

RECON Online Working Paper 2011/29

Choice in European Reforms of Social Policies The Case of Public Employment Services

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RECON Online Working Paper 2011/29
December 2011

URL: www.reconproject.eu/projectweb/portalproject/RECONWorkingPapers.html

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RECON Online Working Paper Series | ISSN 1504-6907

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Issued by ARENA
Centre for European Studies
University of Oslo
P.O.Box 1143 Blindern | 0318 Oslo | Norway
Tel: +47 22 85 87 00 | Fax +47 22 85 87 10
www.arena.uio.no

Abstract

Many European countries have embraced the choice agenda in welfare arrangements with a view of improving efficiency and/or quality. The motivations range from legitimising public welfare and administrative modernisation, to electoral politics and cost containment. Our research project included case studies on education, long-term care and public employment services which are very different in terms of stakeholders, fiscal relevance and the role of the European Union in enhancing choice within social and welfare institutions. The overall aim of the research project was to explore the possibility that rather than presenting a challenge to solidaristic welfare citizenship, the introduction of choice may in the longer term safeguard the public provision of services by providing the basis for a new political consensus. If so, this would be good news for Europe's nascent polity and emerging social union. This paper presents the research design for three case studies and presents the findings of the case study on the reform of public employment services coordinated in and influenced by European integration processes.

Keywords

Choice Reforms — European Union — Public Employment Services — Reform Politics — Welfare State

Introduction: Choice in European reforms of social policies

The point of departure for the project was that potentially profound changes in welfare arrangements are driven by the introduction of ‘consumer choice’ (Schelkle et al. 2010a). The choice agenda allows policymakers to introduce a new value into domestic debates on welfare state reform that is still centred on the trade-off between equity and efficiency. Not only is this politically attractive because it can appeal to important constituencies of welfare but it can also be backed up by economic reasoning that acknowledges social policy as a remedy for market failures and even as a productivity device.¹

This also fits squarely into the European Union’s (EU) agenda of modernising social policies in member states, to make them both more sustainable (i.e. fiscally viable) and inclusive (i.e. caring for outsiders of mainstream corporatist welfare arrangements). Introducing elements of choice and quasi- or near-markets can be a way of modernising welfare systems in a particular way. What is more, the freedom of movement under the Treaty increases de facto the options available to patients, jobseekers and parents.² This is attractive to the more resourceful, articulate and well-informed among European citizens. But it is also resented by others who see the social fabric and existing welfare arrangements to come under threat. The question then arises whether the EU, being inherently prone to support choice reforms, can and do build constituencies for European integration (European Commission 2008: 9; Huber et al. 2008: 16) without causing a backlash from others, opposed to such reforms. A relevant question in the context of the RECON project is who the constituencies for a choice agenda are: a deliberative conception envisages other constituencies (pluralist) than a regulatory state conception (elites) while a (con)federal idea of European democracy would expect domestic debates to be constitutive and possibly quite idiosyncratic. We have not been able to explore these questions systematically in our case studies. But in principle our research design allows us to ask how the overall thrust of reform packages, which is our primary concern, attracts political support and opposition and how European venues can be used for leveraging reforms or supporting the status quo.

We framed our research hypothesis that ‘choice’ is a major driver of welfare reforms in Europe in contrast to the literature on welfare retrenchment. The most prominent voice in this literature is the ‘new politics of the welfare state’ (Pierson 1994, 2001), which has argued that over the foreseeable future ‘permanent fiscal austerity’ is the main driver of welfare state restructuring. This was not to distance ourselves from this literature, but to build on one of its basic insights: The welfare state has created a multiplicity of stakeholders that will resist retrenchment and so even governments that did not lack resolve, like the Thatcher or Reagan administrations, achieved at best restructuring. The next step we took is to build on this insight and hypothesise that

* I am greatly indebted to Deborah Mabbett (Birkbeck, University of London) who generously shared here knowledge in this area with me. The research input of Max Freier (LSE, ECB) was also much appreciated. Finally, I am most grateful to Christa van Wijnbergen and Joan Costa-i-Font for their collaboration on this project.

¹ This can be based on the ‘new economics of the welfare state’ (Barr 1992; Le Grand 1991; Lindert 2002).

² Obviously, a political economist would ask whether the increase in individual options triggers responses that may reduce social choices over time, a proposition that the ‘race to the bottom’ hypothesis suggests in exaggerated form.

reformers may not even start with the announcement of cuts but with more inviting proposals to create constituencies for a change of the status quo. The hidden agenda or the overall outcome may still be retrenchment, as for instance Hacker (2005) argued with respect to privatisation in the US. This would have implications for how European integration is perceived if, as suggested above, it is broadly identified with a choice agenda. Does this go hand in hand with hidden, if not overt retrenchment for which the EU will be blamed? A tentative answer to this question as far as employment services is concerned suggests that the EU favours administrative modernisation rather than cost cutting.

The methodological approach is in line with the new politics of welfare which analysed major policy programmes as the source of reform politics (Pierson 1994: 39-40). How a policy is institutionalised determines which stakeholders are mobilised in favour of the status quo and which have reasons to push for change, how resources are allocated and how rules constrain or facilitate certain changes. This way of looking at the politics of reform follows an older tradition in comparative public policy research, founded by Erich Schattschneider and Theodore Lowi, who thus responded to the claims of political pluralism where it was interest group politics that produced certain policies. Our take of the opposite maxim 'new policies create a new politics' is to infer from choice reforms we observe what the political motivations and possibly economic rationales are. We are not so much interested in the original intentions of reformers, than in what has actually been the outcome in terms of the new stakeholders created and risk pools separated or created.

Our case studies cover both policies where the cost containment or even retrenchment motive seems to be overwhelming (health care and long-term care) and where this is unlikely to be the main driver (education and public employment services). Apart from this relevant variation on the cases, we also wanted to have maximum variation as regards the relationship to Europe (Schelkle et al. 2010a: 11-14). In health care – and increasingly in long-term care – the EU actively promotes cross-border health care provisions, in particular by allowing patients to go for treatment to another country and get this treatment reimbursed. Notorious Court decisions, but also a Directive on patient rights, underline this EU agenda of choice in health care, although it is also confined to cross-border mobility and does not extend to recommendations of introducing quasi-markets. School education is at the other extreme in that the EU has hardly any channel of influence that would affect parents and pupils. Existing exchange programmes and work programmes do not amount to more than facilitating the mobility of learners. But the introduction of private sector alternatives to state schools is aligned with the drive for the 'knowledge-based society' as well as the non-partisan politics of European integration that Johnston and van Wijnbergen (2010) find for domestic politics in this area. Employment services is a case in between; a well-known Court ruling forced public employment services to prove that they can serve their clients or must open it to private sector competition. Following the Organisation for Economic Co-operation and Development (OECD), the European Employment Strategy has strongly suggested reforms (Dostal 2004). There are tangible outcomes of this effort, such as Job Portals and an active network of Heads of Public Employment Services (HoPES) that meets twice a year (Weishaupt 2010).

