

# The future of the welfare state: paths of social policy innovation between constraints and opportunities

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## Municipalisation in the German and the Danish Public Employment Service

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## 1 Introduction

The mainstream of comparative work on employment policy reforms in Europe has traditionally focused on *activation* as a new rationale of the relationship between the welfare state and the citizen<sup>1</sup>, and more recently also on the governance and implementation of this policy shift - cf. *contracting-out* as a means of providing services<sup>2</sup>, and on '*joining up*' different branches of public administration in order to create 'one-stop shops' or 'single gateways'.<sup>3</sup> Little attention has yet been paid to the fact that the latter often comprises not only different *branches* but different *levels* of government and, namely, municipalities.<sup>4</sup> Likewise, the implications of including municipalities in employment policy *quasi-markets* – be it as buyers or bidders or both – has hitherto not been explored in depth. Where municipalities become part of the game, they will introduce their own professional traditions of framing social problems and of dealing with them. Where they are traditionally responsible for a social safety net of last resort, particular rules and rationales of such a 'lower regime' of social protection<sup>5</sup> may be part of the municipal package.

Municipalisation 'in' Public Employment Services (PES) includes extreme cases of municipalisation 'of' the PES where, like in the 69 German 'licensed municipalities' or the 14 Danish municipal pilots jobcentres (the model for all Danish jobcentres from 1.8.2009), become entirely responsible for delivering the services foreseen by a national government or legislator. In other cases like the German 'consortial' jobcentres or the Danish co-operative jobcentres previous to the current reform, municipalities are more closely than before drawn into national labour market policies and share responsibility with national and possibly sub-national authorities in delicate arrangements.

By making a comparison between Denmark and Germany, this article analyses the intentions behind as well as some of the effects emerging from the full or partial municipalisation of the PES in the two countries. In the next section the process of municipalisation is related to relevant debates, and an attempt to determine some of the intentions behind is made. In section three the process of municipalisation in the Danish and German Public Employment Service is described. This is in section four followed by an analysis of the implications of municipalisation. Finally a conclusion is made in section five.

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<sup>1</sup> Cf. Gilbert et al. 2001; Klammer, Leiber 2004; Newman 2007; Serrano Pascual et al. 2007.

<sup>2</sup> Cf. Sol et al. 2005; Bredgaard, Larsen 2008.

<sup>3</sup> Cf. Pollitt 2003; Clasen et al. 2001.

<sup>4</sup> Commonly referred to as 'local government' in the international literature, municipalities' legal status is actually subject to debate among constitutional lawyers and politically contested within different national systems of governance (cf. Hesse 1991). Without entering such debates, the authors would nevertheless like to emphasize the idiosyncratic and internationally varied character of the territorially lower levels of democratic self-administration which renders them, in most countries, quite different from just being the 'local branch' of national government. This is why the term 'municipalities' is used in this paper for different territorial units which may be larger cities, associations of townships or counties.

<sup>5</sup> For the concept of regimes of social protection which co-exist within one national welfare regime, see Knuth 2009.

## 2 Relevant debates

During the 1990s and the early 2000s, labour market reforms were sweeping across the OECD countries, aiming to bring about a transformation from passive to active employment and social policies. It is not really possible to speak about a convergence of employment and social policies in the OECD, as the varying national political, institutional and cultural contexts made for very different starting points, just as the national policies chosen are different (Barbier 2004). But it is possible to identify some common trends or developments across the OECD countries, as has been pointed out by a number of researchers (cf. Jessop 1993; Lødemel & Trickey 2001; Peck 2001; Torfing 1999, 2004; Larsen et. al 2001, Bredgaard et. al 2003; Barbier 2004). They include, among other things, faster offers of jobs or the fastest possible route back into employment ('any job is better than no job'), less focus on training and educational offers, work-ability testing, tougher availability criteria and tests, stronger sanctions for breaching obligations, shorter duration of the right to receive benefits, economic incentives for being in work - or in other words "making work pay" (e.g. tax-credits or welfare benefits/services when employed) and more individual services (individual coaching). Under the 'activation' paradigm, the unemployment problem is being reframed - what used to be seen primarily as a lack of jobs is now treated as a lack of incentives for the unemployed to get a job. Several concepts have been used to describe these developments, most commonly the term 'work-first' is used.

During and especially after the (intended but not necessarily accomplished) transformation from passive to active labour market policies in a number of OECD countries (with a preference for work-first policies), wide-ranging reforms of operational policies are now being introduced in the same countries.<sup>6</sup> This implies reforms of the governance structure e.g. changes in inter-agency cooperation, decentralisation, purchaser-provider split, new public management techniques and instruments, introduction of new, or reorganisation of old organisations. Another interrelated part of this is fundamental changes in the governance structure of the employment and social policy field, e.g. the de-corporatisation seen in some North European countries.

The governance mechanisms introduced often involve dissolving the much-criticised public employment services (PES) and replacing them with new implementation units. This implies - at least on paper - a decentralisation of the PES system. Municipalisation is one possible way of doing it as used in Germany and Denmark, marketisation by contracting out employment services is another (e.g. Australia and the Netherlands), the creation of unified and simplified implementation units (which could be part of the municipalisation or joint units of PES and municipalities) yet another (e.g. jobcentres, one-stop-shops, single gateways). Whichever form it takes, this decentralisation is part of a principal-agent thinking, giving local units new authorities and operational responsibilities, but at the same time strengthening new public management instruments and techniques in the running of government (e.g.

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<sup>6</sup> To define the different types of reforms, we distinguish between formal and operational reforms (Berkel and Borghi 2008, Berkel 2008, Larsen 2009). Formal reforms target the content (substance) of legislation, programmes, schemes and instruments for delivering benefits and providing services. Operational reforms can be defined as reforms of the governance structure for implementation and administration of benefits and provision of services. This can also include fundamental changes in the governance structure e.g. de-corporatisation.

contract management, performance measurement, benchmarking, management by objectives or quality management). Furthermore, centrally defined procedures for methods and instruments used are frequently seen as part of this attempt to find, centrally, new ways of governing the local units (e.g. standardised profiling systems, mutual obligation to regular contact, etc.). This could be described as a kind of “decentralised centralisation”. That is, introducing new ways of “doing policy” as a process of reforming the institutional arena of management, organisation, implementation and delivery of programmes and services. A wave of such operational policy reform is now evident in a number of OECD countries, for instance Denmark, the Netherlands, Sweden, Germany, France, Belgium, the UK, Australia, and the USA (cf. OECD 2000; Thuy et. al 2001; Bredgaard & Larsen 2007, 2008; Sol & Westerweld 2006; Considine 2001). Incidentally, another feature of the operational reforms in many of the North European countries is that more fundamental changes of the overall governance structures have been put into practise, diminishing the influence of the social partners (employer and employee organisations) traditionally associated with the PES. So, in these countries operational reforms are often linked with de-corporatisation as well (c.f. section 4.3. below).

