

Bringing the Jobless into Work?

Werner Eichhorst • Otto Kaufmann
Regina Konle-Seidl
Editors

Bringing the Jobless into Work?

Experiences with Activation Schemes
in Europe and the US

 Springer

Dr. Werner Eichhorst
Institute for the Study of Labor (IZA)
Schaumburg-Lippe-Str. 5-9
53113 Bonn
Germany

Dr. Otto Kaufmann
Max Planck Institute (MPI)
for Foreign and International Social Law
Amalienstr. 33
80799 München
Germany

Regina Konle-Seidl
Institute for Employment Research (IAB)
Regensburger Straße 104
90478 Nürnberg
Germany

ISBN: 978-3-540-77434-1

e-ISBN: 978-3-540-77435-8

Library of Congress Control Number: 2008929902

© 2008 Springer-Verlag Berlin Heidelberg

This work is subject to copyright. All rights are reserved, whether the whole or part of the material is concerned, specifically the rights of translation, reprinting, reuse of illustrations, recitation, broadcasting, reproduction on microfilm or in any other way, and storage in data banks. Duplication of this publication or parts thereof is permitted only under the provisions of the German Copyright Law of September 9, 1965, in its current version, and permission for use must always be obtained from Springer. Violations are liable for prosecution under the German Copyright Law.

The use of registered names, trademarks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

Cover design: WMXDesign GmbH, Heidelberg, Germany

Printed on acid-free paper

5 4 3 2 1 0

springer.com

Contents

Preface	xiii
----------------------	-------------

Bringing the Jobless into Work? An Introduction to Activation Policies..... 1

W. Eichhorst, O. Kaufmann, R. Konle-Seidl, and H.-J. Reinhard

1 The broad shift towards activation	2
2 Objectives of activation policies	3
3 Defining activation	4
4 Target groups of activation	7
5 The economic view: Countering work disincentives.....	8
6 The welfare state perspective: Convergence and divergence across countries	9
7 International and supranational influences	10
8 The legal point of view: Implication for social rights.....	12
9 How to implement activation policies? implications for the new welfare governance	13
10 The specific contribution of this volume	14
11 Outline of the volume and the country chapters	15
References.....	16

Activation Policies in Germany: From Status Protection to Basic Income

Support	17
----------------------	-----------

W. Eichhorst, M. Grienberger-Zingerle, and R. Konle-Seidl

1 Introduction	18
2 The shift towards activation.....	18
2.1 The legacy of a conservative European welfare state	18
2.2 The old system of unemployment benefits	19
2.3 The Hartz reforms	21
2.4 The political logic behind the policy shift.....	23
2.5 The silent change of the welfare state logic: From Bismarck to Beveridge?.....	25
3 Activating labour market policy today.....	27
3.1 The general framework	27
3.2 Target groups.....	28
3.3 Demanding and promoting under SGB III (unemployment insurance)	29

3.4 Demanding and promoting principles under SGB II (basic income scheme).....	30
3.5 The personal integration agreement.....	34
3.6 Sanctions.....	35
3.7 Activation measures for unemployment insurance benefit recipients ..	36
3.8 Activation measures for basic income support recipients.....	37
4 Constitutional constraints to activation.....	39
4.1 Constitutional guarantee of a subsistence minimum	39
4.2 The property guarantee	40
4.3 Constitutional guarantee of free choice of occupation.....	41
5 Governance and implementation	42
5.1 Distribution of competences	42
5.2 Changes in the organisational setting.....	43
5.3 Federal employment agency jobcentres for the short-term unemployed.....	43
5.4 ARGE jobcentres and municipal agencies for the long-term unemployed.....	46
5.5 Implementation	48
6 Outcomes of activation: A preliminary assessment.....	51
6.1 Unemployment and employment	51
6.2 Benefit receipt	52
6.3 Earnings.....	53
6.4 Public expenditure.....	55
6.5 Poverty	56
6.6 Overall assessment.....	57
7 Summary and outlook.....	59
List of abbreviations	62
References	63