In the following, the case of employment services is presented in some depth. The next section outlines the specifics of the research design in the PES case study, discerning the various configurations of choice reforms that allow observers to

identify the thrust of a reform. The following section then applies this framework, using the PES Monitor that has been established under the auspices of the EU. The concluding section explores the various channels of EU interactions with domestic reform processes and comes back to the core question of the RECON project, namely how the findings relate to democracy in Europe.

The case of public employment services

This section tries to answer two questions before it proceeds to identify reform configurations and their particular thrust. First, *how* can choice and competition be introduced into public employment services (PESs)? And secondly, *why* would reformers want to introduce these elements of choice and competition into services like job placement and vocational training? It should be noted that this paper concentrates on choice for jobseekers, not employers, since in the context of the RECON project on reconstituting democracy in Europe we are interested in how changes affect social citizenship, rather than in, say, the distributive effects of economic reforms as such.

What is there to choose and why?

The various ways of introducing choice and competition can be boiled down to three. First of all, the jobseeker or out-of-work person – who may be on incapacity benefits or not entitled to benefits at all, like young school-leavers – can be given choices directly, namely over the measure he or she wants to take. For instance, in France, unemployed youth in ‘sensitive urban areas’ can choose for the first three months after registration whether they want to enter a training programme, get an internship at a workplace or receive benefits. In Germany, a voucher system allows the jobseeker to choose the provider of placement services or a training course – the providers can redeem this voucher after successful placement. Such voucher schemes are manifestations of quasi-markets in that they allow beneficiaries to choose and ‘buy’ the services they prefer but their purchasing power is equalised since the government pays (Le Grand and Bartlett 1993).

Second, one-stop-shops integrate all services and benefit disbursement under one roof, so that a jobseeker can see all the options available. Again, the French examples illustrates that the choice over training, job or benefit can be offered more conveniently and more effectively if the PES is in charge of all three options; otherwise there may be duplication or a high rate of non-take-up. However, we should also note that one-stop PES invariably strengthens administrative control by the benefit-paying agency and can use withdrawal of services as a sanction, thus effectively constraining (costly) choices. A case in point is a regional PES in Belgium which writes: ‘The [PES] VDAB cooperates closely with RVA-ONEM [the benefit-paying agency]. Information about jobseekers reluctant to take on a suitable job is passed on to RVA, which can then decide to cancel their unemployment benefits.’³

Lastly, partnerships with a wide range of providers of services tend to widen choices from the supply side. Devolution to lower levels of the public administration and

³ See the entry for the Flemish PES in the PES Monitor. Available at: <<http://www.pesmonitor.eu/Database/CountryReport.aspx?PES=3&Lang=EN>>.

bringing in private offers, both from the non-profit and the for-profit sector, is often justified by arguing that a move away from a centralised public system provides choices more adapted to local market conditions. The involvement of social partners, that is trade unions and employers associations, has an ambiguous effect on choices as Schelkle et al. (2010b) argued based on an in-depth study of German and Dutch reforms. In particular trade unions, but even representatives of big employers, are likely to resist choices that serve a work-first approach. Such an approach prioritises getting jobseekers into work quickly even if this requires undermining standards at the low end of the wage distribution. But contrary to a popular literature on the pervasiveness of insider-outsider labour markets (OECD 1994; Rueda 2007), social partners do not oppose choice reforms that help to implement a human-capital approach, i.e. that give people choices to upgrade their skills and thus become employable at collectively set reservation wages.⁴

Turning to the question of why, our research design takes seriously that even within a social policy area such reforms must be seen as part of a package. In our framework paper (Schelkle et al. 2010a), we identified four motivations for choice reforms that are theoretically relevant for the case of PES. There is, first, more or less hidden cost containment if we follow the new politics of welfare in its most straightforward prediction (Hacker 2005; Pierson 2001). Second, there has been considerable private interest pressure leading to supply-side liberalisation over the last decades as standard political economy explanations contend (Blomqvist 2004; Streeck and Thelen 2005). Third, administrative modernisation has been going on in virtually all public policy areas and was intensely studied in the social policy and public management literature (Le Grand and Bartlett 1993). And fourth, electoral politics can always play a role; a specifically relevant political science literature deals with the decline of Social Democratic parties and their attempts to win over new constituencies in the centre of the political spectrum (Kitschelt 1999; Pontusson 1995). In identifying these strategies, we are not so much interested in what reformers say they do – although this can provide a clue and some supporting evidence – but in whether the various reforms amount to a discernible thrust of the measures taken, possibly without them being intentionally designed that way. This way we can grasp structural trends that the agency of national reformers cannot control, for instance demographic pressures and their effect on economic needs and political preferences but also institutional configurations that shape any reform. A particular important trend in the present context is European reform coordination that may prioritise certain elements, such as the one-stop principle, which may look innocent and neutral at first but can change the intended effect of a reform.

Which patterns of choice reforms?

In the case of PES reforms, how would we identify that one reform package amounts to one of the four patterns? *Cost containment* is identified as the overall thrust if the following reform package would be observed: Direct choice elements are limited because they tend to be costly. The one-stop organisation of integrated benefit disbursement and placement services is used to control the delivery of services or to sanction the lack of a jobseeker's initiative by benefit withdrawal. Services are contracted out in arrangements where providers either get fixed budgets and/ or are

⁴ The helpful distinction between a work-first and a human-capital approach in employment services follows Bruttel and Sol (2006).

paid for results only. This raises the related problems of cream skimming and parking because it gives incentives to providers to pick the easiest to place jobseekers and avoid putting much effort into the placement of those who would need it most. Also, involvement of social partners is already low or becomes weaker as both employer representatives and trade unions favour generous services in this area. Expenditure on labour market policies (LMP) should obviously decline. Supporting evidence for this thrust is the announcement of benefit cuts or administrative reforms that emphasise rationalised procedures intended to reduce costs.

Supply side liberalisation is identified as the gist of a reform package if the following elements would come together: Jobseekers get direct choices, such as vouchers for opting into training programmes, because this creates (quasi-)market opportunities for private suppliers. The one-stop principle is absent since it strengthens the hand of the administration. Partnerships with private providers consist to some or a large extent of process-based contracts, that is they are paid for providing a service, not for achieving a specific result. Involvement of social partners is probably low or reduced as they compete with private providers for influence on the policy stance. In terms of LMP expenditure, we see a shift towards activation but not overall retrenchment. Reforms that opened up the public monopoly conspicuously would provide support for the interpretation that a liberalising reform thrust follows supply side influence.

Administrative modernisation that serves to actually legitimate public services by emulating market mechanisms is discernable if the package would have the following elements: Direct choice elements are not a prominent feature because they reduce control of the administration and the market failures of adverse selection, cream-skimming and parking, are likely to occur. For the same reason, partnerships with the private sector are characterised by a clear principal-agent relationship that keep core functions within the PES while actual service delivery may be outsourced to private providers with constrained room for manoeuvre. The one-stop principle is embraced for the obvious reason that it gives the administration a handle for delivering more effective services and prevent 'waste' of public resources. There is no rocking the boat with established social partners that are after all major stakeholders whose support the modernisers are seeking. A shift in LMP expenditures on activation within a human-capital approach is likely as this reorientation can demonstrate how much more effective the PES has become. This interpretation of changes as legitimating public sector modernisation would be underlined if major reform proposals emphasise 'customer orientation' generally.

