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Privatization of health sector in ex socialist states

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PRIVATIZATION OF HEALTH SECTOR IN EX SOCIALIST STATES

1. BACKGROUND

Privatization of health care system in ex socialist states is one of the most controversial political and legal questions. On one part there is a widening discrepancy between the costs of health care system and the capability of public finances to cover these costs. On the other part there is a widening discrepancy between the users' expectations and the technical and personal capability of health care system. So many governments in ex socialist countries see the privatization of health care system as a magical stick which will resolve all the problems. With privatization governments want to achieve following goals:

- to improve the cost – benefit relation in health system;
- to enlarge the citizens' responsibility to live healthy;
- to prevail the responsibility for the development of health system to private sector;
- to liberate themselves from the political responsibility for malfunctioning health care system.

Modern local governments are increasingly outsourcing to private firms for public service provision. Privatization is used as a solution where government programs are failing because private firms offer flexibility in program operation and management and are more adept at responding to changing circumstances than governmental entities. Governments also benefit from private partnerships by way of the resulting resources and personnel that become available for other uses (Villa, 2004; 1257).

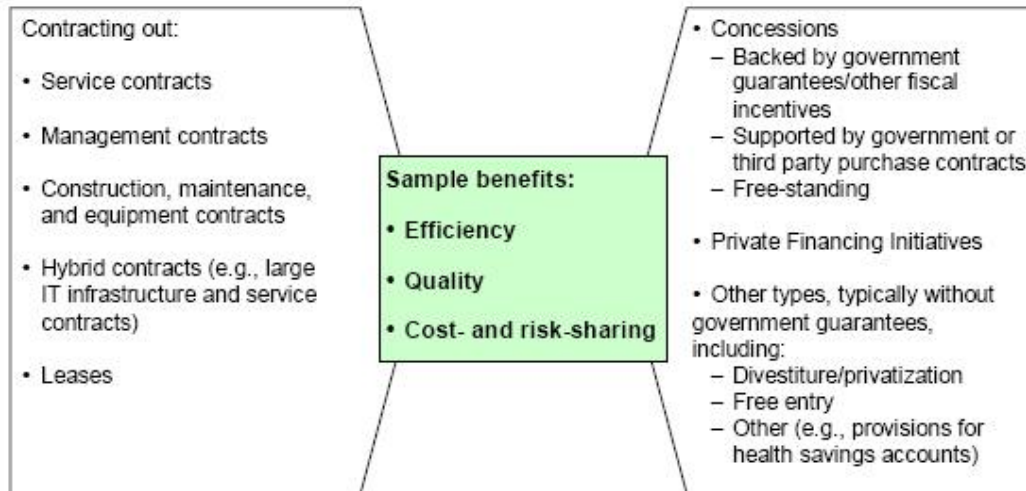
In this submission I'll try to discuss about the problems of health care system's privatization in ex socialist countries and about the necessary regulatory steps to be used for successful and citizens' friendly privatization.

2. TERMINOLOGICAL QUESTIONS

Before the discussion there are two terminological questions to be solved. First the term of public service privatization and second the term of health care system.

In everyday use (especially in newspapers and law journals) we use term of privatization without the proper explanation what we have in mind with such term. To see the complexity of this term, the following I cite the following scheme from the World Bank publication

Key types of public/private partnerships and collaboration in health sector



(source: Nikolic, Naikisch, 2006: 2)

From the abovementioned scheme we could see that the term privatization of certain public service cover all range of privatization types form the simple service contracts to a full privatization in which the public service becomes a typical market service. Privatization in ex socialist countries' public is mostly understood as a process in which the public assets will become private an in which all the benefits from the service will go to the private hands (often of foreign investors) provoking higher unemployment rate in certain sector. Such understanding of privatization is quite reasonable; if we take into account that term of privatization was firstly used in industry and market services at the beginning of 1990's and that this process indeed lead to abovementioned side effects. In my submission I'll use the term of privatization for all types in which health service remains public. I won't discuss about the full privatization in which the public service becomes market service.

The second term I should discuss about is the health care system. As a health care system we could define:

- insurance system which covers the cure costs and the costs of illness holidays;
- public service's providers in health care;
- providers of market services in health care.