The good question is why operational reforms and changes in governance structures apparently dominate the employment and social policy area at present. The political and administrative rhetoric used to justify new operational reforms is the creation of more efficient administrative systems (better and cheaper). In both Germany and Denmark (and many other countries as well) one element to justify operational reforms is in that respect the creation of ‘single gateways’ or ‘one-stop services’ for all Danish and German jobseekers. Following a contemporary fashion in public administration, this legislative move can be seen as following the post-NPM trend of attempting to solve the ‘cross-cutting’ or ‘wicked’ issues through ‘joined-up’ or ‘holistic’ forms of government (Talbot & Johnson, 2007; Pollitt, 2003).<sup>7</sup> Although such operational reforms often are presented by decision makers as being “technical” and “a-political” (cf. Brodtkin 2006: 4), they often have fundamental and wide-ranging implications for service delivery agencies, front-line workers and the unemployed. One obvious but rarely directly voiced answer on why we now witness a wave of operational reforms is that the intended policy shift towards a more active work-first approach has, in part, failed due to implementation problems - or in other words: the formal policy reforms needs support from operational reforms. Not only the unemployed or the social recipients must be activated, so must the administrative systems and the front-line workers. In this context the advantages of de-politicising the employment policy area should also be mentioned as a possible explanation. Operational reforms with decentralised solutions inherently weaken the government’s or the responsible minister’s political responsibility (typically they used

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<sup>7</sup> Such an approach appears especially appropriate where large numbers of citizens or - in NPM terms - ‘customers’ are called to ‘co-produce’ social services that are supposed to solve syndromes of related problems hitherto fragmented among the responsibilities of various public authorities (Ling, 2002). Whereas the ‘joined-up’ rhetoric has primarily developed in centralised states as a demand for linking several services of central government, the issue becomes even more tricky in a federal system when the issues in question cut across not only professional or departmental boundaries but also across levels of government. The German attempt to ‘join up’ federal labour market policy (or ‘employment policies’ in standardised international terminology) with municipal social welfare is a salient example of such diagonal cross-cutting which, in a federal system, not only exacerbates questions of accountability (Considine, 2002) but also raises disputes over constitutional legitimacy unknown in central states.

to be responsible for all the activities of the - often much criticised - state-controlled PES), making it harder to pinpoint who is politically responsible (e.g. the constitutional dilemma in Germany - c.f. below). In many countries, operational reforms have - as mentioned - also been used to place the social partners on the sideline, as they are often seen as a disturbing element in the attempts to create a more active approach in employment and social policies. Changing the governance of benefit systems can be an expedient way to make this happen.

Municipalisation can be seen as one way (or part of other solutions) to change the governance and implementation structures in the employment policy area in order to meet the demands for operational changes. But municipalisation has more far reaching consequences than many of the other kinds of decentralisation and devolution used in the employment policy area. Municipalisation comprises as well: 1) Different levels of government (as the municipalities have their own elected politicians and long traditions for significant autonomy); 2) New relations and priorities between and among employment services and other welfare state services (c.f. the municipalities role as responsible for a social safety net of last resort ) and 3) Different networks of political actors (cf. the corporatist structures are rather weak in the municipalities).

Before analysing more closely the possible impacts of the municipalisation of the public employment services, the process of municipalisation in Denmark and Germany is presented in the next paragraph.

### **3 Municipalisation in the Danish and German Public Employment Service**

#### **3.1 Denmark**

During the 1970s, a two-tier labour market system similar to the German system until 2005 (see 3.2) was institutionalised in Denmark. The PES primarily serviced businesses and the unemployed covered by unemployment insurance, and the municipalities had the primary responsibility for welfare-oriented services and the non-insured unemployed.

#### *The PES and the insured unemployed*

For the insured unemployed, a generous (by international standards) and mainly government-financed support system was established in 1907 based on the Ghent model (voluntary, but publicly supported unemployment insurance), finding its current form in 1967. In other words, unions, usually organised by industry, administer the insurance funds (checking availability and enforcing sanctions, supervised closely by the national Directorate of Labour). Traditionally, the social partners (trade unions and employers' associations) have exerted strong influence on the employment services for the insured unemployed. Labour market councils affiliated with the PES nationally and regionally formed the basis of this administrative corporatism. It was complemented with a strong political consultative role for the organisations, especially through their close cooperation with the ministry of employment. Due to the constitutionally determined responsibility of the

employment minister, the PES has been subject to strict central steering. Generally speaking, the system has been the object of a good deal of criticism in public and political debate for being too bureaucratic, inefficient and ineffective.

#### *The municipalities and the uninsured unemployed*

The uninsured unemployed (and insured unemployed out of work for more than four years) receive social assistance as a last resort. The social assistance is flat-rated and all recipients get the same amount as starting point. But specific circumstances (social needs, children, illness, etc.) give a supplement. To be entitled to social assistance you must still be available for work or activation (in the extent you are able to work) and you or your husband may not have (unlike entitlement for unemployment benefit) any kind of means (under 10.000 Danish Kroner is allowed). Social assistance is individual, but as the above mentioned rule for married couples illustrates, some new rules have been made recent years. Especially one is quite controversial, as married people only can stay entitled for social assistance if they during a 24 month period have at least 450 working hours (from July 2009) in an unsupported job (this mainly effects the immigrant population, who often has a housewife).

The social assistance is purely tax-financed, the state and municipalities contributing 50% each. Since the 1970s, the municipalities have had a high degree of autonomy to design and implement social policies and employment services. Any state intervention has mostly taken the form of economic incentives. The municipalities have been criticised for delivering too diverse services, varying from municipality to municipality, and for perceiving employment services in the paradigms of social policy approaches, despite all the formal policy reforms made to make them enforce a stricter implementation of the entitlements for social assistance and the work and activation obligations attached to this. Therefore they have not been able to implement the more active work-first approach as politically intended. (Larsen et al. 2001).

