non-statutory and public social work, called the dual system of Non-statutory welfare (Tennstedt 1992: 354; Backhaus-Maul and Olk 1994: 102). Based on the principle of subsidiarity, the welfare associations enjoy a conditional priority

compared to public bodies. The political pressure behind this arrangement came from catholic civil servants, who saw the principle of subsidiarity as a protective barrier against the nationalisation of social policy. Ironically, by successfully pushing the principle of subsidiarity they initiated an indirect mechanism of nationalisation, namely the nationalisation of the welfare associations through corporatism.

The unique corporatist arrangement the principle of subsidiarity gave rise to serves as a point of reference for the welfare associations self-perception as a third social partner. However, significant differences between macro- and meso-corporatism should not be ignored. Welfare corporatism is a meso-corporatist arrangement with sector-specific structures of interrelations between state and associations in the policy fields of health, social assistance, and youth. The corporatist arrangement even involves the communal level,³ where the welfare associations are automatically represented in the committee of youth affairs. In contrast to the macro-corporatist focus on the solution of society-wide interest conflicts, meso-corporatism serves the overarching goal to relieve the involved parties by means of transferring public regulatory tasks and responsibilities to organised private interest in exchange for state protection and support. Given this, both arrangements differ in durability and stability. Macro-corporatist arrangements are often short-lived and less stable because the participating actors can always leave the corporatist arrangement. In contrast, meso-corporatism is regarded as rather inflexible, because the exit of the involved parties threatens their functioning capacity (Olk 1996: 104; Czada 1994: 52-54).

Given the inflexible structure of meso-corporatism the advocacy interest representation of welfare associations is becoming easily compromised by their close co-operation with public service providers like the state, local authorities and social insurance bodies. The

³ For insights into the tradition of communal corporatism in Germany see Thränhardt (1981).

problems of the welfare associations to balance out their relationships with state and civil society are reflected in their dual function of social service provision and advocacy interest representation. For a number of reasons both functions are strongly interlinked. The welfare associations' involvement into social service provision puts them into the position to judge legislation and administration of social policies by the needs of the most vulnerable members of society. Furthermore, advocacy interest representation is directed towards the state. The state is expected to enable the welfare associations to offer discrete social services that are unlikely to be adequately performed by the state *or* the market. Beyond the strong overlap between the social service provision and advocacy interest representation both functions adhere to distinct ethical principles and policy goals. By targeting institutional change in the legal system, advocacy interest refers to justice. By contrast, social service provision adheres to humanitarianism. The goal is to practise humanitarian values by caring for particular needs on a face-to-face level. Given this, both functions imply different consequences for the state. Advocacy interest representation politicises the unequal distribution of income. In contrast, the social service function compensates for a lack of income redistribution. Its logic is to help rather than protest. Instead of contributing to political conflict, it channels and pacifies civil society involvement in the welfare system. Against this background, the state can be expected to stress the pacifying social service function of welfare associations in order to avoid political conflicts that are difficult to resolve.

The pacifying function of the welfare associations should not be underestimated. Even under the conditions of mismanagement and inefficiency they are of help to the government by offering a response to problems that are taken into the political system by democratic processes without being easily solved (Seibel 1992; Salamon 1996; Baumann 1998). From

this perspective the welfare associations passively contribute to the governing of social conflict and protest, and their advocacy interest representation has been limited due to the potential expectation of state actors that they pacify rather than fuel political conflict. This raises the question of how recent processes of state transformation affect welfare corporatism and the specific restrictions it places on advocacy interest representation.

3. Welfare corporatism in the context of state transformation

From the early roots of welfare corporatism in the Weimar Republic the German welfare state has undergone several transformations, ranging from the subjugation of welfare arrangements to the ideology of national socialist dictatorship to the rise of the Keynesian welfare state in the 1970s to sector specific reforms in retirement and health to the period of welfare state retrenchment in the context of the sharpened fiscal crisis at the turn of the century. Welfare corporatism has survived most of these changes. Only the last reform period threatens its very stability, because it is linked to structural processes of state-transformation. These processes have been issued under such different concepts as the regulative state (Grande/Eberlein 1999), the activating state (Blanke 2001), or the managerial state (Rüb 2003).