For the discussion in this submission I'll use the term health care system only for the second definition i.e. for the public service's providers.

3. PROBLEMS OF HEALTH CARE SYSTEM PRIVATIZATION

Talking about privatization in health care system is always politically, legally and economically tricky. Political parties or their leaders, who are the attorneys for privatization, always point towards the states in which a certain degree of privatization yet exists. But nobody really shows in which part and to which degree this exists. To clarify the situation in health care system we should firstly divide public service in two major subgroups of services which are normally privatized:

- in first subgroup are the services which directly mean treatment of illness (diagnostic procedures, medical treatment of certain diseases, intensive care, palliative care);
- in second subgroup are services which are connected to the first group and are per se classical market services (catering, laundry and ironing, maintenance of building and equipment, accounting, etc.).

Privatization of the second subgroup is legally and economically not so problematic. It could be problematic only from political point of view in case that such privatization causes mayor unemployment. Politically, legally and economically more problematic is privatization of first subgroup. For the purpose of clear presentation, by my opinion, we should make the following two further dividing.

Firstly we should make a division on the ground of the health care's level which is quite normal in all systems. So we could talk of three levels in health care service:

- primary care – includes GP's and necessary services out of the office time;
- secondary care – includes hospitals and specialists who aren't part of primary care;
- tertiary care – includes specialized hospitals and institutions not part of secondary care.

Secondly we should make a division on the ground of the privatization degree in each health care's level. So we could generally speak of four different systems:

- private system – is a system in which, due to the historical and economical background, services are entirely run by private sector (either by private doctors or private companies or other private law organizations); e.g. GB;
- mixture system – is a system in which, due the historical and economical background, there is a coexistence of the private and public law organizations. The % of private and public law organizations in public service is primary a political question; e.g. Germany;
- privatizing system – is a system in which providers were in the past only the organizations of public law and now, due the political changes and capital pressures, more and more providers are private law organizations; e.g. all ex socialist countries;
- public system – is a system in which the health care system was and still is run by public law organizations; e.g. communist states).

Problems, shown in the following paragraphs of this submission, are connected with the privatizing system and could be found in all three levels in health care system.

First problem is legal and economic. It's connected to the constitutional principle of the rational (economic) use of public assets. So it's the question of cost – benefit analyses what to be run by private law organizations. So the basic questions within this problem are:

- what are the costs the cost benefit analyze should take into account? No doubt that we should take into account all the direct costs – i.e. costs paid by the state or insurance organization on the base of the concession or similar agreement. But there are also other costs which we should take into consideration but which aren't normally shown by the politicians. Such costs are costs of the public procurement

procedure, costs of the preparation of necessary legal documents, supervisions' costs, insurance costs, etc.

- what is the expected quantity of services and what is the measure of the quantity? Due to the demographic and illness changes there could be significant change on demand side in only one decade and these factors have strong effect on the expected quantity of services. E.g. today there are more coronary diseases and in next five years there will be more different types of cancer. Some today's diseases won't exist any more because of the vaccination or genetic drugs. The popular measure for quantity is SCC (similar clinical case) which could be put into a question because different age, sex, social and race groups reacts differently on a treatment;
- what is the expected quality? This is one of the tough questions. How can I compare the quality of the operation of appendicitis? How can we set the quality standards for chronic diseases like hypertension? The expected quality in privatized systems base, more or less, on users expectations. But user expectations on the quality field base merely on the personal relation with the health care personals and on waiting time, food and accommodation. To set the quality standards I must have the equal and not the similar things.

Second problem is connected with the constitutional principle of equality. We're dealing with the concept of public service. The old definition of public services in ex socialist countries was, that these are the services which are necessary for the state and for the society and that they should be provided no matter of their cost. Because of the budgetary problems, nowadays there is a new concept accepted. We talk about the services and goods which are available to all the citizens under the same conditions. On the other hand, states and political parties stress, that with the privatization there will be a competition between providers, so the price will fall and the quality will be better. This is a bit contradictory. To explain this we must stress the following facts:

- public service means administrative monopoly – there could be only the limited competition among the providers;
- in some cases we can't choose the provider – e.g. emergency medicine;
- health service is territorial service – people aren't willing to use the providers outside the town or local community in which they live or work, if not necessary;
- in all western European and also ex socialist countries there is a shortage of medical personal;
- private law providers can, under certain conditions, reject the users.