#### *The merging of employment services and the financing of benefits*

When a new right-of-centre government took office in 2001, fundamental changes in the governance and implementation structure followed. In 2002 the labour market reform “More people into employment” (*Flere i Arbejde*) followed up on the reforms of the previous government, moving towards a more profound work-first approach. The new government intended to “close down the activation industry” (especially the purportedly inefficient municipal activation projects and expensive education and training schemes). Rather than supposedly “long-term, inefficient, and expensive” activation programmes, the objective now was to (re)integrate the unemployed as quickly as possible into the open labour market. This also included “making work pay” policies, reducing any economic disincentives for specific groups like immigrants and refugees to find work, along with stricter sanctions and availability criteria (as mentioned above). But perhaps even more importantly, the new agenda also included changing the governance structure. The reform created a split between purchasers and providers by contracting out services for insured

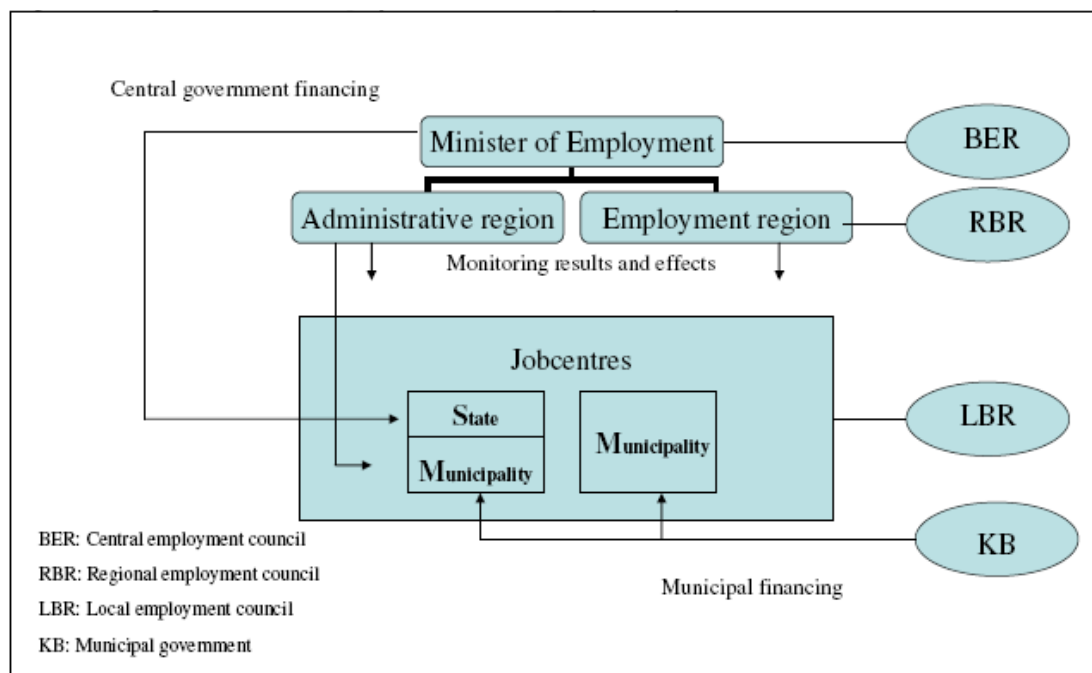
unemployed, and the government declared its intention to set up a new “one-stop” employment system by merging the national PES and municipal employment services. The government’s original intention was to create an entirely municipal implementation structure, which in effect would imply a full transfer of responsibilities from the PES to the municipalities including a unified benefit system. However, the proposal quickly ran into strong opposition, mainly from the social democratic party and the social partners, which preferred the state PES system in which they had traditionally had significant influence on the formulation, steering and implementation of labour market policy. However, a window of opportunity opened for the government when it decided to introduce a local government reform (abolishing the regional level of counties, transferring their authority to either the central government or the new enlarged local governments resulting from a reduction in the number of municipalities from 270 to 98)<sup>8</sup>. In 2004 the government made its intentions explicit by proposing to establish jobcentres in each municipality, whose sole focus would be on the quickest possible return of the unemployed to the labour market. Jobcentres were to be organised as independent municipal agencies, responsible for job (re)integration only, while benefit administration would remain the responsibility of either local governments (uninsured unemployed) or unemployment insurance funds (insured unemployed). Thus, the government was attempting to unify employment services, but not benefit administration and financing systems (Danish Government 2004).

After broad political negotiations about the local government reform in the spring of 2004, the government entered into an agreement with Dansk Folkeparti (the populist, anti-immigration party that has secured a narrow parliamentary majority for the minority government since 2001). The agreement was far from the clean municipal cut that the government had announced only two months earlier. Its preferred municipal employment system was only to be tested in 14 pilot centres (of a total of 91 jobcentres), and to be evaluated by the central labour market administration in 2010, so two different types of jobcentres were established. In the majority of municipalities (77), the PES and the municipal social and employment departments were working side-by-side, in the same building. But the PES remained responsible for services for insured unemployed only, and the municipalities for the uninsured unemployed.

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<sup>8</sup> The political goal for the reform was to establish municipalities with more than 30.000 inhabitants (85% of the municipalities had less than 30.000 inhabitants before the reform). This was not achieved but quite larger municipalities were made, as there today only is around 25% of the municipalities that have less than 30.000 (and there are few very small municipalities).

**Figure 1:** *Organisational set-up of the Danish employment system until August 1, 2009*



#### *Full municipalisation of the employment services*

In November 2008 the Government used the annual negotiations on the finance bill to (nearly overnight) make the decision to municipalise the employment services from 1 August 2009, even though evaluation of the two types of jobcentres is still ongoing. Again the Government used its slim majority (with Dansk Folkeparti) to make the decision. This time they went even further than the intentions expressed in the first reform, as the public financing of the insurance system is now to be placed with the municipalities. The Government argues that this is the only way to give the municipalities an incentive to get the insured unemployed into employment. In effect, this will change the employment services fundamentally, not least the traditional corporatist structure. Especially the trade unions are likely to be seriously weakened by this new reform (see section 4.2.)

