

EUBS IMPLEMENTATION FROM A COMPARATIVE PERSPECTIVE:  
A CHANCE FOR INCREASING THE EU'S LEGITIMACY.  
*THE DANISH AND THE ITALIAN SYSTEMS*

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The article aims at providing specific remarks for implementing a European Unemployment Benefit Scheme (EUBS) in the EU Member States. In doing this, this contribution highlights the potential role for the EUBS in helping EU institutions gain legitimacy in the eyes of the European citizens. This topic appears particularly relevant after Brexit, and should not be ignored. In order to deal with this issue, the article proposes to take into consideration two different models, which are sorts of poles apart: the Danish system, in order to point out those aspects that have been crucial for the achievement of a high level of legitimacy in such a labour market policies (LMPs) best practice example; the Italian system, in order to understand whether EU legitimacy could be reached through the EUBS implementation in a State with peculiar problems in LMPs and to highlight practical issues that may need dealing with.

L'articolo prende in considerazione il ruolo che potrebbe rivestire l'introduzione di un EUBS (Sussidio europeo di disoccupazione) negli Stati membri nella veste non solo di stabilizzatore economico, ma anche di elemento in grado di rafforzare la legittimazione dell'UE agli occhi dei cittadini europei. Tale questione appare centrale, soprattutto a seguito della recente Brexit. Allo scopo di esplorare questa possibilità, il presente contributo propone l'analisi di due differenti – se non opposti – sistemi: quello danese, per verificare come esso sia stato in grado di accrescere la propria legittimazione nei confronti dei suoi cittadini, evidenziando quali siano gli elementi utili da considerare nell'implementazione di un EUBS; quello italiano, per considerare i problemi concreti legati all'eventuale introduzione di un EUBS in un Paese dagli evidenti problemi di efficienza del mercato del lavoro, suggerendo talune proposte concrete.

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## 1. INTRODUCTION

The article aims at providing specific remarks for implementing a European Unemployment Benefit Scheme (EUBS) in the EU Member States. In doing this, this contribution highlights the potential role for the EUBS in helping EU institutions and employment policies gain legitimacy in the eyes of the European citizens. This topic appears particularly relevant after Brexit, and should not be ignored.

Without delving into the definitions of “legitimacy” offered by the different legal theories, in this contribution ‘legitimacy’ is intended as the capacity of institutions – such as the State or the EU – to respond to their citizens’ needs, and in particular their needs

for unemployment benefits (UBs), unemployment assistance and unemployment benefits' activation policies<sup>1</sup>.

With regards to a possible EUBS implementation and its potential legitimacy goal, according to the 2012 Four Presidents' Report, the proposal of a shock absorption measure as an EU level insurance-type system aims "to ensure trust in the effectiveness of European and national policies... to protect citizens from the effects of unsound economic and fiscal policies, and to ensure high levels of growth and social welfare"<sup>2</sup>. Social concerns are also taken into account in the 2015 Five Presidents' Report<sup>3</sup>.

Furthermore, in both the Four Presidents' and Five Presidents' Reports the need for greater democratic accountability and legitimacy of EU and euro area countries is highlighted. As a matter of fact, since national welfare policies are being affected by economic competition within an integrated European market, "the responsibility for redistributive policies must be shifted from the national to the European level"<sup>4</sup>. At the same time, we should be aware that the need for legitimacy is also closely linked to controversial achievements within the EU social dimension, at least in times of crisis.

In order to deal with this issue, the article proposes to take into consideration two different models, which are sorts of poles apart: the Danish system, which is viewed as a best practice example in labour market policies (LMPs), and the Italian system, which is one of those countries with evident difficulties in providing an adequate protection net and effective activation policies that are addressed to the unemployed.

In particular, looking at the Danish system allows us to point out which aspects have played a pivotal role in the achievement of a high level of legitimacy throughout its welfare and activation services: these aspects should be taken into consideration while implementing an EUBS in Member States.

At the same time, an analysis of the Italian system might help us understand whether the legitimacy goal could be reached through the EUBS implementation in a state with peculiar problems in LMPs, while highlighting practical issues that may need dealing with.

Thus, on the one hand, the proposed methodology aims to show the decisive elements in Denmark gaining legitimacy in the field of unemployment benefits/activation policies, and to highlight possible connections with other fields – e.g. macroeconomic policies, cultural aspects, etc. – while on the other, an analysis of the Italian system reveals difficulties that may be faced in the EUBS implementation; these could impact its legitimacy by EU institutions and should therefore be pointed out.

<sup>1</sup> The proposed definition seems to be coherent with Scharpf's idea of the end of the '90s to maintain welfare state goals in Europe – nevertheless the increasing international economic competition – as an opportunity to regain both European policy effectiveness and legitimacy: Scharpf (1999). With regard to legitimacy as the capacity to provide benefits for society: Mügge (2011, pp. 52-74). Concerning the topic "legitimacy" connected with the need of "transparency": Cutler (2010, pp. 157-85). Legitimacy as a way to provide arguments to prove that authority is fundamental for a society according to its fundamental values: Zürn (2004, pp. 260-87). See also, e.g.: Clark (2005); Elliot (2002, pp. 365-87). Specifically on the topic of legitimacy and the EU, e.g.: Arnall, Wincott (2002); Lenerts, Verhoeven (2002).