Finally, PES reforms can amount to *electoral politics*, in PES reforms typically of Social Democratic parties in search for constituencies outside the traditional and increasingly less popular corporatist infrastructure. Employment services were once a core element of this infrastructure and many PESs are actually governed by tripartite boards. The monopoly was considered to be necessary 'in order to provide all jobseekers with the same opportunities to find work' (Fay 1997: 3). But the accusations, from the OECD and an academic literature on insider-outsider labour markets, made it a potentially winning strategy for centrist Social Democrats to promote a 'work-first approach' to job placement and thus conspicuously challenge their traditional alliance with the accused insiders (Schelkle et al. 2010b). Such an electoral strategy can be identified in the following configuration of reforms: Some direct choice elements make it obvious that reforms are concerned with improving the situation of outsiders but I would not expect this to be the most prominent element –

after all, centrist Social Democrats do not want to be seen to be ‘soft’ on the jobless either. The one-stop organisation allows to use the benefit system for implementing the work-first approach, for instance through wage subsidies or supplementary payments for child care and transport. Partnerships with private providers help to build new constituencies. Social partners who were once strongly involved become deliberately curtailed in their institutional role. In terms of expenditure, it is again likely that we see a shift towards activation that underpins the priority of reintegrating outsiders into the labour market. Reform intentions that stress the priority of getting people into work and an enhanced customer orientation with respect to jobseekers support the identification of a reform package as the outcome of electoral politics.

Table 1 summarises how the thrust of reform strategies is identified in the following section.

Table 1: The overall thrust of PES reform packages.

	<i>Cost containment</i>	<i>Supply-side liberalisation</i>	<i>Administrative modernisation</i>	<i>Electoral politics</i>
Direct choice elements	Restricted	Prominent	Not prominent	Some
One-stop principle	Yes, benefits as sanction	No	Yes	Yes, to support placement
Partnerships with private providers	Yes, results-based contracts, and/or fixed budgets	Yes, preferably process-based contracts	Only at the margin, clear principal-agent delegation	Yes
Involvement of social partners	Reduced or low	Reduced or low	Same or increased	Reduced from strong involvement
Expenditure on LMP	Decreasing	Shift to activation	Shift to activation	Shift to activation
Self-declared major reforms (only as supporting evidence)	Benefit cuts, administrative rationalisation	Opening public monopoly	More ‘customer orientation’ generally	Work-first approach, ‘customer-orientation’ towards jobseekers

This summary shows that an overall thrust of cost containment can easily be discerned from supply side pressure for liberalisation while the distinction between cost containment and administrative modernisation as well as from electoral politics is more subtle. The legitimisation of public services through administrative modernisation can be seen in the fact that private providers do not play such a prominent role and there is no emphasis on disowning the social partners of their stake in the service. Electoral politics that takes against institutional insiders can be discerned by the presence of choice elements which empower non-employed clients, by the use of the one-stop shop in a less punitive way and by changing a setting that was once characterised by a strong role of social partners.

PES reforms in major European countries

The data is taken from the PES Reform Monitor.⁵ This is a database that the German *Bundesanstalt für Arbeit* (federal employment agency) initiated when the last step of the Hartz reforms had been taken in 2005; it is since then run by a small group of agencies from Austria, Belgium, France, Germany, and the Netherlands in order to peer review their reforms. The participating countries are all part of a network of Heads of PES (HoPES) that is partly financed by the EU Commission and meets twice a year to exchange experiences. Using this database means that our sample is made up of a self-selection of agencies, which consider their work and reforms since 2005 to be worth reporting. While this introduces a bias, it allows us to assess what was achieved by those who demonstrate will to reform. Another advantage in the context of the RECON project is the European link of this network.

A first stab at the comparative data shows that these twelve countries must have rather diverse motivations still. Some have high unemployment rates even in 2007, after a relatively benign economic growth phase and before the crisis set in (Belgium, France, Germany, Greece and Poland) while others have no obvious pressure (Austria, Ireland, Netherlands and Slovenia). Employment indicators that the European Employment Strategy elevated to headline benchmarks show in Table 2 that some clearly underperform against the Lisbon targets: overall employment rates in 2009 are considerably below the Lisbon target of 70 percent in some countries (Belgium, France, Greece, Ireland as a relative newcomer, and Poland); female employment rates are considerably below 60 percent in four of those five underperformers (Belgium, Greece, Ireland, Poland); and employment rates among the 55 to 64 year olds are considerably below 50 percent in a diverse set of countries (Austria, Belgium, France, Greece, Poland, Slovenia). In this light, Belgium, Greece and Poland seem to have particularly problematic employment situations, with France and Poland as borderline case. But we also observe countries with no problems of achieving the Lisbon targets, notably the Netherlands, Sweden and the UK, with Finland and Austria as borderline cases. It is therefore noteworthy that the Netherlands and the UK have been among the most ardent PES reformers.

The Appendix to this paper lists the reforms relevant for the exercise of determining the overall thrust of choice and competition reforms in the PES of the twelve participating member states; they amount to thirteen cases since the Flemish and the Wallonian PESs submitted their own entries. It is then possible to use the criteria listed in Table 1 to determine qualitatively what the reform packages amounted to in each country. Obviously, this is a very preliminary exercise since I am not providing much context and use the PES Monitor like raw data even though it is generated in a peer review exercise that is for presentation.

Each entry in Table 3 before the last column shows with which thrust (cost containment, supply-side liberalisation, etc.) the particular reform element (direct choice options, one-stop principle of benefit disbursement and service delivery, etc.) is compatible. Obviously, some reform elements cannot distinguish between overall patterns, for instance introducing the one-stop principle is compatible with three patterns and excludes only supply-side liberalisation.

⁵ Available at: <<http://www.pesmonitor.eu/Home/Default.aspx?Lang=EN>>.

Table 2: Lisbon employment indicators for the PES Monitor countries. Source: European Commission (2010), July update.

	Unemployment rate 2007 ; 15+	Employment rate 2009 ; 15-64	Female	Elderly, 55-64
EU-15 average	7.0	65.9	59.9	48.0
Austria	4.4	71.6	66.4	41.1
Belgium	7.5	61.6	56.0	35.3
Finland	6.9	68.7	67.9	55.5
France	8.0	64.2	60.1	38.9
Germany	8.6	70.9	66.2	56.2
Greece	8.3	61.2	48.9	42.2
Ireland	4.6	61.8	57.4	51.0
Netherlands	3.2	77.0	71.5	55.1
Poland	9.6	59.3	52.8	32.3
Slovenia	4.8	67.5	63.8	35.6
Sweden	6.2	72.2	70.2	70.0
United Kingdom	5.3	69.9	65.0	57.5

Table 3: Determining the thrust of PES reforms.