In the following I will draw attention to the specific aspects of state transformation that are particularly affecting the relationship between state and welfare associations. I resume the latter concept of the managerial state (Rüb 2003), because it links state transformation to the emergence of welfare markets as well as to the growing importance of the process-character of the welfare politics. Both aspects are of direct relevance to welfare corporatism.

The managerial state is guided by the following six ideological premises: the superiority of managerial

forms of decision-making and welfare production in the public sector, the rejection of pre-existing stable and coherent goals and programmes, the assumption that the dismantling of regulative bureaucratic and legalistic forms of conduct creates new leeway for a more optimal task fulfilment as well as the efficient allocation of resources, the belief in the curing and problem-solving effects of the introduction of competitive elements within and between organisations, the primacy of functional rationality, and the dissolution of strictly hierarchical-bureaucratic modes of conduct (for a more detailed account, see Rüb 2003: 265). Under this shift in perspective various reforms have led to the replacement of traditional welfare state arrangements with market-oriented services. Welfare associations are mostly affected by the creation of welfare markets in the domain of social services. Of particular relevance is the extension of social security to cover the need for care. The respective law, the so-called *Pflegeversicherungsgesetz* of 1995, represents a typical market-creating legal act (Nullmeier 2002; see also Rüb 2003: 277). It not only produced a steady demand for care work but also a market share for commercial social service providers, who are legally enabled to enter a contractual relationship with the state. Additional local factors emerging from an internal organisational change of the welfare associations contribute to the establishment of welfare markets, such as the generational change, scarce resources, and the increase of mercantile professions. Even though, the extent to which welfare markets undermine the welfare associations' privileges remains unclear, the described developments contribute to the ending of a period of a relatively stable monopoly of Non-statutory welfare in the care sector. The pressure for transformative change that is imposed on the welfare associations by the managerial state does not come suddenly but rather in a subversive and incremental fashion. Given this, the status quo of welfare corporatism cannot be taken for granted anymore. The introduction of flat rate monetary

compensation as well as the competition with commercial service suppliers subjugates the welfare associations under the logic of cost efficient service provision.

The trend of marketisation does not only weaken the principle of subsidiarity, it also puts welfare corporatism under jeopardy. This is the case for the following two reasons. Firstly, by treating commercial service providers on equal footing with the welfare associations the state opens a backdoor for the legal contestation of the unique legal status of Non-statutory welfare, which provides a core element of the corporatist arrangement. Profit-seeking service-suppliers have already fought for their market share (nationally and in the EU) by means of judicially accusing the unique legal status of welfare associations on grounds of the argument that it violates free competition. Empirical evidence proves that national courts and the European Court of Justice (ECJ) can always rule cases to the disadvantage of welfare associations.⁴ Secondly, the managerial state implies a shift in the states perspective on the welfare associations that are increasingly treated as social service providers rather than as political partners (Lange 2001: 67). What counts in the managerial state is efficiency rather than voice. Thus the policy feedback function of welfare associations - that they reflect policy failure based on the needs of socially disadvantaged - has become subjugated to the criteria of cost efficiency.

⁴ According to a recent ruling of the Provincial High Court in *Düsseldorf* the ability of welfare associations to compete with commercial service providers has become questioned. In the relevant legal case a private service providers claimed that the ability of welfare associations to offer their services for less money provides and unfair advantage. That the court spoke in favour of the plaintive has unleashed a new controversy on the unique legal status of welfare associations (cf. *Ministry of Justice of North-Rhein-Westphalia* from the 23.12.2003, VII-Verg 58/03). The ECJ decided on different occasions that ideological orientation and the lack of a profit-motive do not count as exceptional criteria for protecting the welfare associations from the application of EC law. In a number of cases, the term economic activity has become widely applied to include services provided in the framework of organized welfare (Schulte 1992, Lange 2001: 129-32).