<sup>2</sup> Four Presidents' Report, *Towards a Genuine Economic and Monetary Union*, 2012, p. 3, 11. Some scholars think that the importance of fiscal policy in absorbing regional shocks is often over-estimated, such as in Gros (2014). In other scholars' opinion a legislative proposal would need more work than that carried out until now to face still open issues, such as e.g. the moral hazard risk: Dullien (2014, pp. 189-93). In any case, several are the proposals and ideas on the implementation of an EUBS: e.g. Carnot *et al.* (2015); Beblavý, Gros, Maselli (2015); Brandolini, Carta, D'Amuri (2014); Enderlein, Guttenberg, Spiess (2013).

<sup>3</sup> Five Presidents' Report, *Completing Europe's Economic and Monetary Union*, 2015.

<sup>4</sup> Cfr. Scharpf (1997, pp. 18-36: 24).

Within this perspective, my research focuses on the positive and negative aspects to be taken into consideration along the path towards the introduction of an automatic stabiliser at European level, and highlights those EUBS implementation findings, which could be relevant for its success.

The article is organised in three parts: (i) analysis of the Danish model and its legitimacy goal; (ii) remarks about a possible EUBS implementation within the Italian system; and (iii) conclusions.

## 2. EUBS IMPLEMENTATION THROUGH THE LENSES OF THE DANISH SYSTEM

### 2.1. *Legitimacy: the EUBS project and the Danish paradigm*

Legitimacy is an unavoidable aspect that must be taken into consideration by EU institutions, with Brexit offering a particularly relevant case in point.

In this regard, there is a lesson to be learnt from Denmark, where domestic institutions appear to be legitimate/justified in front of the citizens: as a matter of fact, the Danish system does not just provide a strong social protection net, but its unemployment rate is also one of the lowest in the EU. Here citizens' participation in political life is made possible thanks to both a high unionisation and a strong role of trade unions in policy making: political and social conflicts are low<sup>5</sup>.

Thus, the Danish system and its milestone developments provide a good case study in how a high level of citizens' protection could be achieved.

At the same time, in analysing the Danish model one should note that some years ago the EU had launched the Danish *flexicurity* as a virtuous example for all Member States, however the outcomes of the EU's and those of Denmark's *flexicurity* have been considerably different<sup>6</sup>. Thus, even in the specific field under analysis, i.e. unemployment protection, the Danish paradigm has to be considered in its own complexity, to avoid any misunderstandings. As a matter of fact, the Danish system provides effective stabilisers and has gained legitimacy by ensuring a "high level of growth and social welfare" – in the words of the Four Presidents' Report, to describe what should be the goal of an EUBS. This aspect should be considered in the EUBS implementation, especially because the Five Presidents' Report still supports *flexicurity* as a valid strategy to follow, ignoring the scarce security outcomes that have been achieved<sup>7</sup>.

Indeed, through its solid protection and labour market system Denmark has been able to gain high levels of legitimacy: "full employment" is a shared political goal, flexibility is possible because of high security (i.e. the Danish *flexicurity*)<sup>8</sup>, and the system as a whole is based on the collective dimension of society and on the trust among its people<sup>9</sup>. Within this setting, a pivotal role<sup>10</sup> is played by the balancing of macroeconomic policy priorities with the interests of the social partners.

<sup>5</sup> Cf. OECD (2000, p. 15).

<sup>6</sup> Com (2007) 359 final. On the scarce *flexicurity* outcomes, see e.g. Accompanying Commission Staff Working Document Open, dynamic and inclusive labour markets, SWD (2012) 97 final; Com (2014) 130 final/2.

<sup>7</sup> Com (2014) 130 final/2, Annex III: State of play on Flagships initiatives, Annexes to the Communication, Taking stock of the Europe 2020 strategy for smart, sustainable and inclusive growth.

<sup>8</sup> Cf. Färm, Jørgensen, Palshøj (2006).

<sup>9</sup> Cf. Flaschel, Greiner, Lichtenberg (2012, pp. 103-29; 104).

<sup>10</sup> Cf. Tangian (2010, p. 2).

The 1994 reform<sup>11</sup> shaped what scholars consider the successful Danish activation system<sup>12</sup>; such reform is another crucial aspect for consideration when searching for those elements, which helped Denmark gain legitimacy in the eyes of its citizens. The reform established the rights and obligations of unemployed people<sup>13</sup> and modified both the content and the steering system of LMPs<sup>14</sup>. Unemployment schemes could be offered through *individual action plans* shaped around the individual's needs of the unemployed, tailored-made initiatives, efficient public employment services, and local and regional labour markets.

Therefore, while on the one hand, the Danish UB system requires beneficiaries to cope with specific activation duties, on the other it is not exclusively linked to a *quid pro quo* agreement with the beneficiaries<sup>15</sup>.

Indeed, the Danish workfare has been defined “offensive” to stress the peculiar version that has been implemented in Denmark; in particular, the offensive workfare looks at the activation policies as a way to achieve social integration for those who are out of the labour market<sup>16</sup>. Within this framework, the Danish system requires public institutions to play a key role in tackling unemployment, such as in providing strong welfare services and benefits, investing in the public sector, and thus directly creating jobs (30% of the entire Danish workforce is employed by the public sector)<sup>17</sup>, and in providing effective public employment services to help active people search for work as well as improve their Curriculum Vitae.

Both in the case of insurance benefits and in the case of assistance, beneficiaries are requested to perform specific duties to demonstrate their availability to, and that they are actively seeking, work.

This close link between benefits and activation duties is fully congruent with EU recommendations, dating to the late 1990s, which supported a transition from a passive to an active society; such a link characterises also the European guidelines in employment<sup>18</sup>.