	Direct choice options	One-stop principle	Partnership with private providers	Involvement of social partners	LMP expenditures	Thrust of reforms?
Austria	CC; AM	CC; AM; EP	CC; SL; EP	AM	SL; AM; EP	(AM)
Belgium-Flanders	(SL); EP	SL	SL; EP	AM	SL; AM; EP	(SL)
Belgium-Wallonia	(SL); EP	CC; AM; EP	SL; EP	AM	SL; AM; EP	EP
Finland	CC	SL; EP	All	AM	SL; AM; EP	?
France	AM; EP	CC; AM; EP	AM	AM	all	AM
Germany	SL; EP	CC; AM; EP	CC; SL; EP	EP	CC	EP
Greece	CC; AM	CC; AM; EP	CC; SL; EP	AM	n.a.	?
Ireland	CC; AM	SL	AM	AM	CC (stable but low)	(AM)
Netherlands	CC; AM	CC; AM; EP	CC; EP	EP	CC	CC-EP
Poland	CC	CC; AM; EP	CC; SL; EP	CC; SL	all	CC
Slovenia	CC; AM	CC; AM; EP	CC; SL; EP	EP	CC	CC
Sweden	SL; AM; EP	SL	CC; SL; EP	AM; EP	all	SL-EP
United Kingdom	CC; AM	CC; (AM; EP)	CC; SL; EP	CC; SL	CC (stable but low)	CC

Note: CC – Cost Containment; SL – Supply-side Liberalisation; AM – Administrative Modernisation; EP – Electoral Politics.

The hypothesis that cost containment is not an overriding imperative in these times of ‘permanent austerity’ finds some support. Nine out of the thirteen reform packages

cannot be classified as such. It is also noticeable that three out of the four cost containment patterns emerge in countries that are the three lowest spenders on LMP, namely Poland, Slovenia and the UK (all below one percent of GDP). So the overall thrust of their reforms cannot be rationalised by the fact that governments tried to reduce public spending by reining in expenditure in this area. But then, PESs are not a costly part of social welfare and LMP expenditures not a major candidate for retrenchment on fiscal grounds.

There is also evidence that the three other candidates for an alternative to cost containment are indeed contenders to be taken seriously. Parentheses indicate that a particular thrust is not consistent across all dimensions. Flanders and Sweden show a dominance of supply-side liberalisation. However, the declared major reforms do not resonate with this interpretation – in Flanders it is all about better organisation, fitting more a modernisation agenda, while the Swedish PES is the only agency in the sample that does not mention any major reform. A possible explanation is that supply-side liberalisation is too contentious to be declared openly in this area in countries with strong corporatist institutions, such as Belgium and Sweden. Administrative modernisation characterises reforms in Austria, France and Ireland which is a startlingly diverse mix of countries. Here, the interpretation resonates directly with declared major reforms in Austria and France. Ireland's emphasis on life-long learning does so, too, if we can interpret it as a human-capital strategy, which distinguishes it from electoral politics. What makes me reluctant to endorse this interpretation of a human-capital strategy is the fact of very low LMP spending in Ireland – the government does not put the money where its mouth is. Finally, electoral politics emerges as the most plausible pattern in Wallonia and Germany, while the Netherlands and Sweden also show some influence. All four countries (one of them a region, of course) are among the highest spenders on LMP. In both Wallonia and Germany, the reforms pronounced as major support this interpretation; it is also very explicit in the Netherlands. There are two reform packages, namely those of Finland and Greece, that I find impossible to classify.

The PES Monitor gives us the state of play in the participating member states as of 2008-2009. It would be interesting to see whether the overall thrust becomes more pronounced or more blurred over time. A particular area to watch would be the evolution of contracts with private providers on which the Monitor entries do not give consistent information. This is possibly the case because the exact form of contracting out is in a constant state of flux, for instance it has changed continuously in the UK that started this early. Latecomers like Austria, France and Germany have taken to experimentation with pilot schemes. Both phenomena indicate that authorities have become aware that each form of contract has its own problems from the reform-minded public authorities' point of view. The old cost-plus contracts, based on established charitable relationships and rarely on public tenders, became perceived as inefficient because costs were creeping up over time (like in all services compared to manufactured commodities) and allocated price risks exclusively to the public buyer. Yet payment-by-results is susceptible to the market failures of cream skimming and parking which therefore fails on the social policy goal. Payment-for-the-process after a competitive tender may not show much difference to what a public provision of services would yield. Besides, both contracts-by-results and process-based contracts have often reverted back to cost-plus contracts because the winners of

a competitive tender come back to the government after some time and reveal that actual costs are higher than they estimated when bidding for the contract.⁶

What this also implies is that even in a setting open to Europeanisation, we cannot regard the coordination of reforms in the EU as a homogenising force that imposes one model on all. Does this mean that European integration is incomplete trumped by national democracies or that European integration is proceeding but with national democracy as a guarantor of local differences?

Reconstituting democracy in Europe through choice?

Some of the PESs taking part in the Monitor explicitly acknowledge how much they owe to the European Employment Strategy (EES). This holds in particular for the entries of the Greek, Irish, Slovenian and to a somewhat lesser extent the Swedish authorities. But the EES is only one source of EU influence. This section reviews the EES and three other channels of influence through which European-level policy processes may have affected the reform of employment services in member states more generally.⁷ I follow a chronological order which shows that the EES came actually quite late.

First there was a judicial channel: A landmark ruling by the European Court of Justice (ECJ) in 1991 cast doubt upon the legality of vesting a legal monopoly over placement services in a single public agency. Then there were ideational and deliberative channels that evolved interactively: In 1993 the OECD began a programme of research into public employment services as part of the agenda around the Jobs Study, and the Commission subsequently followed this lead in the development of the European Employment Strategy (EES). In 1997, the already mentioned network of Heads of PESs (HoPES) was formed under the auspices of the EES, and the Commission issued a Communication on 'Modernising public employment services to support the European Employment Strategy' in 1998. Subsequently, the Lisbon agenda was launched and re-launched. Finally, there was a legislative channel: agreement was reached on a Directive on Temporary Agency Work that can support a work-first strategy.

Challenging the PES monopoly in *Höfner*

In the *Höfner* case in 1991,⁸ the ECJ had to decide whether a monopoly in employment services for white-collar workers, specifically in executive recruitment, was compatible with EU competition law. It ruled that a public monopoly 'cannot avoid infringing' the Treaty article prohibiting the abuse of a dominant position if 'the public employment agency is manifestly incapable of satisfying demand prevailing on the market for such activities'. Put differently, a public monopoly in this area is allowed as long as it is not obviously failing. Obviously, this ruling aroused

⁶ I am grateful to Deborah Mabbett (Birkbeck, University of London) for a discussion of this point.

⁷ The following follows closely Schelkle et al. (2010b), a contribution co-authored with Deborah Mabbett and Max Freier, to be published in a book on the EU after the Lisbon Decade, edited by Mitchell Smith.