Next to the introduction of market elements the concept of the managerial state emphasizes changes in the modes of political decision-making that are describable in terms of a shift from cooperative government to managerial politics (Rüb 2003: 287). Managerial politics weakens normative principles, programmatic models and goal systems. Politics is losing its contours, and it is becoming more process-oriented. Continuous movement, flexibility and opportunity-creation become an end in itself rather than a means to goal attainment (Rüb 2003: 293).

The issue of how changes in the mode of political decision-making affect corporatism has recently become a topic in research on associations (v. Winter 2004; Willems, v. Winter and Rehder 2008; Michalowitz and Talos 2008). Processes of societal differentiation as well as parallel trends of the internationalisation and Europeanisation of politics pose new challenges to the state, which ultimately leads to new patterns of cooperation between state and associations. Recent political reforms in social policy provide evidence for a change in actor constellations, a higher fluctuation of the participants in decision-making processes as well as the fragmentation, segmentation and pluralisation of patterns of cooperation between political actors (v. Winter 2004: 764; see also Benz 2001: 253). Together these changes provide new conditions for the practising of influence by associations. They contribute to a paradigm shift “from corporatism to lobbyism” (v. Winter 2004: 764-765). However, factors that accelerate the change from corporatism to lobbyism mostly affect classic membership organisations, such as the social partners. Research on welfare associations led to the conclusion that the partial opening of the meso-corporatist arrangement did not threaten welfare corporatism as such. According to the respective studies, these trends rather led to a multi-polar corporatism (Heinze and Strünck 1995; Olk 1996: 119). In other words, welfare associations became company by other organised

service providers. But this did not particularly threaten their unique legal status and close corporation with the state (see also Heinze, Schmid and Strünck 1997). Thus, the reasons for a trend towards lobbying must be different in the case of corporatist organisations, such as the welfare associations. My argument is that the welfare associations use lobbying primarily on the European level of politics as a preventative measure. The underlying intention is to protect welfare corporatism from the subversive assaults of the managerial state that could take hold in future times. Because there are no corporatist structures on the European level of politics, “going European” implies a shift from the more conventional corporate modes of interest representation to the flexible arrangement of lobbying. Thus, lobbying serves to gain political influence on the European level and to use this influence in order to stabilise welfare corporatism and the affiliated protective legal status.

Trends towards welfare lobbyism are supported by a shift from the defensive modes of advocacy interest representation to offensive lobbying strategies. Whereas advocacy interest representation has been traditionally tied to the reluctant mode of interest representation in the context of welfare corporatism, lobbying accounts for a more offensive, flexible and situation specific mode of interest representation in the context of the managerial state. This involves the classical lobbying activities (Alemann 1989), such as the use of access to government and parliament, the release of press statements as well as less publicly visible means (i.e. participation in public hearings within the parliament or the relevant ministries and background discussions with political decision makers). But it also includes ad hoc political action that is addressed to societal actors, the larger political public as well as international organisations. In the managerial state, lobbying is itself either dependent on the opportunity structure of managerial politics or it is used strategically as a means to create opportunities for pursuing the overarching goal

of protecting the welfare associations unique legal status in an increasingly insecure and competitive environment.

All together, the following developments contribute to the strengthening of the lobbying function.