## 2.2. The protection system as an economic stabiliser

It is generally recognised by scholars that UBs play a crucial role in stabilising the Danish system in times of crisis, providing at the same time citizens with a valid tool to deal with social impact and thus gaining legitimacy.

But scholars' opinions seem to adopt a complex approach in explaining this aspect.

In Jørgensen's opinion, three elements play a crucial role in stabilising the Danish economy: high investments in public sector, high income taxes, and high number of people, who are insured against unemployment<sup>19</sup>. At the same time, effective stabilisers are the welfare system as a whole and the high social assistance. During the crisis, social

<sup>11</sup> Cf. Rosholm, Svarer (2008, pp. 385-401).

<sup>12</sup> Cf. Jørgensen (2010); Eichhorst, Konle-Seidl (2005).

<sup>13</sup> Cf. Kanane (2012, p. 558 ff., p. 563).

<sup>14</sup> Cf. Eichhorst, Konle-Seidl (2005).

<sup>15</sup> Cf. Jørgensen, Baadsgaard, Nørup (2009, p. 5); Ketscher (2007, p. 146).

<sup>16</sup> Cf. Torfing (1999, p. 5 ff.). See also Bredgaard (2001).

<sup>17</sup> Cf. <http://www.oecd-ilibrary.org/docserver/download/4215081ec022.pdf?expires=1463072053&id=id&ac-name=guest&checksum=8B257191307D994EFD4175D8CB6C23E6>.

<sup>18</sup> The Treaty of Amsterdam formally highlighted the need for a “transition from passive measures to active measures”. This concept became soon a EU key concept and has been also included in the flexicurity strategy and before in the EU employment guidelines, at least since the Council Resolution of 15 December 1997 on the 1998 employment guidelines.

<sup>19</sup> Cf. Jørgensen (2010, pp. 6, 7).

partners have also worked to cope with the situation by signing agreements on working time arrangements and wages in order to adapt them – and not to decrease them – to the changed economic circumstances. Besides, Jørgensen believes that the Danish capacity to face the crisis is due to further factors, such as macro-economic and selective LMP initiatives, too. These initiatives have taken place in the last years in financial policy and LMPs. As concerns LMPs, the government favoured vocational training, especially for young people and dismissed people<sup>20</sup>.

For Tangian the system can be helped to be less dependent to occasional shocks by increasing public investments and public role in the economy<sup>21</sup>.

In Madsen's opinion, the high taxation, the strong shocks absorbed in case of unemployment, the activation measures in favour of unemployed people are the automatic stabilisers of the Danish economy. He also believes that policies towards the achievement of full employment have been crucial, such as investments in public fields (infrastructures such as streets, hospitals, etc.), measures to face youth unemployment, etc.<sup>22</sup>.

Thus, the Danish system could face the crisis thanks to an economic stabilisation system made by different factors, as mentioned above. This remark should be pointed out in the EUBS implementation in order to integrate it with the implementation of further elements.

Besides the strong welfare, a certain policy making and the social partners' role should be highlighted within a wider picture characterised by specific cultural, economic, and legal features.

In order to evaluate the relevance of further profiles of the relationship between a possible EUBS implementation and its potential legitimacy function with the Danish system's specific features, it seems to be worth taking into consideration: (i) the legal principles on which the system is based on; and (ii) the level of protection that it provides.

### 2.2.1. *Legal principles*

The 2012 Four Presidents' Report outlined the need for stabilisation mechanisms in order to reach precise goals, including a "high level of growth and social welfare"<sup>23</sup>. Similarly, the 2015 Five Presidents' Report clarified that completing the Economic and Monetary Union (EMU) is also a means "to create better and fairer life for all citizens".

If we look at the Danish example, we could be inspired in figuring out how a European benefit scheme could potentially develop towards the mentioned high level of welfare with "fairer life" for people.

In order to do that, it seems to be worth considering the fundamental principles on which the Danish protection net is based.

The second part of Article 75 of the Danish Constitution, para. 2, is focused on social protection and entails that social assistance is a public duty to be guaranteed to every person, it is a right recognised on the basis of specific legal requirements, and it can imply a primary duty on other individuals<sup>24</sup>. This part has to be related with para. 1 of the same article, establishing the "right to work" as a right directly related to the public good

<sup>20</sup> Ivi, pp. 7, 8, 10.

<sup>21</sup> Cf. Tangian (2010, p. 7).

<sup>22</sup> Cf. Madsen (2011, p. 78).

<sup>23</sup> Four Presidents' Report, *Towards a Genuine Economic and Monetary Union*, 2012, p. 3.

<sup>24</sup> Cf. Pieters (2002, p. 48).

according to which “efforts shall be made to guarantee work to every able-bodied citizen on terms that will secure his existence”<sup>25</sup>.

In this regard, the framework drawn by Article 75 would be coherent to what is defined as the “self support and self-reliance principle” of each able-bodied individual, upon which the Danish system is built<sup>26</sup>. This principle involves that every person has to be self-sufficient by working and contributing to the system, and complies with her/his duties. This perspective aims at conditions to be created by social policy in order to make the person enjoy her/his rights, to be included in society and be integrated<sup>27</sup>. Therefore, Danish social protection is oriented to provide people self-help support by promoting an active attitude and not just passive supports. Thus, although the unemployment protection system, i.e. UBs and assistance, plays a crucial role to stabilise economy in times of crisis, at the same time it is included in a wider picture where activation provides people with possibilities to take part in society.