In general the full municipalisation seems to be used (quite paradoxically) by the government and the central administration to gain strategic control over municipal implementation of employment and social policies (introducing NMP-instruments as the political price the municipalities have to pay for taking over the responsibility for the employment services) at the same time as national political responsibility is reduced. Rhetorically, the local jobcentres now have operational responsibility for implementation of employment policy, but the central government and administration have strengthened the supervision, benchmarking, and output and outcome measurement of implementation. The result is a new governance system with a new mode of decentralised centralisation. The ministry of employment sets a number of performance goals. The local government (in cooperation with the local employment council) is then allowed to add additional local goals. The performance goals are all written down in a local employment plan (*Beskæftigelsesplan*). The

local jobcentres are monitored regularly and there is an annual audit (*resultatrevision*). If the jobcentre fails to perform as well as expected, the minister is authorised to ultimately contract out services to private providers (after consulting the local or regional employment council or the regional employment authorities). But it is not only this goal-setting system and the threat of sanctions that provide a strong incentive for municipalities to perform; a new monitoring system has put additional pressure on the jobcentres to deliver specific performances and results. This system goes beyond the goals stated for each municipality to measure a wide range of activities and effects of the activities of the jobcentres. It is furthermore open to public inspection and designed to benchmark jobcentres with similar conditions (naming and shaming). This system is perhaps even more effective than the ministerial performance goal system in changing behaviour, especially in making jobcentres pursue short-term employment effects (Larsen 2009).

But how the municipalisation of employment services will work in practise is still to be seen. Major obstacles seems to be the relation between the central level and the traditional political independent municipalities and the reaction from the social partners, who (especially the unions) appears to be the major losers in this new municipalised structure. Also the merging of former PES and municipal employees in the new municipal jobcentres pose a challenge, as two different professional and work cultures are to be merged. The experiences so far in both the joint and the municipal jobcentres indicate that this is not an easy task (Larsen 2009).

### 3.2 Germany: The fourth step of the 'Hartz' reforms

#### *Reform of the benefit system as a lever for operational reforms*

Unlike Denmark, Germany actually changed the benefit system, selling the benefit reform as a precondition for an operational reform that ostensibly would lead to joined-up employment services. It must be noted, however, that the starting point with regard to benefits was different from the Danish situation since Germany had two benefits for workless people devoid of unemployment insurance entitlements. As of 2005, these were merged into a new flat-rate benefit financed mainly from the federal budget. The two previous benefits can be characterised as follows:

- (1) *Unemployment assistance* was the open-ended follow-on benefit after the exhaustion of the maximum duration (usually one year) of contribution-based unemployment benefits. Like the latter, it was a wage replacement linked to previous earnings, albeit with slightly lower replacement rates. Though eligibility and rates were restricted by means-testing including means of partners, both the wage-replacing nature of the benefit and its dependence on previous contribution-based entitlements characterise unemployment assistance as an integral part of Germany's *Bismarckian*<sup>9</sup> system of social protection. The sole recipient of the benefit was the formerly insured wage-earner, not his or her partner or children - in other words, breadwinner relations prevalent within a

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<sup>9</sup> It should be noted that Bismarck had been dead for long when unemployment insurance was introduced as a universal national scheme in Germany. The term '*Bismarckian*' refers to the fundamental logic of the system: contributions linked to earnings from employment and shared between employers and employees, benefits linked to the level of contributions and thus to previous earnings, thus maintaining income hierarchies or relative status even in unemployment.

partnership or family were not altered by reciprocity of this benefit.<sup>10</sup> The notion of a 'suitable job' that had to be accepted lest the benefit would be suspended as a sanction was restricted by collective agreements or the 'going rate', jobs paying less than the benefit were out of consideration<sup>11</sup>, and obligations to seek work and accept suitable job offers were restricted to the recipient of the benefit, not extended to other family members. The benefit was administered by the Federal Agency for Work (the national PES) which was also responsible for managing the unemployment insurance fund, for job placement services and for allocating jobseekers to 'active' measures of labour market policy. It may be concluded, then, that both benefits conditional on unemployment - unemployment benefit and unemployment assistance - formed one uniform regime of social protection against unemployment.

- (2) *Social assistance*, by contrast, was the safety-net of last resort for all people in need and unable to support themselves from other means, like in Denmark. As far as working-age claimants were concerned, they had either never been in regular employment for long enough to qualify for the insurance-type system (young people; newly arrived immigrants; casual, marginal<sup>12</sup> or illegal workers) or they had fallen out of it by being unavailable for the labour market for too long (full-time housewives after their bereavement or divorce, lone mothers, return migrants, people returning from long-lasting hospitalisation or imprisonment). Social assistance was flat-rate, with individual rates calculated for each adult and child in the family, and it was administered and financed by the municipalities.<sup>13</sup> At least in theory, the obligation to utilise whatever labour power people had at their disposition, with the objective of reducing benefit reciprocity, extended to all able-bodied family members of working age, and suitability of jobs was only restricted by personal ability and caring responsibilities, not by any concern for the 'good order of the labour market' like collective agreements or the 'going rate'. As employment trajectories, life courses and family patterns became more varied and volatile<sup>14</sup>, more and more people ended up in social assistance mainly because of being unemployed without insurance entitlement. Since recipients of

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<sup>10</sup> If unemployment assistance did not suffice to meet a household's defined basic needs, complementary social assistance would have been provided by the municipality.

<sup>11</sup> Until 1997 in both unemployment benefit and unemployment assistance, even the occupational level was protected.

<sup>12</sup> 'Marginal' part-time employment with earnings up to 400 Euros per month is exempt from obligatory social insurance in Germany and therefore does not lead to eligibility for unemployment benefits

<sup>13</sup> In the German governance system, the term 'municipalities' refers either to counties or to larger cities not incorporated into a county. The number of 440 municipalities for 82 million inhabitants makes an average size of 186,000 inhabitants, in other words a much higher degree of municipal amalgamation than in Denmark before the recent reform. German municipalities have only scarce sources of own revenue but depend on budget grants from the *Land* in which they are located. The *Länder*, in turn, participate in national revenues through a complicated system of redistribution. Since German municipalities, unlike the Danish ones, received no financial transfers *by virtue of* their social assistance expenditure, it is fair to say that they were maintaining these people from their budgets.