The external pluralisation of actors and addressees of interest representation

The main addressee of the welfare associations' advocacy interest representation has been the state. Studies that explicitly focussed on advocacy interest representation in the mid-nineties (Pabst 1997; Baumann 1998) share the assessment that the two largest welfare associations have notably strengthened their advocacy engagement by means of publishing poverty reports and openly criticising cuts in social assistance. A more offensive poverty politics was geared towards making the state return to the corporatist arrangement in an overall climate of welfare state retrenchment. Meanwhile, the rather tight and exclusive relationship between the state and the welfare associations has become relaxed by a pluralisation of the actors and addressees of interest representation.⁵ The "relaxation" or "liberalisation" of welfare corporatism favours more flexible, non-institutionalised, informal and situation-specific mode of interest representation that can be defined as lobbying.⁶

3.1 The internal pluralisation of organisational functions:

It is not only the societal structural change but also the managerial logic of the state that forces welfare associations to redefine the form and goal of their

⁵ For evidence on the pluralization of actors, see Backhaus-Maul 1995; Olk 1996; Heinze/Strünck 1995. The argument on the pluralization of addressees will be discussed in more length in section 4 on europeanization.

⁶ Lobbyism can be contrasted from interest representation in corporatist settings along the following dimensions: it is not characterized by selected actors but rather by a plurality of different actors. It marks a rather informal and non-institutionalized form of interest representation, and the definition varies with the relevant goals and political situation (Michalowitz/Talos 2008).

organisation. In reaction the welfare associations have begun to intensify attempts towards the clearer distinction of social service provision and interest representation. The trend goes in the direction of the independent use and professionalisation of both functions. Given this, the external pluralisation of actors has been accompanied by a process of internal pluralisation, enabling the welfare associations to a more flexible and function-specific adaptation to a changing environment (Olk 1996: 119).⁷ Current reform strategies that relate to this trend have been described in terms of a divided modernisation (Dahme 2005: 63). Whereas the welfare associations are energetically pushing forward the modernisation of operational means and resources, politically they are holding on to their unique legal status.

3.2 Europeanisation and lobbying in the mode of a “two-level game”

The Europeanisation of the welfare associations advocacy interest representation enforces the strengthening of their lobbying activities simply because there are no corporatist structures in European politics. German welfare corporatism is unique in European comparison. Thus, the increased involvement of the welfare associations in European politics is in itself a reason for the advancement of lobbying strategies. What is more important, however, is that the welfare associations are using lobbying in European politics as a means to protect welfare corporatism back home. Hence, the strategy of divided modernisation can be read in the context of a “two-level game” (Putnam

⁷ According to Olk (1996: 119) internal pluralization consists of the development of three different functionally specified pillars that are increasingly independent and demarcated against each other: one pillar of an economically governed management structure, geared towards the organizational survival in competitive welfare markets, a second pillar of local associations and structures, and a third pillar of advocacy interest representation.

1988). Welfare associations use their unique legal status and the exceptional strength that derives from their dominant role in the history of the German welfare state in order to strategically position themselves on the European level of politics. This strategy enables them to learn from their European counterparts how to effectively modernise their operational means and resources while pushing for a European version of a protective legal status to include all welfare associations throughout the European Union. At the same time, the affects from their increased involvement in European politics – the most important of which has been the strengthening of their lobbying activities – is used in domestic politics in order to repel the destructive potential of the managerial state and, thus, to preserve welfare corporatism and the protective legal status deriving from it. The remaining section is dedicated to further elaborate this thesis.

4. Welfare corporatism in the context of Europeanisation

The literature on welfare associations describes European integration predominantly in terms of a market-creating power and source of economisation pressure (Schmid, 1996; Olk, 1996; Lange, 2001). But this is not the only relevant aspect. Advanced European integration has also created an opportunity structure for welfare associations to form new flexible and strategic alliances with other third sector organisations. It has contributed to the erosion of corporatism by shifting the centre of gravity away from the state and towards new addressees of interest representation, such as the European Commission and the European Parliament. Furthermore, advanced European integration has triggered the Europeanisation of domestic political action and decision-making processes. In other words, advanced European integration supported an incremental process that changed the direction and form of politics in a way that EC political and economic

dynamics became part of the organisational logic of national politics and policy-making (see also Ladrech, 1994). The increased use of lobbying strategies by the welfare associations is one aspect of this development. It stands in the centre of the following analysis.