For this reason, the EUBS implementation should adopt a wide perspective, which is aware of its potential effects on the persons’ life in terms of participation in society, also by ensuring “social cohesion” and “social welfare” mentioned since the 2012 Four Presidents’ Report. This can be done by linking the protective goal with a specific goal of social participation/integration also through activation policies. In this regard, the Four Presidents’ Report considered a matter of priority the promotion of measures to address skills mismatch in the labour market, i.e. in other words activation policies<sup>28</sup>. Concerning this aspect, László Andor’s proposal is even more precise by affirming: “in any case there would be clear conditionality in terms of job-search and training effort”<sup>29</sup>.

At the same time, one should be aware of the difficulties to reach social integration/participation by means of strong protection and effective active labour market policies (ALMPs). As a matter of fact, if we look at the Mediterranean countries such as Italy for example, the achievement of social integration/participation could vary consistently in comparison with the Danish system.

Other aspects should be taken into consideration, too. For example, public employment services often address activation initiatives particularly to unemployed with strong professional profiles in order to reach easily good performances: this procedure can run the risk to marginalise the weakest unemployed people<sup>30</sup>.

Consequently, when highlighting the possibility to relate the EUBS implementation with activation duties, a complex approach should be adopted.

### *2.2.2. Level of protection*

The hypothesis for the EUBS implementation should consider that “several EU countries have alternative unemployment assistance benefits for individuals without access to unemployment insurance”<sup>31</sup>. From the one hand, this aspect is relevant because it reveals that unemployment protection systems of Member States are consistently different,

<sup>25</sup> Article 75, par. 1, 1953 Danish Constitution.

<sup>26</sup> Active Social Policy Act, No. 468, 20/05/2016, art. 1, (2) “The purpose of providing financial support is to enable recipients to become self-supporting”: my translation. See also: Ketscher (2007).

<sup>27</sup> Cf. Goul Andersen (1995, pp. 155-202).

<sup>28</sup> Four Presidents’ Report, *Towards a Genuine Economic and Monetary Union*, 2012, p. 3.

<sup>29</sup> Cf. Andor (2014a, p. 12); Andor (2014b, p. 184 ff.).

<sup>30</sup> Cf. Hyman (2007, p. 988 ff.); Kluve (2006).

<sup>31</sup> Cf. Esser *et al.* (2013, p. 12).

and thus the definition of an EUBS will be complicated. From the other hand, thinking about differences among Member States protection systems highlights the potential EUBS role in integrating the national insurance UBs and providing stronger protection, especially for those workers who remain excluded from the social security net, e.g. often atypical workers. In this regard, there are proposals, which would address EUBS to Member States in specific economic difficulties and others, which would intervene directly in favour of individuals. In any case, if we look at strong welfare systems, such as the Danish one, it is evident that an EUBS would just be possible according to a solidarity principle across Member States.

In particular, the Danish system arranges two levels of protections in order to support unemployed people: (i) unemployment insurance benefits, based on a voluntary membership to specific funds<sup>32</sup>, authorised by the government and representing 77% of the labour force<sup>33</sup>; (ii) assistance, i.e. means-tested cash-benefits, financed by the social security system, to which people can access for different reasons<sup>34</sup>.

This integration between insurance protection and assistance contributes to reaching a strong welfare net and, as mentioned above, provides a strong stabiliser.

But the protection net in Denmark is considerable high also because of an entire welfare system ensuring a certain house policy, free of charge services available to citizens, such as health and education, child and elderly care, etc.

If we look at the EUBS implementation from this perspective, we should consider that the effective level of welfare offered by each Member State – in terms of services, housing possibilities, care services, etc. – could make the difference in the real impact of an EUBS as an economic and social stabiliser. Thus, it seems that the EUBS implementation should be viewed in a policy mix perspective and introduced together with other aspects<sup>35</sup>, e.g. the public investments in social housing, renewable energy and transportation, and other possible measures, etc.

In this way, the EUBS would be a possible way to widen national protection by improving the welfare system as a whole.

### 3. EUBS IMPLEMENTATION IN THE ITALIAN SYSTEM: LEGITIMACY GOAL DEALING WITH PRACTICAL ISSUES

By evaluating the possible EUBS implementation in the Italian system, here it is meant to provide some remarks in order to focus on domestic legal issues that should be faced and that could therefore affect the legitimacy of the EU institutions. In particular, comments are proposed in relation to selected issues: the EUBS financing, the EUBS amount, the eligible requirements, the level of protection, the exclusion of precarious workers and self-employed, the age, etc.

#### 3.1. Contribution

One crucial issue to cope with the EUBS implementation regards the way to finance the measure. The 2015 Beblavý, Marconi, and Maselli's research mentions possible sources of

<sup>32</sup> Law on Unemployment Insurance, Consolidation Act. No. 832 dated 7 July 2015.

<sup>33</sup> Cf. Hendeliowitz (2008, p. 7).

<sup>34</sup> Active Social Policy Act, No. 468, 20/05/2016. Cf. Madsen (2009, p. 5).

<sup>35</sup> Cf. Beblavý, Marconi, Maselli (2015, p. 4).

finance that were suggested by several proposals, such as a payroll tax, a corporate tax, etc.

Thinking about substitutive contributions – i.e. a payroll tax – in respect of those that are now paid to finance UBs in Member States can be a very hard option. This option would not be easily accepted by the Italian employers and employees, who are already paying considerable payroll tax for social protection and they probably will not accept a rise.