The French Strategy against Unemployment: Innovative but Inconsistent... 69

J.-C. Barbier and O. Kaufmann

1 “Activation” in France: An overall perspective.....	70
2 The legal foundations of “activation measures”	72
2.1 Constitutional principles and foundations governing “activation measures”	73
2.2 Social security and labour relations: Legal framework	76
3 Minimum income benefits and other assistance benefits	79
3.1 Overview	79
3.2 Various minimum income benefits.....	79
4 Unemployment insurance and assistance (régime d’assurance chômage)... 84	
4.1 Organisation	84
4.2 The contribution-based protection regime (régime contributif)	85
4.3 Unemployment insurance (régime de solidarité).....	92
5 The public employment service and employment programmes.....	94

5.1 Overview	94
5.2 Subsidised employment contracts (contrats aidés)	97
5.3 New type of employment contract with short dismissal periods	105
6 Controls and sanctions	108
6.1 Sanctions imposed on beneficiaries for non-compliance with duties	109
6.2 De-registration of claimants	110
6.3 Sanctions affecting benefits	110
6.4 Competences, procedures and legal protection	111
7 The second leg of the strategy: Reforming the funding of social protection/labour law and fostering employment creation	111
7.1 Activating the funding of social protection	111
7.2 Social contribution reductions and tax credits: From targeting to a gradual mainstreaming	112
7.3 Family benefits are unlikely candidates to activation	114
8 Exit or activation for early retirees and disabled people?	116
References	119

The Swiss Road to Activation: Legal Aspects, Implementation and Outcomes 121

F. Bertozzi, G. Bonoli and F. Ross

1 Introduction	122
1.1 General observations on activation in Switzerland	122
1.2 The legal concept of activation	123
2 The context of activation	124
2.1 The Swiss welfare state	124
2.2 The socio-economic context of activation	126
3 The development of activation	128
3.1 Trends in activation within the unemployment insurance scheme	129
3.2 Developing activation in social assistance and unemployment assistance programmes	130
3.3 Activating disabled people	130
4 The legal aspects of activation	131
4.1 The impact of labour law	131
4.2 Target group of activation	132
4.3 Legal schemes of activation	134
5 The implementation and the governance of activation	145
5.1 The implementation of activation	145
5.2 The governance of activation	148
6 The outcomes of activation	149
6.1 Activation and labour market conditions	149
6.2 Evaluation of activation within the unemployment insurance scheme	150
7 Conclusions	154
List of abbreviations	155
References	157

**Activation as a Socio-Economic and Legal Concept:
Laboratorium the Netherlands 161**

E. Sol, M. Sichert, H. van Lieshout, and T. Koning

1	Introduction	162
2	Transformations towards an activating welfare state	165
2.1	Social notion of activation	165
2.2	Definition of activation	169
2.3	Legal notion of activation	169
2.4	Legal framework and constitutional basis for activation	173
3	Instruments: Changes in benefits, benefit conditionality and enabling schemes	175
3.1	Unemployment Insurance Law (Werkloosheidswet, WW)	176
3.2	The Work and Welfare Act (Wet Werk en Bijstand, WWB)	182
3.3	The Act on Employment and Income Depending on Working Capacity (Wet Werk en Inkomen naar Arbeidsvermogen, WIA Act)	185
4	Governance and actual implementation process	189
4.1	Governance in a bird's eye view	189
4.2	Major features regarding the application of legal provisions	200
4.3	Legal issues of contracting out and reintegration services	203
5	Outcomes: Activation works, or does it?	209
5.1	Effects of employment services for return to work	209
5.2	Costs and benefits of employment services	211
5.3	Unemployment benefit: Individual reintegration agreements	211
5.4	Social assistance: Work first	212
5.5	Discussion	212
6	Concluding remarks: Activation law and policy	214
6.1	Mutual obligations	216
6.2	Right to integration	216
6.3	A legal doctrine?	217
	References	218