Interaction processes between the EU and German welfare associations can be divided in different time stages that have been discussed in greater detail elsewhere (Toens, 2006). In the following, I will briefly summarise these time-stages. After this, the emphasis lies with the politics of the EU Services Directive and its affects on welfare lobbyism. The first time stage is characterised by the deliberative neglect of European politics on the side of the welfare associations. European integration was largely perceived as a threat to their protective legal status provided by welfare corporatism. Their political activities resembled a defensive strategy to shield off welfare corporatism from top-down pressure for change (Schmid 1996).

The second time stage started in the early 1990s with the creation of the EU budgetary guideline, allowing for the financial support of NGOs and third sector organisations (Lange, 2001: 127). From then onward, the Commission provided for funding. This created incentives for national interest groups to transform themselves into EU-relevant interest groups in order to benefit from financial support schemes. The utilisation of funds provides a typical example for strategic usage. The concept of usage stresses the bottom-up dynamics of Europeanisation (compare Jacquot and Woll, 2003). In other words, actors use European integration processes in order to pursue their own strategic goals. The welfare associations' offensive engagement in networking activities on the European level has contributed to the strengthening of welfare lobbying on both levels of politics, European and domestic. What can be observed is a mutual enforcement of welfare lobbying in the domestic and European context. Domestic lobbying helped the welfare associations to play a credible role in the process of creating a social

Europe beyond mere market integration (Lange, 2001: 128). In due course, their political engagement on the European level contributed to the strengthening of domestic lobbying. A central role in this context plays the *European Anti Poverty Network* (EAPN). The 'advocacy issue network' ties together National Anti Poverty Conferences and is able to directly strengthen domestic lobbying. In the German case, the *National Poverty Conference* was initiated by the EAPN as a confederation composed of the welfare associations, national associations on special social issues, self-aid-organisations and the *German Trade Union Confederation*. Throughout the 1990s, the National Poverty Conference has gained political attention for its criticism of governmental cuts in social assistance.

The third time stage began with the so-called Lisbon strategy of the European Council. In March 2000, the European Council defined a new strategic goal. By the year 2010, the EU should become the most competitive and dynamic knowledge-based economy in the world (see European Council, 2000). Part of this strategy is the development of shared indicators that can be used to measure quality and access regarding social services in EU member states. The development of European social indicators in the context of the open method of coordination has created a new dimension of European social policy (Begg and Berghmann, 2002). The application of this method to the policy domains of social inclusion and services is perceived as a window of opportunity by the German welfare associations (*Federal Association of Non-statutory welfare*, 2003: 12). They can use their exceptional historical experience and organisational power to strengthen the input of non-market civil society actors from all over Europe.

Another part of the Lisbon strategy was to complete the internal market by the removal of barriers to services (European Council 2000). Given this, the European Council announced major steps in the area of negative integration. In 2004, the Commission started a formal political decision making process on this issue by

proposing the EU Services Directive (European Commission, 2004). The so-called Bolkestein-Directive involved suggestions that met with the strong resistance of the welfare associations. They feared that deregulation would apply to all kinds of services – including charitable services in the areas of social welfare and health. Moreover, they were against the country of origin principle that gave workers the opportunity to offer their services in every EU-member state and based on the laws of their respective home country. Like labour unions, welfare associations suspected a race to the bottom, both in terms of the wages and the quality of services. Together with other third sector organisations, they started a major lobbying campaign to convince the members of the European Parliament that services in the area of social welfare and health should become excluded from the Services Directive (see Social Platform 2004; German Association for Public and Private Welfare 2004; Association of non-affiliated charities, 2005). The main argument was that these services are not tradable across borders because they have to meet quality standards according to national identity and culture of the country they are performed in.