In this regard, the EUBS financial implementation should look at the Italian case of “ammortizzatori in deroga”, i.e. a kind of public short-time working schemes (public STW schemes). These schemes have been partially financed, for a certain time and in certain cases, through resources of the European Social Fund (ESF) to provide small companies with a level of protection that they did not have before<sup>36</sup>. This system could be found unequal by big and medium companies, which pay higher contributions to access other schemes, namely the Wages Guarantee Fund (*Cassa Integrazioni Guadagni*), and by those small companies that decided to pay some specific contributions (bilateral entities' contributions) to access that form of protection<sup>37</sup>.

But the involvement of European resources made it possible to link these kinds of benefits to specific activation duties<sup>38</sup> and widened the categories of beneficiaries<sup>39</sup>.

### 3.2. Amount

The reference salary of the Italian main UB, i.e. the New Social Insurance Provision for Employment (*Nuova prestazione di Assicurazione Sociale per l'Impiego*, NASpI)<sup>40</sup>, refers to the social security taxable base of the last four years, divided by the number of weeks of contributions and then multiplied by 4.33. If this reference salary is less than EUR 1,195.00 for 2015, NASpI is equal to 75% of the reference salary. In the case the reference salary was above EUR 1,195.00, NASpI corresponds to 75% of the reference salary, plus, for the amount above EUR 1,195.00, to 25% of the difference between reference salary and EUR 1,195.00. NASpI maximum ceiling is 1,300 €. From the fourth months of its payment, the NASpI amount reduces to 3% every month.

If we compare the amount recognised in Italy with the Danish case, one should think that in Denmark insurance unemployment incomes amount to 90% of the last three months or 12 weeks' earned wage<sup>41</sup> and the ceiling is around DKK 801 (EUR 101) per day for full time, i.e. it would mean EUR 2,020 per month<sup>42</sup>. This ceiling is around the double of the Italian NASpI ceiling; one should consider this difference, which should be also linked to the living costs and to the services provided by the entire welfare states to be properly understood.

Within this picture, proposals about the size of the EUBS are several, but they do not relate this percentage/amount to the living cost and the entire welfare system.

<sup>36</sup> Cf. D'Onghia (p. 4); Barbieri (2011, p. 379 ff.).

<sup>37</sup> Cf. Liso (2009, p. 30 ff.).

<sup>38</sup> Cf. Garofalo (2010).

<sup>39</sup> Cf. D'Onghia, Schiavone (2009, p. 158).

<sup>40</sup> Cf. Garofalo (2015); Bozzao (2015); Renga (2015).

<sup>41</sup> The 1972 Unemployment Insurance Act (*Arbejdsløshedsforsikringsloven*) raised the percentage from 80 to 90 of the previous pay: Cf. Kristiansen (2015, p. 63).

<sup>42</sup> Cf. Hendeliowitz (2008, p. 9); European Commission (2013, p. 27).



In this regard, one should take into consideration the possibility to fill the gap between Member States in terms of amounts by implementing an EUBS, preferably by using criteria that ensure a similar proportionality – among Member States and by looking at best practice examples – to living costs within a decent life perspective by looking at the best practice examples. Thus, economists should help to translate the concept of “decent existence” – which is referred to social assistance in Article 34 (Social security and social assistance), paragraph 3 of the Charter of the Fundamental Rights of European Union – into adequate indicators.

### 3.3. Requirements to access

In Italy from 1<sup>st</sup> May 2015, NASpI replaces two kinds of UBs, namely the Social Insurance Provision for Employment (*Prestazione di Assicurazione Sociale per l'Impiego*, ASpI) and mini-ASpI.

Concerning accessible requirements, the introduction of NASpI has meant an improvement in the protection level because it sets out lower requirements than before and allows – to some extent – precarious workers to access protection.

NASpI requires 13 weeks of contributions in the four years before the beginning of the unemployment status and at least 30 days of effective work in the 12 months before the beginning of the unemployment status. This UB is recognised for a number of weeks, which corresponds to the half of the weeks of contributions of the last four years. Thus, the maximum will be two years.

By looking at the Danish system it is possible to highlight that the length of the UBs in this country has been reduced by the 2010 reform<sup>43</sup>, but a crucial difference with Italy is that Denmark provides assistance – according to specific eligible requirements (means tested) – to the unemployed, who do not access or have finished insurance UBs. Thus, the EUBS implementation in Italy should consider this gap in the protection net.

Moreover, in Denmark self-employed can access both insurance benefits and assistance in case of lack of work. In Italy the protection has been recently introduced for employer-coordinated freelance work<sup>44</sup>, too, but with evident limitations (amounts, resources, etc.).

The Italian lack of assistance for unemployed people seems to be limited by widening the eligible requirements to access the insurance protection: 13 weeks within four years, instead of one year within the last three, in Denmark. Nevertheless, the protection net addressed to the unemployed remains insufficient and the gap in the Italian protection net still exists. This aspect brings us to wonder which would be the eligible requirements to access the EUBS: will atypical workers – who usually are the workers most affected by short unemployment – have the possibility to access the EUBS? And self-employed persons as well? Will previous contributions be required? What about the people that will remain outside the protection? Will the availability to work a be requirement?

According to several proposals, the EUBS eligible requirements should be the same in all the euro countries, but I would rather apply different eligible requirements in relation to

<sup>43</sup> The Danish 2010 reform did not just reduce the length of unemployment benefits from four to two, but it also tightened the eligible criteria to access the benefits from 26 weeks of employment to re-qualify for unemployment benefit to 52 in the last three years. Even for the first access, 52 weeks are required (precisely 1,924 hours of work within the last three years).