Making All Persons Work: Modern Danish Labour Market Policies 221

J. Kvist, L. Pedersen, and P.A. Köhler

1	Introduction	222
2	General orientation of the political ideas of Danish activation: Activation as a concept	222
3	Changing target groups	224
4	General labour laws in Denmark	227
4.1	Labour law: Enacted law alongside collective bargaining law	228
4.2	The right to terminate employment	229
4.3	Types of dismissal and dismissal reasons	230
4.4	Legal consequences: Recourse to the courts	232
5	The law of unemployment insurance	233
5.1	Membership – financing – organisation	233
5.2	Benefit eligibility and entitlements	234

5.3 Benefit conditionality	236
5.4 Legal recourse	237
6 Activation measures	237
6.1 The developments of activation policy 1979–2006	239
6.2 Activation as a process: Implementation and governance	244
7 Outcomes of activation	246
7.1 The effect on search activity	247
7.2 The effect on skill and search cost	249
7.3 The welfare effects	251
7.4 Indirect labour market effects	252
8 Conclusion.....	253
References.....	255

**Activation Policies in Sweden: “Something Old, Something New,
Something Borrowed and Something Blue” 257**

P.A. Köhler, K.H. Thorén, and R. Ulmestig

1 Introduction	258
1.1 General labour laws in Sweden.....	259
1.2 Dismissal protection law	260
2 Welfare arrangements for unemployed in Sweden	263
2.1 From the economic crisis in the 1990s until today	264
2.2 Unemployment insurance.....	266
2.3 Social assistance as the last safety-net	269
2.4 Activity support.....	270
3 Labour market policy programmes	271
3.1 Labour market policy legislation.....	271
3.2 The development of municipal activation policy.....	276
3.3 “Active” programmes in Sweden: What do they entail?	277
3.4 Current and proposed changes on labour market policy.....	279
4 Rights and obligations within activation measures in Sweden.....	281
4.1 Rights and obligations: Instruments for monitoring	281
4.2 Rights and obligations within municipal activation programmes.....	282
5 Governance and implementation of activation programmes	283
5.1 A central organisation for ALMP programmes	283
5.2 Local practices within municipal activation programmes	284
5.3 Implementation difficulties	286
6 Data and outcomes on activation policies.....	287
6.1 Results and effects of ALMP programmes	287
6.2 Research on municipal activation programmes	289
7 Concluding remarks on activation in Sweden	290
List of abbreviations	293
References	294

‘Employment First’: Activating the British Welfare State 297

D. Finn and B. Schulte

1	Introduction	298
2	The legal foundation and governance of the British welfare state	298
3	The benefit system for working age people.....	299
3.1	Main cash benefits for people of working age.....	300
3.2	Trends in benefit expenditure.....	302
4	Activation policies	304
4.1	Benefit reform and activation in the conservative era	304
4.2	New Labour’s inheritance: Falling unemployment and increasing benefit dependency.....	307
4.3	Activation under New Labour: A ‘new contract for welfare’.....	307
5	The governance of activation.....	320
5.1	Jobcentre Plus.....	321
5.2	Partnerships, contracts and contestability	322
6	Outcomes of activation policies.....	323
6.1	‘What Works’: The role of evaluation	323
6.2	Employment, unemployment and inactivity.....	324
6.3	Benefit durations, leavers and ‘repeaters’	325
6.4	The impact of activation requirements.....	328
6.5	The impact of ‘Make Work Pay’	329
6.6	The impact of the New Deals and Employment Zones	331
6.7	Sanctions research	333
6.8	Implementation research and the New Deals.....	334
6.9	The impact of activation policies on individual rights.....	335
7	Conclusions and outlook.....	337
	List of abbreviations	340
	References	341

Activation from Income Support in the US 345

B. Quade, C.J. O’Leary, and O. Dupper

1	Introduction.....	346
1.1	Evolution of activation in policy.....	348
1.2	Socio-economic context.....	351
1.3	Activation target groups.....	354
1.4	The US employment promotion system.....	354
2	Legal framework	356
2.1	Constitutional law	356
2.2	Federal framework legislation.....	358
3	Activation in practice	367
3.1	Unemployment insurance.....	367
3.2	Federal social assistance	380
3.3	Tax incentive programmes.....	396
4	Conclusion	404