So the set competition in fact works in opposite way. The state with such privatization policy in fact creates differences between the citizens. The choice will base on the personal connections with the health service providers or on the base "first come, first serve".

There are some factors, which are typical for ex socialist countries. They are more or less behavioral, but they could have the impact on the regulative field.

The most important factor is apathy. If users have lived in the belief that nothing can be changed or improved for last 50 or 60 years, than is hard to change their mentality. For the users could be and normally is a problem to build internal decision system to choose the best solution. Further it could be a problem to force the users to make

decisions on the fields on which for the whole users` life the state decided. Users might not be prepared to take decisions and responsibilities for such decisions. It's easier that someone else takes such life time decisions.¹

Second factor is expectation. Public service prior the privatization sets to the users certain standards and needs. This can be even greater problem on the fields where the publicity is restricted or even prohibited. Why should the user go to the doctor in another town, if earlier it had in his town? Why should the user pay service which was till yesterday free? Changing user's behavior is hard and it takes time.² This factor becomes even more important in cases when the privatization is only partial.³ There is a doubt whether the payment for privatized part is really needed and that outcome is worth the given payment. On the other hand, there is users` silent perception, that the proposed privatized service has only intention to make profit to the service provider and not really to improve service. This perception is justified in case when politicians convince users in high quality of non – privatized public service. And yet, why user should pay extra for something what has already paid by taxes.

Third factor is the perception of personal injury in cases of personal public services.⁴ If the part of service is privatized and the public service provider covers also the privatized part, users are likely to use the existent provider also for privatized part of service. The most usual thinking is that the existent provider could be reasonably offended in the case of using other provider for the privatized part of service and that the public service will be in such case of lower quality when needed.

4. POSSIBLE SOLUTIONS

Introducing privatization of health service demands a high degree of political responsibility towards the citizens and providers. So the governing political coalition should clearly point out:

- the expected privatization's degree (i.e. expected % relation between public law and private law providers);
- level and services which will be privatized;
- expected outcomes (amount of savings on national or local level or expected improvement of service's quality for all citizens);
- the policy run during the contractual period.

Once decided for the privatization, at least the following problems should be resolved on the legislative or contractual level:

¹ Such cases are new pension funds in ex socialistic countries. Basic question is why should I decide which fund is safe for my pension regarding the problems of such private funds in USA (i.e. Enron case).

² E.g. people takes natural to find the good and cheap mechanic (even outside the place they live) but is not natural to seek for good medical service in other town,

³ In such cases users will maybe interested only in non privatized services, because they aren't willing to spend their own money on certain goods or services (e.g. users don't pay for better materials).

⁴ Case of medical service.

- cooperation between private law and public law providers. A conflict between the health care professionals in public law providers and private doctors could arise based on different payment for the same job. Some job could be not done because of unclear job division.
- the strong legal structure should be build for the cases when the market failure happens. The legislation shall provide effective mechanisms for the state intervention in the case that providers in privatized sector start to abuse their position.⁵
- the equal quality for the equal price for the user of health service should be achieved;
- publicly paid services should be legally and financially be separated from the market services to prevent the hidden augmentation of health costs;
- in case of lack of knowledge on the both contractual sides biphasic or multiphase privatization should be used, starting with simple contracting-out schemes and than moving towards concessions or B.O.T.

Literature

Irina A. Nikolic and Harald Maikisch: Public-Private Partnerships and Collaboration in the Health Sector; An Overview with Case Studies from Recent European Experience; HNP DISCUSSIONPAPER; World Bank; 2006

Lauren Villa: PUBLIC SERVICE, PRIVATE ENTITY: SHOULD THE NATURE OF THE SERVICE OR ENTITY BE CONTROLLING ON ISSUES OF SOVEREIGN IMMUNITY; ST. JOHN'S LAW REVIEW; vol 78; 2004; pg. 1257-1278;

⁵ Here the abuse of dominant position is not meant. What is meant, are the cases similar to the California energy gloomy.