<sup>44</sup> In Italy Law no. 2 dated 28 January 2009, further laws in this direction: the last one: Legislative Decree no. 22 dated 4 March 2015.

the specific levels of protection in the Member States<sup>45</sup> and with the goal of filling domestic gaps in the social security net.

### 3.4. Age

In Italy the age has been an important criterion in order to apply for a shorter/longer benefit in the case of different UBs (*indennità di disoccupazione* and *indennità di mobilità*), but now NASpI does not include this aspect<sup>46</sup>. Nevertheless, this criterion has been mentioned for years in several legislative decrees towards a reform of UBs. The “graduation principle” has been also viewed as a valid element to consider in the protection system<sup>47</sup>.

Several EUBS hypotheses do not take into consideration this aspect, perhaps because the EUBS implementation would be thought to cope with short unemployment. But even in this case, the age aspect should be taken into consideration within the wide picture of those people who are most affected by unemployment and need to achieve retirement requirements.

Moreover, EUBS proposals do not deal with the possibility to recognise social contributions to beneficiaries also as valid contributions to receive a state pension.

This would be a problem especially for aged workers in terms of reaching the requirements to access retirement, and should thus be addressed.

### 3.5. Management of resources in providing benefits and activation services

In Italy beneficiaries of UBs have to register with job centres/public employment offices and have to cope with specific activation duties<sup>48</sup>, but the inefficient public employment services make the benefits conditionality ineffective<sup>49</sup>.

If we think at a possible EUBS implementation in this Member State, the Italian National Institute of Social Security (*Istituto Nazionale della Previdenza Sociale*, INPS) could carry out the payment of the European benefit: as a matter of fact, this institute shows a complex but enough efficient structure.

However, the perspective changes with regard to a possible connection between EUBS and activation duties. Indeed, some aspects are likely to affect the EUBS implementation: the abovementioned inefficiency of Italian public employment services in terms of effective activation initiatives<sup>50</sup>; the level of undeclared job<sup>51</sup>, according to which a beneficiary could enjoy the benefit and earn money from undeclared activities; the level of corruption<sup>52</sup>; etc.

<sup>45</sup> Cf. Beblavý, Marconi, Maselli (2015, p. 13): they mention the 2013 Pisani-Ferry’s proposal.

<sup>46</sup> The unemployed person’s age does not impact on the Danish insurance unemployment benefits. On the contrary, the assistance means-tested benefits are family-based and depend on age, dependent children, and period of residence, and this applies to any person lawfully resident in Denmark, European Commission (2013, p. 27).

<sup>47</sup> Cf. Loi (2008, p. 217).

<sup>48</sup> For the Danish system: Active Employment Act no. 807 dated 1 July /2015, Chapters 16 and 17. For the Italian system: Article 19, Legislative Decree no. 150 dated 14 September 2015.

<sup>49</sup> With regard to recent studies on public employment services (PES) and Italian ALMPs: Cf. Mariucci *et al.* (2016); Lassandari (2016); Ferrante (2016); Salomone (2016); Donini (2016); Sartori (2016); Caruso, Cuttone (2015); Cinelli, Nicolini (2015a); Canavesi (2015); Valente (2015).

<sup>50</sup> Please, see note 49. Particular interesting studies for understanding the PES inefficiency are also: Liso (2007b); Alaimo (2009); Liso (2007a, pp. 1-10); Varesi (2014).

<sup>51</sup> Cf. <http://www.ilfattoquotidiano.it/2015/07/28/aumenta-il-lavoro-nero-18mila-accertamenti-nel-primo-semester-2015/1914644/>.

<sup>52</sup> Cf. <http://www.transparency.org/cpi2015>. Transparency is an independent organization providing annually reports on levels of corruption of several States.

Thus, concerning the hypothesis of promoting activation policies by introducing an EUBS, one could support an EU direct management of the ALMP EUBS implementation. But this possibility seems to be currently unlikely because of a lack of adequate structures. As an alternative, one should also consider the option to tighten the EU and domestic level by recognising a role in the EUBS implementation to the networking among Member States' public employment services<sup>53</sup>. Networking and clear responsibilities, together with social partners' involvement, should be the possible way to manage the activation process linked to the EUBS implementation.

Moreover, the Five Presidents' Report mentions the necessity to create by each euro area Member State a national body in charge of tracking performance and policies in the field of competitiveness in order to prevent economic divergence. Similarly, a different national body should be created to supervise the EUBS implementation in terms of both (i) the EUBS implementation protection outcomes, i.e. e.g. by verifying if some categories of workers are not included in the protection, and so on, and (ii) the ALMP EUBS implementation.

With regard to the Italian national level, the introduction of a national agency aiming to coordinate the activation policies could be an opportunity in a future perspective<sup>54</sup>.

#### 4. CONCLUSIONS

In conclusion, using a comparative perspective to look at how the EUBS implementation could help to achieve legitimacy within the EU, a number of recommendations can be offered.

##### A) Danish system:

1. The EUBS implementation should be carried out as part of a "wider implementation", i.e. the implementation of further schemes/policies. Indeed similarly to the Danish example, the EUBS can only ensure legitimacy, and create trust among people, if it is effectively part of a wider political vision that aims for "high level of [...] social welfare" (Four Presidents' Report), and to "create [...] fairer life for all citizens" (Five Presidents' Report). Although the flexicurity strategy failed to deliver on such promises, the achievement of its goals cannot be postponed any longer.