<sup>14</sup> Another reason is that a special provision for unemployment assistance available on *entering* the labour market was narrowed and finally closed in several steps between 1976 and 2000.

social assistance tended to concentrate in larger West German<sup>15</sup> cities, this made for very uneven burdens among the municipalities.

The new benefit introduced as of January 1, 2005 - following suggestions by the so-called Hartz Commission (Hartz Commission 2002) - is called 'Unemployment Benefit II'. This is a misnomer insofar as both the level and the logic of 'UB II' is much closer to former social assistance than to former unemployment assistance and thus very different from wage-replacing 'Bismarckian' unemployment insurance. UB II is flat-rate, with components for each household member, and with work obligations attached for each household member of working age and able to work, irrespective of previous work experience. The definition of a 'suitable job' is as broad as it was in social assistance, and it may be hypothesised that it was this 'dormant' principle of almost unconditional commodification of labour that made social assistance so attractive to reformers as a template for the new benefit. In order to smooth transitions into employment, a gliding scale of benefit withdrawal applying to earned income was introduced in order to provide work incentives and in-work benefits, the latter assuming the form of partially continued payments of the same benefit rather than a switching to tax credits on taking up low-paid work.

#### *A fragile compromise on service provision and governance*

Despite this heavy borrowing from the regime of social assistance, both the Hartz Commission and the Social Democratic / Green coalition government of 2002 to 2005 intended to retain responsibility for administering the new benefit along with employment services for its recipients with the Federal Agency for Work. They felt justified in this endeavour because, as a result of the reform, the Federal Government would assume fiscal responsibility for the larger part of the new system, thus relieving municipal budgets of an estimated 2.5 billion Euros net annually (Deutscher Bundestag 2003). However, unilateral federal responsibility for the new system was fiercely contested by the Christian Democratic opposition which then commanded a majority in the second chamber of parliament, the *Bundesrat*. Two rounds of inter-parliamentary arbitration in 2003 and 2004 resulted in a complex compromise on the governance of the new system of benefits and services:

- (1) In fiscal terms, the federal government is now responsible for income support, while the municipalities are responsible for the larger part of housing and heating costs.<sup>16</sup>
- (2) In institutional terms, the original responsibility (the guarantor role) for administering income support and labour market related services (like job placement, active measures) lies with the 176 regional district organisations of the Federal Agency for Work, while the 439 municipalities are responsible for administering housing costs and concomitant social services (e. g. psycho-social, drug abuse, and indebtedness counselling plus childcare provision).

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<sup>15</sup> Though unemployment rates were and still are higher in most parts of the East, continuous employment careers before unification and lower rates of immigration had kept the larger part of the East German long-term unemployed in receipt of unemployment assistance.

<sup>16</sup> In order to let the municipalities enjoy the alleviation of financial burdens that had been promised to them, the Federal Government shares roughly one third of the housing and heating costs. The assessment and distribution of this federal refund to the municipalities - inevitably via the treasuries of the *Länder* - is an issue of continuous suspicions and accusations.

- (3) However, at the operational level (the service provider role), regional Agencies for Work and municipalities are obliged to form 'consortia' (*Arbeitsgemeinschaften*) in order to pool their efforts and jointly administer the aforementioned benefits and services. This 'togetherness' means more than just co-location, like in the majority of the Danish jobcentres prior to 1 August, 2009, and also more than co-ordination: On the outside, the two organisations are forming a unitary legal authority and organisation displaying 'one face to the customer' and issuing uniform legal notifications regarding the two benefit components concerned, even though staff maintain their original employment relationship or must be newly hired by one of the two partners.
- (4) For a period declared as 'experimental' and extending until 2010, 69 municipalities<sup>17</sup> have been licensed at their own request to administer the new benefit and activation regime alone.<sup>18</sup> The experiment has been scientifically evaluated with regard to which type of organisation is delivering more effective services.<sup>19</sup>

The consortia, being the predominant model, are operating in 80 per cent of the territorial units serving 85 per cent of the customers.<sup>20</sup> Though the regional Agencies for Work are partners of all the consortia, a clear tendency can be observed within the consortia to develop their own organisational culture distinct from the cultures of both partners.

Since municipal budgets have to cover the larger part of housing and heating costs paid to benefit recipients, the German municipalities do have, in theory, a financial incentive to get customers off the benefit. However, this incentive mechanism only works in an 'all or nothing' perspective since, as recipients enter small or low-paid jobs not covering the full needs of their families, the subsistence component of the benefit will be reduced first (to the benefit of the fiscal budget) and the accommodation allowance (to the benefit of the municipal budget) only afterwards.<sup>21</sup> Furthermore, whereas the Federal Agency for Work is introducing ever more sophisticated 'management systems' with monthly statistical benchmarks and rankings, a system comprising the consortia via their Agency for Work component, the 69 licensed municipalities are not tied into the Federal Agency for Work's computer network. After the recent re-affirmation of municipal autonomy by the Federal Constitutional Court (see next paragraph) it seems ever more unlikely that

<sup>17</sup> 69 is the number of delegates of the *Länder* in the *Bundesrat*, which reflects the relative weight of the *Länder* in the German population. Therefore, the number of 69 appeared to offer an *a priori* solution for the allotment of options to the *Länder*.

<sup>18</sup> For 23 territories for which neither license for full municipal responsibility was applied for and granted nor an agreement on the formation of a consortium was achieved, responsibilities according to (2) are now fulfilled separately.

<sup>19</sup> Consortia were found to be significantly more effective insofar as their customers' probability of quitting the benefit within on year is by 3.8 percentage points higher than the quit rate of customers in the fully municipalized model, controlling for individual and regional labour market characteristics. Against an overall benefit quit rate of only 22 per cent, a differential of 3.8 percentage points is relevant (cf. Bundesregierung 2008).

<sup>20</sup> Almost all large cities are being served by consortia, which explains why they are even more predominant in terms of customers than in terms of territorial units.

<sup>21</sup> Ironically, evaluation results reveal that licensed municipalities ('fully municipalised model'), presumably because of weaker ties with premium employers, are more likely than consortia to place their customers in low-paid and marginal jobs in which they continue to draw part of the benefits - cf. Bundesregierung 2008.

obliging municipalities to use the same software would be legally possible. So here a difference to the Danish case emerges: Whereas municipalisation of the PES in Denmark is used by the government to draw the municipalities into a centralised tradition of administering the PES ('centralised decentralisation'), although a battle between the municipal tradition of autonomy and central control still is going on, the contested governance alternative in Germany more clearly appears to be one between over-centralisation and re-fragmentation of the new benefit and activation system.