⁸ Case C-41/90, *Höfner & Elser v Macrotron*.

considerable interest because it implies that public services must pass certain performance standards or EU competition law can challenge them.⁹

But this was not a bolt that struck governments out of the blue. In 1990, many European countries had PESs which enjoyed a legal monopoly over the process of job intermediation: the matching of employers to workers (Walwei 1991). The effectiveness of these legal monopolies was limited and diminishing. Direct recruitment by employers, via newspaper advertisements or, increasingly, the Internet, was the main way of filling jobs. Non-profit services, such as careers advice for students, were outside the net of regulation but had significant roles. Specialised 'head-hunting' services were tolerated, even though they were technically unlawful. Temporary agency work expanded, particularly in white collar areas. For instance, the PES monopoly was removed in the Netherlands in 1991 and in Germany in 1994, but even before then temporary work agencies had been allowed to operate (Konle-Seidl and Walwei 2001: 20, 29; see also Mosley and Speckesser 1997).

The ECJ ruling thus gave an impetus to efforts already under way in some member states to improve the performance of employment services. Yet the legal ruling was limited in scope to failing services where private competitors had entered, and so it is not clear why it could trigger a sustained trend towards the removal of PES monopolies. The trend was sustained by two further reform dynamics. First, if PESs lost their monopoly, their work could be reoriented to focus on the most disadvantaged jobseekers, leaving others to find jobs through private networks and service providers. Second, the creation of new legal private employment service providers would mean that some publicly-financed employment services could be contracted out to the new entrants. Both reforms were contentious.

One argument for the status quo was that 'the PES needs a monopoly position in order to provide all jobseekers with the same opportunities to find work' (Fay 1997: 3). Given that some jobseekers have an advantage in gaining employment because of their superior networks and contacts, the PES can be seen as combating the resulting inequalities by ensuring that jobs are publicly notified and open to all (Barnard 2006: 36; Sciarra 2001: 245). These arguments did not play any role in the C-41/90 *Höfner* decision. The Court refrained from discussing the substantive reasons for a public monopoly in this area but developed the argument that a PES is an 'undertaking' (Court speak for an economically active entity) subject, in principle, to competition law. However, studies indicate that PES monopolies were not, in practice, able to make much contribution to equitable access to jobs, because they were being bypassed by other modes of labour market intermediation, such as direct advertising and recruitment by employers. Thus, the EU's judicial intervention fell on fertile ground.

The network of heads of PESs and the 1998 Communication

The European Commission adopted much of the OECD's analysis of employment policy (Dostal 2004). For the OECD, the answer to the question of how to define the

⁹ This implication for public services was confirmed in subsequent case law where not only a segment of the labour market but the inefficiency of the entire (Italian) placement system was at stake – even so, the ECJ ruling did not completely dismiss the national prerogative but left it to national courts to scrutinise the (regional) monopoly for its compatibility with EU competition law (Sciarra 2001: 256-259).

role of PESs in the new environment was simple: they should focus on the provision of services to disadvantaged groups, and promote activation policies by providing a close link between benefit administration and service provision, for example through 'one stop shops' (OECD 1997). The EU Communication on Public Employment Services in 1998 by contrast was equivocal about possible directions of reform. It can be read as the manifesto of HoPES, which had been formed shortly before. Thanks to detailed research by Weishaupt (2010), we have a good understanding of how HoPES embraced 'modernisation', particularly New Public Management (NPM) reforms, in its efforts to secure the position of PESs in the face of potential private sector competition. However, HoPES members were not enthusiastic about the OECD agenda, which would marginalise PESs in the general market for employment intermediation services.¹⁰

Weishaupt (2010: 17) suggests that heads of PESs used international exchanges to bolster their case for resources and for a pivotal role in employment mediation. They accepted that PESs should be 'modernised' to deliver the EES more efficiently and effectively. But what did modernisation entail? First and foremost, the Communication emphasised the size of PESs and their importance in employment mediation, and argued that PESs had to continue to receive notice of a high share of vacancies if they were to fulfil their functions. This meant that they had to offer an attractive service to employers, devoting resources to particular sectors and embracing the use of new technology. The Commission's Communication went on to argue that PESs had a central role in implementing active labour market policies, ranging from individual job search assistance to organising training and channelling subsidies to employers. PESs could ensure that unemployment benefit recipients made active job search efforts, and were 'a major element in transforming passive income support schemes [...] into active labour market measures' (European Commission 1998: 6). Employment guidelines which called for unemployed people to be offered jobs, training places or other 'employability measures' within a specified period were, the Communication asserted, the prime responsibility of PESs, which would 'contribute to the co-ordinated delivery of all services to jobseekers' (European Commission 1998: 15).

While the Communication does not use the language of choice, it envisaged the PESs becoming a pivotal purchaser in quasi-markets for the delivery of services to the unemployed. It argued that PESs had to respond to the 'new market reality' including the increased use of short-term contracts, the priority of reintegrating unemployed people, and the entry of new providers of employment intermediary services (European Commission 1998: 10). 'PESs should be strategic and lead actors' with an important European dimension to their work, cooperating and sharing best practices in modernisation as well as participating in the recently-established European job information exchange, EURES. The final recommendations of the Communication put 'promoting access to vacancies' first, implying that PESs should continue to compete to provide a good service to employers. While moves towards one stop shops providing placement services in conjunction with benefit payments were described, this came with the caveat that 'the rationale behind benefit administration is not automatically compatible with the objective of placing people in jobs' (European Commission 1998: 12).

¹⁰ King (1995) provides the leading account of how the association with benefit administration produced second-rate employment services in the UK and the USA.

The influence of HoPES on the Communication can be seen as a sort of bureaucratic capture of the policy agenda. It suggests that the Commission is responsive to regulatory networks that provide channels of influence through key personnel, rather than relying solely on technical expertise and the persuasive power of economic analysis. The HoPES network meets now twice a year, both at the level of the heads of services and at the level of the deputies, in the member state that has the rotating EU Presidency. The meetings are chaired by the Commission and typically consist of workshops that serve the exchange of policy experiences and communication with other participants in the area, such as the European network of temporary work agencies.

The Lisbon Agenda on jobs and growth

The Lisbon Agenda, launched by the European Council in 2000, set out to be the key policy vehicle for economic and social modernisation in the EU. In the first five years of the Lisbon process, a few parts of the 1998 Communication on Employment Services were carried forward into the Lisbon Agenda. Social partnership got top billing in the Council conclusions on 'more and better jobs': the first paragraph stated that '[t]he social partners need to be more closely involved in drawing up, implementing and following up the appropriate guidelines' (paragraph 28). EURES also figured, with a call for 'providing employment services with a Europe-wide data base on jobs and learning opportunities' (paragraph 29). Apart from this, there were no recommendations relating to the organisation of employment services.

In the re-launched Lisbon Agenda in 2005, there is even less attention to employment services. But the Lisbon Agenda asked governments to achieve goals for which PESs were instrumental. We can pin down the expected policy outcomes in Employment Guideline 19, which stipulates the need for 'inclusive labour markets' (European Commission 2010). In 2009, Employment Guideline 19 was translated into seven indicators which would facilitate the monitoring of relevant outcomes, such as the long-term unemployment rate and the marginal effective tax rates for low income earners. Nine indicators of the policy stances of member states were also adopted, including for instance spending on labour market policies. Implied in this structure were unspecified causal mechanisms linking the indicators for monitoring outcomes with the indicators of policy stances (called 'indicators for analysis'). The deliberative process was meant to facilitate policy learning by allowing the performance of alternative policies to be benchmarked and evaluated in the light of the indicators for analysis.