Similarly, the EUBS can act as an effective stabiliser when it is part of a wider stabilisation system, i.e. when it is linked to other elements. As a matter of fact, the EUBS can play a crucial role in the social integration/participation of people in society if it is conceived as a means to economically sustain unemployed persons, providing them with adequate vocational training, adequate job offers, and adequate activation services;

2. "wider implementation" of the EUBS would mean a close connection with other elements/factors, such as: job creation policies promoted by Member States in both private and public sectors and with particular regard to the public sector, by investing in infrastructures, social services, etc.; effective role of social partners; policy making towards the reinforcement of the Member States' welfare systems, in terms of services and their accessibility (housing public investments, childcare facilities, etc.); and effective LMPs;

<sup>53</sup> Decision No 573/2014/EU of the European Parliament and of the Council of 15 May 2014 on enhanced cooperation between Public Employment Services (PES).

<sup>54</sup> Legislative Decree no. 150/2015.

3. the Danish example highlights the key role that social partners have been, and are, playing in the domestic labour market.

Thus, the EUBS implementation should define an effective involvement of social partners, especially as regards the specific domestic implementation (criteria, amount, activation policies, etc.).

B) Possible EUBS implementation in Italy, and possible impact on EU legitimacy:

4. EUBS eligibility requirements should allow for the access of all workers who are not protected in case of unemployment, including those in precarious employment, and the self-employed<sup>55</sup>.

Moreover, the EUBS implementation should consider the recognition of social contributions to beneficiaries also as valid contributions towards state pension;

5. with regard to the financing of the EUBS implementation, and because of the wide differences among the social security systems of Member States, a substitutive contribution would not be an appropriate financing measure.

In order to finance the EUBS implementation one could also look at using ESF resources, linking them to activation initiatives (e.g. such as in the case of “ammortizzatori in deroga”<sup>56</sup>);

6. in order to establish how the EUBS implementation could effectively impact the system, a process towards convergence, which takes into consideration domestic living costs and the specific welfare context of each Member State should be promoted. This would enable us to understand whether specific policies/services should be encouraged by the EU, which can make the EUBS implementation effective in terms of adequate protection. It would also enable us to evaluate the impact of the measure in the system as a whole. And as this process could help the weaker euro countries build a solid economy, it could also prevent moral hazard risks;

7. the implementation of an EUBS could be carried out: (i) in relation to payment of benefits, by national social security institutes; and (ii) in relation to ALMP initiatives, by the domestic PES, and by their European level networks. The implementation should also take advantage of the expertise of local administrations and of networks already existing in the labour market: indeed, at local and regional administrative level, a greater capacity to interpret vocational training needs, and a greater affinity to a “social integration” approach<sup>57</sup> are more likely. At the same time, problems such as traditional inefficiency of employment offices, level of corruption, and the undeclared job phenomenon should be coped by involving EU controlling processes in implementing the EUBS. As recommended in the Five Presidents’ Report, on the issue of a Competitiveness Authority, each Member State should decide the exact set-up of a national “Social Authority” that would check on the EUBS implementation and its social achievements.

## REFERENCES

ALAIMO A. (2009), *Il diritto sociale al lavoro nei mercati integrati. I servizi per l'impiego tra regolazione comunitaria e nazionale*, Giappichelli, Torino.

<sup>55</sup> Tax evasion problems should be taken into consideration in the case of self-employed in Italy.

<sup>56</sup> Cf. Garofalo (2010).

<sup>57</sup> This is true also in countries that are not included in the LMP best practice examples, but that can also provide good examples of LMPs towards social integration at territorial level: Gottardi, Bazzani (2014).