In the meantime, the original proposal of the Commission has become substantially amended by the European parliament (European parliament, 2004). The amended proposal excluded the controversial country of origin principle as well as all services that are of major concern for the welfare associations. The Commission approved of most changes and tabled an amended proposal, which was basically accepted by the Competitiveness Council in May 2006 (European Commission, 2006). In the remaining section I will argue that this outcome has to be interpreted against the background of a widespread scepticism towards the European integration project that was used by the welfare associations to optimise their strategy of divided modernisation.

Divided modernisation is best understood as the simultaneous pressure of continuity and change in policy goals. The welfare associations continuously adhered to the policy goal of status maintenance or the protection of their domestic legal status from political threats. In a parallel fashion, they had started during the 1990s to modernise the operational means and resources of their social service provision. As actors in European politics, they learned to optimise this strategy by means of systematically linking both policy goals in a major reform initiative to modernise the national charity and foundation law. As European actors, the welfare associations were less able to stick to unquestioned traditions and ways of doing things. Performing charitable social work ceased to be sufficient as a justification for the legal advantages they enjoyed vis-à-vis commercial service providers. The legitimacy of their unique legal status increasingly depended on evidence about the efficient use of operational means and resources. Given this, they signalled the readiness to learn from their counterparts in the other member states how to meet internationally exemplary standards of efficiency and transparency. By suggesting that these principles become legally binding they applied internationally acquired knowledge in domestic politics. In a parallel fashion, however, they initiated a European debate on important features of their domestic legal status and its applicability to the other third sector organisations in the EU (Federal Association of Non-statutory welfare, 2004 and 2005). This involved a different framing of the concept of uniqueness. In earlier time stages of Europeanisation uniqueness was understood as an exclusive term that only applied to German welfare associations. Now it became understood in inclusive terms to be applied to all third sector organisations in the EU. Whereas the exclusive framing of uniqueness had served as a justification for the non-adaptation of German welfare associations to the EU, its inclusive framing contributed to the understanding of uniqueness as a challenge to learn

from advanced European partner organisations how to make public funding conditional on the efficiency and transparency of operational means and resources (Ballhausen and Walz 2006). Given this, the welfare associations learned to make policy goals compatible with internationally accepted standards and how to frame them differently in order to include others in their struggle for organisational stability and political influence in a changing environment.

In the politics dimension the welfare associations learned how to optimise their power in the decision making process on the EU Services Directive. Lacking the institutional power of other actors in the process, they used the contingencies of multi level politics to get the policy goal of divided modernisation on the political agenda. This added another bottom-up dynamics of Europeanisation, which is nicely described by the policy-analytic model of multiple streams (Zahariadis 1999; Rüb 2007). The model helps to understand domestic actors who try to circumvent top-down pressure for change by means of manipulating the interaction of EU and domestic political moods, problem perceptions, and policy solutions that move as independent streams through processes of policy-making. The use of such streams by the welfare associations is best understood when entangling and contextualising their simultaneous activities on the domestic and European level of politics. Domestically, a financial scandal in one of the local establishments of the *German Caritas Association* unleashed an intra- and inter-organisational debate on the necessity of economic monitoring. The so-called Doerfert-Affair⁸ as well as the ensuing influential guideline for action from the *German Conference of Bishops*⁹ coincided with the

⁸ In 1999, a criminal intrigue, costing the *Caritas establishment Trier* more than 50 Million Euro, led to the arrest of the responsible manager Joachim Doerfert. (<http://www.phil.uni-sb.de/projekte/imprimatur/2002/imp020303.html>, accessed 5 May 2006).