Contrary to the hope that Lisbon could coordinate a politically noncontroversial search for best practice, monitoring and analysis revealed policy dilemmas rather than policy solutions. Take the overarching goal that governments should 'make work pay for job seekers' and the specific advice to reduce high marginal effective tax rates on low earners significantly. The overarching goal and its widely-used policy operationalisation are at odds. Making work pay meant for many governments lowering taxes or social security contributions (SSCs) and introducing in-work benefits for low wage earners. But the more generous these work incentives are, the higher the marginal effective tax rates from phasing in taxes and SSCs and phasing out means-tested benefits when workers' gross earnings rise. There is no immediately obvious way around this dilemma, which is a feature of any means-tested system (Atkinson 1999: 83-91, 150-161).

The organisation of the peer review process around indicators was an impediment for applying the open method of coordination (OMC) as a participatory new mode of governance. When the pursuit of an indicator revealed adverse consequences, the noisy objections of policy stakeholders were silenced by adding yet another indicator. The participation of diverse interests in the policy process resulted in indicator proliferation at the EU level, whereas, at the national level, faced with inherent dilemmas and contradictory goals, governments had to make choices and ignore some indicators. Paradoxically, the proliferation of indicators tended to make the policy process, which set out to be inclusive and participatory, less and less attractive for particular stakeholders. Some non-governmental organisations (NGOs) and social partners are not specialists in reading such indicators and may be rightly suspicious of the stylised picture any such indicator can show. Some also have principled reservations against 'evidence-based' policymaking that privileges efficiency norms over other, less readily quantifiable norms.¹¹

The directive on temporary agency work

Conspicuous by its absence from any EU policy document on employment services is a statement on which private providers may replace or complement PESs. Temporary work agencies (TWAs) were keen to get into this quasi-market but their instrumental role in the flexibilisation of labour markets generally made their involvement quite contentious. The protection of agency workers was first mentioned at the EU level in a Council Resolution in 1974 which was concerned with a social action programme. The Commission followed this up in the early 1980s and submitted draft directives to the Council on part-time work and on fixed term, temporary and agency employment. These were abandoned. In 1991, a health and safety measure for temporary workers was passed, then in 1997 the Directive on Part-time Work (Vosko 2009: 400). Subsequently a Directive on Fixed Term Work was concluded on the basis of a framework agreement between the social partners, and this method was applied in 2001 in an effort to formulate an agreement on temporary agency work. This agreement did not materialise, largely due to conflicts between Eurociett, the organisation representing TWAs, and user firms represented by UNICE, a European employers association (now BusinessEurope).

Following the failure of negotiations, the Commission sought to legislate through the standard Community Method, bringing forward a proposal for a Directive in 2002. The basic principle advanced in the Directive was non-discrimination: temporary workers should be entitled to the same pay and working conditions as permanent workers. However, there would be a waiting period before equal treatment pertained: the Commission proposed six weeks. A longer waiting period was sought by a 'blocking minority' of member states, comprising Germany, Denmark, Ireland and the UK. These states advanced a discourse of temporary work in which more 'protection' would harm the interests of prospective temporary workers by denying them a route into the labour market and, eventually, into permanent employment (Nedergaard 2007: 708). The surprising presence of Germany in the blocking minority is understandable in the light of this discourse, as Germany was at the time implementing employment service reforms which sought to use temporary work agencies to give unemployed people a way back into a job. However, Germany's

¹¹ Natali (2009) provides evidence that indicator proliferation alienates NGOs and trade unions, taking the example of the OMC on pensions.

position was also attributable to horse-trading with the UK, whereby Germany blocked the Temporary Agency Work Directive in return for UK support for Germany's position against a directive regulating corporate takeovers (Nedergaard 2007: 711). Eventually a directive was agreed upon in 2008 which left the waiting period to be determined by social partner negotiation at the national level.¹²

Thus a crucial element of national reforms of employment services, namely the outsourcing of services to TWAs, was subject to the traditional legislative process at the EU level, complete with inter-state horse-trading. Social partnership failed to produce agreement, and the venues of participatory policy-making were silent on this contentious subject. The discourse advanced by the blocking minority was not reflected in communications about the modernisation of PESs, even though it signalled one of the major directions of reform being undertaken at the national level. This demonstrates how conflicts over the modernisation of employment services were evaded in the participatory policy process.

Summary: The case of PES and the governance of the EU

A small case study like this on the reform of public employment services can shed only a small, if concentrated light on a big question like that of reconstituting democracy in Europe. The last section on four channels of European influence on these reforms showed how valid RECON's point of departure is: even if the EU is not necessarily the cause of political processes in member states, it is so much part of these processes that this 'complex interdependence embedded in a multilevel governance configuration' (Eriksen 2010: 17) raises questions of legitimacy and accountability.

Yet these questions are not only normative but also cognitive. It is easy to overstate the precariousness of democracy and accountability in the EU (Moravcsik 2002). The preceding section on member state reforms showed that there is not a one-size-fits-all stance of EU-isation that would eliminate the room for manoeuvre by elected member state governments. Countries that comparative welfare state research has come to see as very different worlds of welfare capitalism share similar strategies, for instance constabulary containment in the Netherlands and in the UK (joined by the two Central Eastern European countries in the sample, less easily classifiable). Administrative modernisation is the discernible thrust of the reform package only in Austria, France and Ireland even though this was the consensus on which an active and influential network of heads of PESs all over the EU was built. Domestic political imperatives can still shape the intentions of EU reformers. What is remarkable about HoPES is that EU reformers occupy key posts inside domestic bureaucracies, i.e. they do not sit and conspire against member states in far-off Brussels only, as the intergovernmentalist nightmare has it. There is more to the evolving EU polity than our standard ways of conceptualising European integration can grasp so far.

In the end, it seems to me that all channels of EU influence fit best into a 'crypto-federal' model of governance, to use the phrase of Majone (2010). It is 'crypto' because the central EU level is severely restricted in its policy instruments and disposes of limited political resources such as strong and open approval among relevant constituencies. But I have two important caveats against Majone's understanding of

¹² Countouris and Horton (2009) outline the resulting settlement in the UK.

the term. First of all, it is not always the EU Commission that is pro-active and captures an agenda best left to member states or other more competent bodies. HoPES is an example of regulators capturing the Commission and for an altogether defensible reason, namely to prevent governments following the fads and fashion of electoral politics or cost cutting. Besides, elected governments are quite capable to implement change by stealth and not in openly democratic processes. Crypto-federalism then helps to throw sand in the wheels of change, in the extreme create 'joint decision traps'. But, as the outcome of reforms has shown, crypto-federalism does not prevent anything from happening, the agency of the Commission being an important agenda-setter (Scharpf 2006). Their interventions may force governments to make their case more openly. This is also an important role of ECJ rulings, a second caveat that is in line with Curtin (2010). Because of EU secondary legislation and court rulings, domestic legislators often have to justify what they are doing in the name of their electorate but what affects also those who are not well-represented in national elections.