#### *Current governance challenges*

The complex parliamentary compromise failed to bring about political or legal peace. Soon after the reform, five counties led by the association of county administrations appealed against the new regulation at the Federal Constitutional Court. Whereas of their complaint was rejected regarding its fiscal aspects, they were successful in challenging the constitutional foundation for the consortia on the grounds that (1) the federal government may not create a 'mixed administration' in which responsibilities of the national state and the regional states - municipalities here understood as agents of the regional state in which they are located - are indiscernibly intermingled and that (2) the obligation for municipalities to enter such a joint venture with the national state is violating their constitutional right to self-government. Consequently, the consortia may not continue to exist beyond 2010, the experimental period (cf. Bundesverfassungsgericht, decision of 20.12.2007).

## **4 Implications of municipalisation in PES**

### **4.1 Clash of organisational and professional cultures**

Municipalisation of employment services (either as full municipalisation or in joint jobcentres with the PES) implies a fusion between two different organisational and professional cultures. In the joint job centres the municipal and the PES employees are supposed to work more closely together trying to harmonise the services for different types of target groups (c.f. insured unemployed and social assistance recipients). But also a full municipalisation implies that the two different organisational and professional cultures are brought to work together, not only because of that the municipalities are taking over new responsibilities and tasks in the employment services, but also because employees from the PES are transferred to the municipalities. This is now actually happening in Denmark whereas in Germany the transfer of public employees between different public authorities is very difficult even if they do not have civil servant (*'Beamte'*) status.

The PES and the municipal organisational and professional cultures differ considerably. In a simplified way it could be said for both countries that the municipal employees traditionally have been used to have a relative high level of discretion when working from a soft and holistic social worker approach, while the PES employees traditionally have been used to have less discretion and a higher standardisation of their work as they have focused on the single problem of bringing people in work as fast as possible in a more targeted fashion. Also the professional

background differs, as a major part of the municipal caseworkers in both countries have a formal social worker education while the Danish PES employees do not have any common professional reference as they often have different educational background. In Germany, PES employees used to have closed-shop internal career patterns supported by internal institutions of academic training which trainees would attend as part of their paid work. However, as a result of the recent reforms, these patterns have been largely broken up, making for higher diversity of careers and professional backgrounds in the German PES, too.

Lots of efforts is made to get the jobcentres to work more in line with a work-first approach among other things by introducing various NMP-instruments (c.f. section 3.1.). The politically preferred work-first approach in the employment services is most like the organisational and professional culture in the PES, but other considerations (or the attempt to influence the municipal services for social assistance recipients towards a harder work-first approach by merging with the PES) anyway give the municipalities more and more responsibility for the employment services at the expense of the PES. But no matter the pressure for changing procedures and practises in the municipalities either by new central demands or learning from the (former) PES employees, it is important to note that this happens in already existing municipal organisations, with already existing employees with already existing knowledge and core values. This often makes it difficult to implement new objectives as these have to be combined with already existing norms, values and procedures.

One important question when the employment services are municipalised is therefore how the organisational and professional cultures are merged and how this influences the implementation of the employment services. Is there a clash of cultures? Do the municipalities take over (or merge) the PES culture in the implementation of employment services or is the municipal soft and holistic social worker approach (political unintentionally) taking over in the more traditional employment services as well?

The studies made in Denmark (Larsen 2009) and in Germany (cf. Czommer et al. 2005) suggest that in general it is quite difficult to merge the two organisational and professional cultures. Although many Danish jobcentres started out trying to merge tasks as well as the two groups of employees, 91% of the joint Jobcentres ended up organising the services in a way, where they were going back doing the same type of work, as they did in their former position in either the PES or the municipalities. This division of work could even be seen in half of the fully municipalised jobcentres, to where the former PES employees were transferred (Larsen 2009). It is though also clear, that the municipalisation in general, have made the municipal organisational and professional culture the dominant one (Larsen 2009). The PES was in many views the “big brother” and they were centrally seen as actors, who could influence the municipal “social protection” culture towards a higher labour market orientation and the use of a work-first approach, but studies more indicates that the PES culture have become the “baby brother” (Larsen 2009). The municipalisation in itself may therefore (with the organisational culture and professional culture embedded in the social protection regime) influence the traditional employment services in a new direction, perhaps even more likely than the dissolved PES can change municipal practises.

In the German consortia, by contrast, a division of labour according to categories of customers was out of the question because of the merging of the benefits.<sup>22</sup> Furthermore, the 'impossible' legal construct of the consortia and the outside threat against their very existence seems to have favoured their integration. Notwithstanding, different professional backgrounds from both sides are relevant for the allocation of functions. As seen in Denmark, placement services - and even more so the units primarily serving employers' demands - are dominated by PES employees, while municipal social workers are more often found in intensive and specialised case management functions reserved to customers considered not job-ready because of multiple problems. Clerical staff from both partner organisations specialised in benefit processing has remained in such functions, assisted by municipal staff without task specific background and transferred from other functions where the municipality was experiencing a staff surplus.<sup>23</sup> Licensed municipalities (the 'fully municipal' German model) complemented existing staff with outside hirings, among these some high-performing specialists who were poached from the PES into strategic municipal functions by virtue of the higher pay profiles prevalent in the municipalities. Obviously, such voluntary transfers do not imply any systemic problems of cultural integration even though there may have been individual difficulties in adjusting.

#### 4.2 Role of social partners in unemployment insurance and active labour market policies

In *Denmark* the labour market organisations traditionally had strong influence on labour market and employment policies, among other things through the labour market councils affiliated with the PES nationally and regionally. Also the benefit system is closely affiliated with the unions as they have administered the insurance funds, which the other way around has functioned as their most important recruitment channel for union membership.