4.1 Effects of activation on the legal position of the individual	405
4.2 Economic effects of activation	406
List of abbreviations	408
References	410
Does Activation Work?	415
<i>R. Konle-Seidl and W. Eichhorst</i>	
1 Evidence on micro- and macroeconomic outcomes	416
1.1 Theoretical considerations	417
1.2 Review of empirical results on individual effects	418
1.3 Evidence on macro-effects	422
1.4 Summarising the empirical evidence	427
2 The welfare state perspective: Is there a “contingent convergence” of activation policies?	429
2.1 Different worlds of activation?	429
2.2 Contingent convergence concerning the instruments of activation	434
2.3 Contingent convergence across target groups of activation	436
2.4 Contingent convergence in terms of governance	446
2.5 Contingent convergence in activation: Variations on a common theme	438
3 Outlook: The future of activation	439
References	442
Activation from a Legal Point of View: Concluding Remarks	445
<i>H.-J. Reinhard and O. Kaufmann</i>	
1 The legal framework	446
1.1 The term “activation”	446
1.2 Constitutional parameters	448
1.3 Other sources of law	449
1.4 Enforcement of legal provisions and sanctions	451
1.5 Control of benefit access and sojourn time	453
2 The comparative view	454
2.1 The legal assessment of “activation”	454
2.2 Constitutional constraints	456
2.3 The complexity of legal norms	456
2.4 Transfer to the regional and local level	458
2.5 Control and “ways out” of activation	459
2.6 Outlook: The possible contribution of law for “activation” issues	459
Authors and Editors	461
List of Tables and Figures	471
List of tables	471
List of figures	473

Preface

Activation has become a major topic in European and US social and labour market policies, as increasing emphasis is put on integrating wider segments of the working-age population into the labour market – not only for economic or fiscal reasons, but also, and maybe even more importantly, for societal reasons. Yet, the process of activation, its achievements and shortcomings are not fully understood – and activation itself is a moving target, as many national experiences show. This volume aims at a comparative assessment of the logic and the outcomes of activation. To do this, it adopts a multi- or interdisciplinary perspective bringing together economists, social scientists and legal experts. Working together across borders is not an easy task, however, and in fact it is probably more challenging to trespass the boundaries of academic disciplines than it is to cross national borders.

Yet, with determined efforts from all sides, we have achieved a more or less integrated socio-economic and legal analysis of national activation strategies and a comparative assessment of these case studies. It is up to the reader to judge to what extent this has been a successful endeavour – at the very least, it has been a major adventure for all the participants. We are particularly indebted to the authors of the national chapters for taking up this idea and for working in pairs to come to an in-depth analysis of national cases and collaboration across the borders of the disciplines. The project would not have been possible without the financial and administrative support of the three partner institutes, the Institute for the Study of Labor (IZA), Bonn, the Institute for Employment Research (IAB), Nuremberg, and the Max Planck Institute for Foreign and International Social Law (MPI), Munich.

The editors are grateful to Mark Fallak for his work on “contingent linguistic convergence” of manuscripts from different national and academic backgrounds. At IZA, Anna Bindler, Jan Stuhler and Georg von Heusinger worked on editing the volume. Important support came from Thomas Neumair, who contributed especially to the chapter on “Activation from a legal point of view: Concluding remarks”. Additional support was provided by Esther Ihle, who translated various parts of the sections on national law. They both work at the Max Planck Institute. Last but not least, Springer Academic Publishers has always shown a supportive

attitude despite some delay due to the complexity of the whole project. The views expressed in this book are those of the authors and do not necessarily reflect the views of the institutions with which they are affiliated.

Bonn
Munich
Nuremberg
April 2008

Werner Eichhorst
Otto Kaufmann
Regina Konle-Seidl