It is the role of the supranational governance level to raise awareness of insider-outsider relationships more generally. That reformers now take to the insider-outsider terminology when they reform their labour markets may be misguided in substance but shows a political awareness that can be for the better of national democracy. It all amounts to the simple truth that national democracies have their deficits, too. If the EU crypto-federal polity can help to address these deficits, then there is a democratic legitimation for the EU in this very fact, even if the EU itself is not a democratic institution.

References

- Atkinson, A. B. (1999) *The Economic Consequences of Rolling Back the Welfare State*, Cambridge, MA: MIT Press.
- Barnard, C. (2006) *EC Employment Law*, 3rd edition, Oxford: Oxford University Press.
- Barr, N. (1992) 'Economic Theory and the Welfare State: A Survey and Interpretation', *Journal of Economic Literature*, 30(2): 741-803.
- Blomqvist, P. (2004) 'The Choice Revolution: Privatization of Swedish Welfare Services in the 1990s', *Social Policy and Administration*, 38(2): 139-55.
- Bruttel, O. and E. Sol (2006) 'Work First as a European Model? Evidence from Germany and the Netherlands', *Policy and Politics*, 34(1): 69-89.
- Countouris, N. and Horton, R. (2009) 'The Temporary Agency Work Directive: Another Broken Promise?', *Industrial Law Journal*, 38(3): 329-38.
- Curtin, D. (2010) 'Challenging the First Model', in E. O. Eriksen and J. E. Fossum (eds), *What Democracy for Europe? Proceedings from the Midterm Conference*, RECON Report No. 11, Oslo: ARENA.
- Dostal, M. (2004) 'Campaigning on Expertise: How the OECD Framed EU Welfare and Labour Market Policies - and Why Success Could Trigger Failure', *Journal of European Public Policy*, 11(3): 440-60.
- Eriksen, E. O. (ed.) (2005) *Making the European Polity: Reflexive Integration in Europe*, London and New York: Routledge.
- (2010) 'What Democracy for Europe?', in E. O. Eriksen and J. E. Fossum (eds), *What Democracy for Europe? Proceedings from the Midterm Conference*, RECON Report No.11, Oslo: ARENA.
- Eriksen, E. O. and Fossum, J. E. (eds) (2010) *What Democracy for Europe? Proceedings from the Midterm Conference*, RECON Report No.1, Oslo: ARENA.
- Eriksen, E. O., Fossum, J. E. and Sjørnsen, H. (2005) 'Widening or Reconstituting the EU?', in E. O. Eriksen (ed), *Making the European Polity: Reflexive Integration in Europe*, London and New York: Routledge.
- European Commission (1998) 'Modernising Public Employment Services to Support the European Employment Strategy', Communication from the Commission, COM(98) 641 final, 13 November 1998.
- (2008) *Biennial Report on Social Services of General Interest*, SEC(2008) 2179/2, Commission of the European Communities: Brussels.
- (2010) 'Indicators for Monitoring the Employment Guidelines including Indicators for Additional Employment Analysis', Compendium 2010 (latest update: 20 July 2010), Brussels: DG Employment, Social Affairs and Equal Opportunities.
- Fay, R. G. (1997) 'Making the Public Employment Service More Effective through the Introduction of Market Signals', *OECD Labour Market and Social Policy Occasional Papers*, 25.

- Hacker, J. S. (2005) 'Policy Drift: The Hidden Politics of US Welfare State Retrenchment', in W. Streeck and K. Thelen (eds), *Beyond Continuity*, Oxford: Oxford University Press.
- Huber, M., Maucher, M. and Sak, B. (2008) *Study on Social and Health Services of General Interest in the European Union*, Brussels: DG Employment, Social Affairs and Equal Opportunities.
- Jacobsson, K. and Vifell, Å. (2005) 'Soft Governance, Employment Policy and Committee Deliberation', in E. O. Eriksen (ed.), *Making the European Polity: Reflexive Integration in Europe*, London and New York: Routledge.
- Johnston, A. and van Wijnbergen, C. (2010) 'Choice and Competition in Compulsory Education', paper prepared for the 17th Biannual CES conference, Montreal, 15-17 April.
- King, D. (1995) *Actively Seeking Work? The Politics of Unemployment and Welfare Policy in the United States and Great Britain*, Chicago, IL: University of Chicago Press.
- Kitschelt, H. (1999) 'European Social Democracy between Political Economy and Electoral Competition', in H. Kitschelt, P. Lange, G. Marks and J. D. Stephens (eds), *Continuity and Change in Contemporary Capitalism*, Cambridge: Cambridge University Press.
- Konle-Seidl, R. and Walwei, U. (2001) 'Job Placement Regimes in Europe: Trends and Impacts of Changes', IAB Labour Market Research Topics 46, Bundesanstalt für Arbeit.
- Le Grand, J. (1991) 'Quasi-Markets and Social Policy', *The Economic Journal*, 101 (September): 1256-67.
- Le Grand, J. and Bartlett, W. (eds) (1993) *Quasi-Markets and Social Policy*, Basingstoke: Macmillan.
- Lindert, P. (2002) 'Why the Welfare State Looks like a Free Lunch', *UC Davis Economics Department Working Paper No. 02-7*. Available at: <http://ssrn.com/abstract=372842>.
- Mabbett, D. and Schelkle, W. (2009) 'The Politics of Conflict Management in EU Regulatory Processes', *West European Politics*, 32(4): 699-718.
- Majone, G. (1993) 'The European Community: An Independent "Fourth Branch of Government"?', *EUI working paper SPS no. 93/9*, Florence: European University Institute.
- (2010) 'The Mutation of the EU as a Regulatory Regime', in E. O. Eriksen and J. E. Fossum (eds), *What Democracy for Europe? Proceedings from the Midterm Conference*, RECON Report No. 11, Oslo: ARENA.
- Moravcsik, A. (2002) 'In Defence of the "Democratic Deficit": Reassessing Legitimacy in the European Union', *Journal of Common Market Studies*, 40(4): 603-24.
- Mosley, H. and Speckesser, S. (1997) 'Market Share and Market Segment of Public Employment Services', *Discussion Paper FS I 97-208*, Berlin: Wissenschaftszentrum Berlin für Sozialforschung.
- Natali, D. (2009) 'The Open Method of Coordination on Pensions: Does it De-politicise Pensions Policy?', *West European Politics*, 32(4): 810-28.