The corporatist structures in the governance of employment services have been under pressure for some time. The most recent decision to reform employment policies was moved from the ministry of employment to the ministry of finance, reducing the labour market organisations' consultative role significantly. At the same time, they have been losing influence in the new labour market councils (compared to the old ones). As appears from figure 1, the labour market organisations are still represented in the new national, regional and local employment councils. But they now have a re-active role as they are intended to only supervise the jobcentres, instead of the more pro-active policy-making role they played in the former councils. At the same time the local councils have been extended with new civil society

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<sup>22</sup> It should be noted again that insurance-type unemployment benefits are beyond consideration here. Contrary to the reformers' initial intentions of having uniform jobcentres for all jobseekers, the division of labour between 'insured' and 'uninsured' customers is completely strict even within the organisation of the Federal Agency for Work. This is fostered by the requirement to separate the costs of services funded from the unemployment insurance fund and from the federal budget, respectively, and by the circumstance that the territorial grid of the jobcentres administering UB II is of a much smaller-scale than that of the traditional PES which delegates staff into the consortia.

<sup>23</sup> To some degree, municipalities used the reform for transferring surplus staff with job guarantees into the new administrative functions where labour costs are being refunded from the Federal budget.

organisations. This makes it even harder for the social partners to gain influence as they have to act as one of several actors in bodies with no statutory powers. And the municipalisation of employment services indicates that it will be even more difficult for the labour market organisations to influence the implementation of employment services in the future as the cooperation between municipalities and social partners traditionally has been modest.

The organisations are to some extent considered a disturbing element in the implementation of the politically preferred work-first approach, not least the unions. But there are probably also more ideological reasons for this de-corporatisation. On more ideological grounds, the municipalisation of employment services, not least the fact that the municipalities are to take over the financing of benefits for insured unemployed, seems to be a direct attack on the union-driven insurance funds. In that sense, moving the responsibility for benefits is used as a tool to weaken corporatist structures as well (as seen in other countries). At first, there will be no change in the role of the insurance funds in the new structure; but it is hard to imagine that the municipalities will accept, in the long run, that they are to cover expenses while the insurance funds remain in charge of administration. Especially the funds' test of availability and use of sanctions are likely to become the first battlefields. If the unions eventually lose the control of the insurance funds, it will pose a very serious threat, as the funds - as mentioned - constitute one of the most important channels for recruitment of new members.

In *Germany*, the *Hartz* reforms have considerably weakened the role of social partners in labour market policy (Klenk 2009). Before 2002, the tri-partite governing board of the Federal Agency for Work issued directives of legal quality (like on the definition of suitable job offers or on the implementation of certain instruments of active labour market policy). The President and Vice President could, in effect, not be appointed against a veto of the Governing Board, and thus the Vice President, by custom, would have a trade union background. Tripartite governing boards at regional level were responsible for partitioning the annual budget for discretionary active labour market policy measures in such a way that it would fit local needs and opportunities. Even though the extent of real initiative emerging from this corporatist structure, the recent changes are decisive. As a result of the reforms, governing boards lost budgetary and directive powers and were reduced to roles of supervision and consultation just like in Denmark. Furthermore, these reduced roles were restricted to unemployment insurance and active measures for the insured, i.e., to the minority of benefit recipients. The new regime of 'UB II' operates without mandatory participation of the social partners. Notwithstanding, most local units (consortia or licensed municipalities) have formed advisory councils on a voluntary basis. The social partners participate in these bodies within a plurality of civil society organisations. They have thus lost their traditional monopoly of representing the two sides of the labour market and have become stakeholders among others. Given the fragmented territorial structure of the new regime, social partners now have to attend a multiplicity of meetings with no statutory powers, which also posed practical problems as financial powers and thus staffing of trade unions are decreasing.

The traditional role of social partners in labour market policies is either based on their role as representatives of unemployment insurance contribution payers or on their role as gatekeepers on the labour market. In the consolidated German system where OECD jobs strategy recommendations of 1996 had been implemented since 1927, both capacities fell together in one role of co-governing a system responsible for insurance, placement and active measures. Tax funding of unemployment assistance notwithstanding, its character as an emulation of insurance principles (see above) allowed the social partners to share unquestioned responsibility for this benefit as well. However, when this benefit was remodelled according to the template of social assistance, it seemed natural that social partners should lose their jurisdiction over the system. In both countries, municipal social policy had never been a concern for the social partners, whose organisational strength was traditionally rooted along sectoral rather than small-scale territorial lines. Consequently, the municipalisation of employment services almost by definition goes hand in hand with their de-corporatisation.

### 4.3 Hybridisation of regimes of social protection

However useful typologies of national 'welfare regimes' in the mould of Esping-Anderson's (1990) influential paradigm may be for a broad orientation, nevertheless "...welfare states should not be treated as a coherent unity in cross-national comparisons and classification. Instead it should be considered that welfare state policies are often related to different, and in part overlapping, welfare arrangements - and welfare cultures on which these are based - in different policy fields which can vary across countries." (Pfau-Effinger, 2005, p. 7) In other words, national welfare regimes are composed of different elements or layers stemming from different historical origins and operating according to distinctly different logics. Irrespective of the 'Bismarckian' or 'universalistic' nature of unemployment insurance in the two countries concerned, there are much older traditions of parish charities which developed into municipal social assistance available, among others, to those not covered by unemployment insurance.

With 'activation' as an overarching paradigm of contemporary welfare state reform, employment policy reforms involving municipalities either seek to 'activate' municipal social assistance (Denmark) or to take advantage of already existing though possibly 'dormant' elements of activation within the regime of social assistance for employment services at large (Germany). For right or wrong, municipalities are seen possessing the key to the 'hard-to-place' which PES tend to feel unable to treat effectively.

Hybridisation between regimes of social protection<sup>24</sup> may take place at the level of benefits (Germany: 'Unemployment Benefit II' as a hybrid of unemployment assistance and social assistance), at the level of the rights and obligations attached to the benefits, or at the level of the professional practices of street-level bureaucracies. The exact kind of hybridisation that takes place in a given national context depends on whether only services or whether both benefits and services are involved.

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<sup>24</sup> For the concept of 'regimes of social protection', see Knuth 2009 in more detail.

So far, it is only in Germany that the 'merging' of two benefit systems, one of which representing the municipal tradition, resulted in a far-reaching rolling back of Bismarckian principles of social protection in favour of a regime much closer to the 'liberal' model - without necessitating an import from abroad. It remains to be seen how, in Denmark, the return of the 'Ghent' system of financing unemployment insurance to its original municipal level will change its regime characteristics.