⁹ In response to the Doerfert Affair, the *German Conference of Bishops* suggested guidelines for action (German Conference of Bishops, 2004).

major welfare reform of the Red-Green government, called the Agenda 2010. This opened a window of opportunity for the welfare associations to exert pressure for political action. In a skilful entrepreneurial fashion, their political representatives redirected attention from the deficiencies of the welfare associations to the malfunctions of the German legal system. Lobbying pointed at the German charity and foundation law that became criticised for its overregulation and lack of transparency. At the same time, the welfare associations offered themselves as advocacy issue networks to communicate internationally approved standards to the government. They assembled all third sector organisations that represented civil society in Germany to a pressure group that developed detailed reform suggestions in line with the welfare associations' strategy of divided modernisation. Coinciding with a change in government, their initiative came timely enough to profit from a second event, namely a grand coalition government that improved the reform perspective by making it part of the coalition contract and thus minimising the potential blockage of institutional veto points.¹⁰ From a strategic point of view, it is important for the welfare associations that they appear as innovative forces in domestic politics. They want to make EU involvement in the German regulation of services less necessary. Thus the domestic reform initiative is used to minimise and control EU pressure for change. At the same time, EU pressure is becoming redirected towards the government that finds itself under observation in its role to adapt the national charity and foundation law to internationally accepted standards.

On the European level, the welfare associations lobbied against the deregulation of services in the area of social

¹⁰ Coalition contract of the CDU/CSU and SPD, 11. November 2005; 83, 127, and 131 (<http://www.cducsu.de/upload/koalitionsvertrag/>, accessed 31 May 2006).

welfare and health. What came to their help this time was a massive bottom-up pressure against the EU Services Directive in Germany and other member states. In spring 2005 the supposed displacement of German workers by Central and East Europeans in the German mead producing industry became a public issue. The so-called dumping-scandal triggered a widespread outrage against the erosion of work standards. Public outrage in Germany was paralleled by the negative referenda on the draft Constitution Treaty in France and the Netherlands as well as a mass demonstration against the liberalisation of services in Brussels. In February 2006, just before the vote of the European Parliament, additional mass demonstrations took place in Strasbourg and Berlin. The welfare associations used these events to push their policy goals. They literally drove in the slipstreams of national and EU-wide protests, taking part in a successful alliance against the liberalisation of services.

5. Conclusion

The contribution examined the impact of state transformation and Europeanisation on welfare corporatism in Germany. It examined the domestic and European driving forces for change in the welfare associations' advocacy interest representation. Under the conditions of fiscal austerity and transformative political processes, leading to the "managerial state" (Rüb 2003), the corporatist arrangement has become threatened to the extent that patterns of disorganised welfare corporatism now end a period of relatively stable exchange relationships between welfare organisations, the state and civil society (Bode, 2004). Against this background, the welfare associations used European integration as an opportunity structure to optimise their strategy of divided modernisation. For two reasons, this strengthened welfare lobbying. Politically, the welfare associations gained autonomy vis-à-vis the state by networking with new political

actors, such as the Commission and non-commercial civil society actors on the European and domestic level of policy-making. In the domestic context this became evident with the major reform initiative, involving the whole third sector in Germany. The decisive factor in European politics was the strengthening of political partnerships with the welfare associations from the other member states. The grounding in civil society is something these organisations share across their differences in historical and cultural background. Economically, the welfare associations operate under an increasing modernisation pressure. Even though, the EU Services Directive ceased to provide a major threat to the welfare associations, their legal status could still be called into question. Given this, they have to continuously put their differences from commercial social service providers under political proof.

Given this, lobbying and corporatism are two sides of the same coin. Lobbying in European politics serves the protection and advancement of welfare corporatism. The synchronisation of political action in the multi-level system of the EU had synergetic effects on both levels – European and domestic, allowing for the enhancement of their ultimate policy goal to protect their unique legal status in a competitive and insecure environment. The gain in political autonomy, resulting from these activities, as well as the lasting economisation pressure had a consolidating effect on welfare lobbying. Lobbying helps the welfare associations to demarcate civil society from market and state and to effectively direct the public attention to their irreplaceable value-oriented role in European and national social policy. The current outcome of this endeavor is a more open and flexible arrangement of welfare corporatism that is less restrictive on the welfare associations' advocacy interest representation on behalf of the poor.

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