- Nedergaard, P. (2007) 'Blocking Minorities: Networks and Meaning in the Opposition Against the Proposal for a Directive on Temporary Work in the Council of Ministers of the European Union', *Journal of Common Market Studies*, 45(3): 695-717.
- OECD (1994) *The OECD Jobs Study: Facts, Analysis, Strategies*, Paris: OECD.
- (1997) 'Enhancing the effectiveness of active labour market policies, a streamlined public employment service', *OECD Working Paper* No 87, Paris: OECD.
- Pierson, P. (1994) *Dismantling the Welfare State? Reagan, Thatcher, and the Politics of Retrenchment*, Cambridge and New York, NY: Cambridge University Press.
- (ed.) (2001) *The New Politics of the Welfare State*, Oxford: Oxford University Press.
- Pontusson, J. (1995) 'Explaining the Decline of European Social Democracy: The Role of Structural Economic Change', *World Politics* 47(4), 495-533.
- Rueda, D. (2007) *Social Democracy Inside-Out*, Oxford: Oxford University Press.
- Scharpf, F. W. (2006) 'The Joint-Decision Trap Revisited', *Journal of Common Market Studies*, 44(4), 845-64.
- Schelkle, W., Costa-i-Font, J. and van Wijnbergen, C. (2010a) 'Consumer Choice, Welfare Reform and Participation in Europe: A Framework for Analysis', *RECON Online Working Paper* 2010/26, Oslo: ARENA.
- Schelkle, W., Mabbett, D. and Freier, M. (2010b) 'Social Democrats Marching to Market: The Case of Employment Services', unpublished paper.
- Sciarra, S. (2001) *Labour Law in the Courts: National Judges and the European Court of Justice*, Oxford: Hart.
- Streeck, W. and Thelen, K. (eds) (2005) *Beyond Continuity*, Oxford: Oxford University Press.
- Vosko, L. (2009) 'Less than Adequate: Regulating Temporary Agency Work in the EU in the Face of an Internal Market in Services', *Cambridge Journal of the Regions, Economy and Society*, 2: 395-411.
- Walwei, U. (1991) 'Job Placement in Europe: An International Comparison', *Intereconomics* (Sept/Oct): 248-54.
- Weishaupt, T. (2010) 'A Silent Revolution? New Management Ideas and the Reinvention of European Public Employment Services', *Socio-Economic Review*, 8(3): 1-26.

Appendix: Choice and competition in a selection of European public employment services

Countries participating in the PES Monitor	Major reform	Direct choice elements	One-stop model of service delivery	Partnerships	LMP expenditure as % of GDP 2004 and 2007
Austria	Since 1996: 'Management by results' and customer-orientation (jobseekers); From 2010: combining PES with social assistance	Not obvious	Yes, for unemployment insurance and job placement; from 2010 also for social assistance and job placement	Devolved public monopoly; with strong social partner involvement; private provision of specific services to clients	Activation (↑) Income support ↓
Belgium Flanders	2004-2006: PES becomes an independent agency with a two-tier management structure for training and job placement	Possible within individualised career coaching	No, training and job placement in different regional organisations; unemployment benefits at federal level	Regional competence with strong involvement of social partners; prominent role of private providers with access to PES database	Activation ^a ↑ Income support ^a ↑
Belgium Wallonia	2003: Regional decree establishes 'Joint management' of the labour market by PES and private agencies	Possible after standardised entry treatment, choice of specific services	Yes, at municipal level integrated services including social assistance in 'Maisons de l'emploi'	Shared competence between regional PES and private placement agencies; PES governed by tripartite Board	Activation ^a ↑ Income support ^a ↑
Finland	2003-07: differentiation between service centres in areas of structural unemployment and PES for readily employable jobseekers with improved services for firms	Not obvious, on the contrary closer monitoring of jobseekers' efforts	Yes for long-term unemployed, integrated social services for all kinds of impediments to employment; No otherwise	Devolved public monopoly; strong social partner representation ; Pilot projects to test more private sector involvement	Activation ~ Income support ↓

^a trend for Belgium in total

Countries participating in the PES Monitor	Major reform	Direct choice elements	One-stop model of service delivery	Partnerships	LMP expenditure as % of GDP 2004 and 2007
France	2008-2009: amalgamation into one private-law PES with representation of social partners but 'a private management approach'	Limited, available for young people in inner cities (for 3 months, choice between benefit, training or employment)	Yes, for all employment-related benefits administered by different bodies and job placement services	<i>De facto</i> monopoly of new tripartite organisation; some sub-contracting to regionally licensed private providers	Activation ~ Income support ↓
Germany	2005: as part of Hartz reforms, stricter activation-cum-sanctions approach, responsibilities for assistance to LTU, one-stop principle and end of public monopoly	Yes, vouchers for occupational training and for job placement, at the discretion of jobseekers	Yes, for unemployment insurance and assistance and job placement services	PES governed by tripartite Board but reduced; Shared competence with local employment organisations and private placement agencies	Activation ↓ Income support ↓
Greece	Since 2007, a more 'demand-led' services to employers, combination with benefit disbursement in 'one-stop-shops'	Not obvious	Yes, for unemployment benefits and placement services	Public monopoly with strong representation of social partners; private provision of specific services to clients	Activation ? Income support ? (<i>lack of data</i>)
Ireland	1999 and 2007: emphasis on 'life-long learning', certification requirements for all training programmes	Not obvious	No, only job placement services	Devolved public monopoly with strong representation of social partners; private provisions seem to play a secondary role	Activation ~ Income support ~
Great Britain	Since 2001: 'management by objectives'; since 2002: introduction of one-stop-shops	Limited so far, but 2007 review suggests stronger choice elements	Yes, benefits and placement services integrated; from 2011: universal benefit with 'strong conditionality'	Public monopoly with no involvement of social partners but extensive local partnerships and private sector contracting-out	Activation ~ Income support ~

Countries participating in the PES Monitor	Major reform	Direct choice elements	One-stop model of service delivery	Partnerships	LMP expenditure as % of GDP 2004 and 2007
Netherlands	1996 and 2002: successive reduction of administrative role of social partners to merely advisory role; in 2002 centralisation of re-integration services in public body, reducing corporatist and private involvement	Not obvious	Shared local offices but functionally separate; PES responsible for insurance benefits and job placement, municipalities for claimants on assistance (e.g. after insurance entitlements expire)	Public monopoly with drastically reduced representation of social partners; actual placement and training services are largely contracted out to temporary work agencies and to private reintegration firms (prescribed by law for more disadvantaged clients)	Activation ↓ Income support ↓ (mandated to decrease by 15% between 2005 and 2012)
Poland	2000: Devolution of PES to three levels	Not obvious, on the contrary closer monitoring of jobseekers' efforts	In a limited sense, in-work benefits (child care costs, transport) and job placement are integrated but not unemployment benefits	Devolved public monopoly; with limited social partner involvement; private provision of specific services to clients, including job placement (national register)	Activation ~ Income support ↓
Slovenia	1998: reform of unemployment insurance, making it less generous	Not obvious	Yes, for unemployment benefits and placement services	Public monopoly but with strong (if weakening) representation of social partners; extensive licensing of private employment agencies	Activation ↓ Income support ↓
Sweden	None mentioned	Pilot programme since July 2007 gives jobseekers an alternative of private employment services	No, benefits and job placement are separated; PES has no role for work permits to immigrants but employers and a special board	Public monopoly but with established representation of social partners; extensive use of private service providers	Activation ~ Income support ↓

Source: PES Monitor, available at: <<http://www.pesmonitor.eu/Database/DataNavigator.aspx?Lang=EN>>; European Commission (2010) for LMP expenditure.

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RECON is an Integrated Project financed by the European Commission's Sixth Framework Programme for Research, Priority 7 – Citizens and Governance in a Knowledge-based Society. Project No.: CIT4-CT-2006-028698.

Coordinator: ARENA – Centre for European Studies, University of Oslo.

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