#### 4.4 The interaction between municipalisation in the PES and national governance

In governance terms, municipalisation 'in' or 'of' public employment services seems to have quite diverse implications in the two countries compared, even though they resemble each other in terms of strong traditions of municipal self-government. A unitary versus federal set-up of the central state plus separation versus incorporation of unemployment insurance and employment services seem to make the difference. Different employment patterns in public services may add to it.

In *Denmark*, the municipalisation of a hitherto national responsibility is being used as a means to simultaneously strengthen central control over municipal operations while blurring central political responsibility ('centralised decentralisation'). There seems to be little resistance from the former PES against its dissipation into municipal structures, and obstacles against staff transfer between different public employers are low.

In *Germany*, the situation is more complex not only in that the *Länder* come in between the federal government and the municipalities but also in that the traditional PES was never directly run by the federal government but via the semi-autonomous, self-administering and tripartite Federal Agency for Work. The Federal Ministry of Labour and Social Affairs does not possess the administrative and managerial capacities for running the PES and therefore has to rely on the Federal Agency for Work for the implementation of policies. However, as far as the benefit and activation regime for the uninsured is concerned, the Federal Agency for Work has been stripped of its corporatist and self-administering shroud (see 4.2), so that the political responsibility lies ever more clearly in the hands of the federal government, even for occurrences beyond their control.

On the other hand, when it comes to the municipalities, either as partners of the Agencies for Work within the Consortia or as municipalities licensed to do the job alone, the *Länder* governments, regardless of their political colour, will obstruct any attempt of the federal government to directly and unilaterally control municipal operations and performance. A clear-cut solution in terms of governance and accountability would be to transfer the financial and operational responsibility for the new benefit and activation regime to the *Länder* who would then be free to involve municipalities and to contract the Federal Agency for Work as they see fit for their territories. The federal legislator would then only regulate benefit levels and entitlements plus minimum service standards. However, the *Länder* are not prepared to assume such financial risk and political responsibility, while they are at the same unwilling to give up their veto position. The federal government, in turn, is not willing to yield operational control while remaining financially responsible. Furthermore, they would run the risk of a costly staff surplus in the Federal Agency for Work whose employees cannot easily be transferred to another public employer. Finally, when it comes to the municipalities as such, they are deeply divided on the

issue whether they want to do the job alone (counties with lower unemployment and smaller migrant populations) or whether they refuse to assume such responsibility (large cities with high unemployment and a concentration of lone parents and migrant populations).

It seems that in this situation the only way out of the constitutional dilemma (see p. 13) would be the overt and explicit institutionalisation of a multi-model, multi-level and multi-lateral system of service provision and governance - in other words: legalising the status quo. This was the proposal of the Federal Ministry of Labour after 1 ½ year of fervent debates following the ruling of the Constitutional court. However, the incumbent Christian / Social Democratic 'grand' coalition failed to agree on this plan, and thus the future of the system is still uncertain as this is being written. It will not be decided until after federal elections to be held at the end of September, 2009. Whatever the outcome will be, it appears almost certain that the municipal element will be further strengthened - either because fully municipalized jobcentres will remain as the sole manifestation of the hitherto unquestioned 'one stop' ideal while consortia have to split up, or because a numerical extension of the fully municipalized model may be traded for a constitutional 'repair' in favour of the consortia. Either outcome would be quite paradoxical given the evaluation results of the 'experiment'.<sup>25</sup>

## 5 Conclusions

The 'activation' paradigm is having implications far beyond activating recipients of social benefits. It also means the activation of administrative systems, of front-line staff and of dormant principles regarding the obligations of benefit recipients. Even though, empirically, municipal social services in both countries concerned (and probably in others as well) represent the 'softer' social worker approach as compared to a more 'repressive-bureaucratic' approach in national public employment services, there seems to be an ineradicable belief among politicians that municipalities possess the key to overcoming long-term unemployment and that they would be tougher and more cunning in 'activating' benefit recipients. Such beliefs have led German employment services into the most incalculable adventure ever and they have prompted Danish politicians to appoint the erstwhile municipal trouble maker as the future security guard of the Danish activation system, which in effect nearly institutionalise a political and administrative ongoing battle between traditionally autonomous municipalities and central needs to control national labour market policy and to make sure the municipalities are sustainable entities in economic and administrative terms.

Notwithstanding all these ambiguities and uncertainties regarding eventual outcomes, some effects of municipalisation 'in' or 'of' public employment services emerge clearly:

- (1) ***Municipalisation as a part of welfare-retrenching reforms:*** Whereas the establishing of national social insurance systems was an important element of nation-building and of legitimising a national state, the municipalisation of social protection becomes part of welfare-retrenching reforms as well as an expedient

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<sup>25</sup> See footnote 19.

way to enhance the implementation of an ostensibly stricter 'work-first' approach.

- (2) ***Municipalisation as a part of de-corporatisation:*** *Municipalisation in employment services supports their de-corporatisation and disentitles the social partner organisations from a previously hegemonial position in defining labour market problems and cures.*
- (3) ***Municipalisation intensifies the dilemma between national strategic control of labour market policies and local autonomy and discretion:*** Municipalisation in employment services can help to avert public discontent with centralised bureaucracies and decrease central political blame for the problems often affiliated with the implementation of employment services. But for the national policy makers this also entails the risks of losing political visibility, and possibly even real influence as 'Government' will be partially replaced by complex and shifting systems of 'governance' with fluid responsibilities and a loss in accountability. The dilemma between national strategic control and municipal discretion opens a battlefield with unpredictable outcome between national and local governments. In the German federal and highly legalised constitutional system, this inevitably involves the position of the *Länder* and produces constitutional tensions. In Denmark, the decision to fully municipalise the employment services is made, but the dilemmas (although not constitutional) with blurred political responsibility and conflicts between central demands of control and local autonomy are still very much present
- (4) ***Municipalisation can be part of or decisive for NPM-reforms making new problems similar to old:*** creating new Municipalisation of employment services can (as in Denmark) be seen as part of or decisive for NPM-reforms - a kind of decentralisation as part of a principal-agent thinking, giving local units new authorities and operational responsibilities, but at the same time strengthening new public management instruments and techniques in the running of government. This could be described as a kind of "decentralised centralisation", which in theory seems to be a possible answer to the dilemma described above. In Denmark this though seems to replicate (or even worsen) the same problems with rigid and bureaucratic procedures, but now only at the municipal level.

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