- ANDOR L. (2014a), *Basic European Unemployment Insurance*, Speech/14/635, European Commission, p. 12.
- ID. (2014b), *Basic European Unemployment Insurance – The Best Way Forward in Strengthening the EMU's Resilience and Europe's Recovery*, "Interconomics", 4, p. 184 ff.
- ARNULL A., WINCOTT D. (2002), *Accountability and Legitimacy in the European Union*, Oxford University Press, New York.
- BARBIERI M. (2011), *Ammortizzatori in deroga e modelli di welfare negli accordi Stato-Regioni e Regioni-Parti Sociali*, "Rivista Giuridica del Lavoro", I, p. 379 ff.
- BEBLAVÝ M., GROS D., MASELLI I. (2015), *Reinsurance of National Unemployment Benefit Schemes*, CEPS Working Document No. 401, Brussels.
- BEBLAVÝ M., MARCONI G., MASELLI I. (2015), *European Unemployment Benefit Scheme, The Rationale and the Challenges Ahead*, European Union, Luxembourg.
- BOZZAO P. (2015), *I nuovi trattamenti di disoccupazione: a piccoli passi verso l'Europa*, in L. Fiorillo, A. Perulli (a cura di), *Contratto a tutele crescenti e Naspi*, Giappichelli, Torino.
- BRANDOLINI A., CARTA F., D'AMURI F. (2014), *A Feasible Unemployment-Based Shock Absorber for the Euro Area*, "Questioni di Economia e Finanza", 254.
- BREDGAARD T. (2001), *The Question for the Holy Grail. The Danish Labour Market Strategy of the 1990s*, Communication Paper (N. 175) – Poster Session IIRA 6<sup>th</sup> European Congress, Oslo, 25-29 June, CARMA, Alborg University, in [http://www.ibrarian.net/navon/paper/THE\\_QUEST\\_FOR\\_THE\\_HOLY\\_GRAIL.pdf?paperid=3467862](http://www.ibrarian.net/navon/paper/THE_QUEST_FOR_THE_HOLY_GRAIL.pdf?paperid=3467862).
- CANAVESI G. (2015), *La ricollocazione secondo il Jobs act: dall'attività al contratto?*, "Rivista del Diritto della Sicurezza Sociale", 3.
- CARNOT N., EVANS P., FATICA S., MOURRE G. (2015), *Income Insurance: A Theoretical Exercise with Empirical Application for the Euro Area*, "European Economy Economic Papers", 546.
- CARUSO B., CUTTONE M. (2015), *Verso il diritto del lavoro della responsabilità: il contratto di ricollocazione tra Europa, Stato e Regioni*, Working Paper Centre for the Study of European Labour Law "Massimo D'Antona", 283.
- CINELLI M., NICOLINI C. A. (2015a), *L'attuazione del Job Act: le nuove tutele per i disoccupati*, "Rivista Italiana di Diritto del Lavoro", III.
- ID. (2015b), *L'attuazione del Jobs Act nei decreti di settembre. Il nuovo assetto delle discipline degli ammortizzatori sociali in costanza di rapporto*, "Rivista Italiana di Diritto del Lavoro", 4.
- CLARK I. (2005), *Legitimacy in International Society*, Oxford University Press, New York.
- CUTLER A. C. (2010), *The Legitimacy of Private Transnational Governance: Experts and the Transnational Market for Force*, "Socio-economic Review", 8, 1, pp. 157-85.
- D'ONGHIA M. (2012), *Misure regionali anticrisi*, in L. Vandelli, F. Bassanini (a cura di), *Il federalismo alla prova: regole, politiche, diritti nelle Regioni*, il Mulino, Bologna, pp. 129-42.
- D'ONGHIA M., SCHIAVONE T. (2009), *Il complesso quadro normativo in tema degli ammortizzatori sociali e alcune criticità del sistema*, in M. G. Garofalo, G. Leone (a cura di), *La flessibilità del lavoro: un'analisi funzionale dei nuovi strumenti contrattuali*, Cacucci, Bari, p. 158.
- DONINI A. (2016), *Effettività dei servizi per l'impiego: forme e garanzie nella ricerca di lavoro*, "Lavoro e Diritto", 2.
- DULLIEN S. (2014), *The Macroeconomic Stabilisation Impact of a European Basic Unemployment Insurance Scheme*, "Interconomics", 4, pp. 189-93.
- EICHHORST W., KONLE-SEIDL R. (2005), *The Interaction of Labor Market Regulation and Labor Market Policies in Welfare State Reform*, Working Paper IAB (Institut für Arbeitsmarkt- und Berufsforschung) discussion paper, 19, in <http://www.econstor.eu/bitstream/10419/31892/1/503519553.PDF>.
- ELLIOT L. (2002), *Legality and Legitimacy: The Environmental Challenge*, in R. Falk, M. Juergensmeyer, V. Popovski (eds.), *Legality and Legitimacy in Global Affairs*, Oxford University Press, Oxford, pp. 365-87.
- ENDERLEIN H., GUTTENBERG L., SPIESS J. (2013), *Blueprint for a Cyclical Shock Insurance in the Euro Area*, Notre Europe, Paris.
- ESSER I., FERRARINI T., NELSON K., PALME J., SJÖBERG O. (2013), *Unemployment Benefits in EU Member State*, European Union, p. 12.
- EUROPEAN COMMISSION (2013), *Employment, Social Affairs & Inclusion, Your Social Security Rights in Denmark*, European Union.
- FÄRM G., JØRGENSEN H., PALSHØJ P. (2006), *The Story of Active Societies Based on Welfare and Justice*, "Nordicmodel.info", in <http://s-dialog.dk/default.aspx?site=nordicmodel&func=article.view&id=161473>.
- FERRANTE V. (2016), *Le politiche attive del lavoro fra decentramento e accentrimento: un dolce girotondo?*, "Lavoro e Diritto", 2.

- FLASCHEL P., GREINER A., LICHTENBERG S. (2012), *Labor Market Institutions and the Role of Elites*, "Flexicurity Societies, Review of Political Economy", 24, 1, pp. 103-29.
- GAROFALO D. (2010), *Gli ammortizzatori sociali in deroga: dal D.L. n. 185/2008 alla L. 191/2009 (legge finanziaria 2010)*, Milanofiori Assago.
- ID. (2015), *Il d.lgs. 4 marzo 2015, n. 55: un primo commento*, "Rivista del Diritto della Sicurezza Sociale", 2.
- GOTTARDI D., BAZZANI T. (2014), *Il workfare territoriale*, Edizioni Scientifiche Italiane, Napoli.
- GOUL ANDERSEN J. (1995), *Marginalisation, Citizenship and the Economy: The Capacities of the Universalist Welfare State in Denmark*, in E. O. Eriksen, J. Loftager (eds.), *The Rationality of the Welfare State*, Scandinavian University Press, Oslo, pp. 155-202.
- GROS D. (2014), *A Fiscal Shock Absorber for the Eurozone? Insurance with Deductible*, "Interconomics", 4.
- HENDELIOWITZ J. (2008), *Danish Employment Policy, National Target Setting, Regional Performance Management and Local Delivery*, Arbejds Markedstyrelsen, Employment Region Copenhagen & Zealand, The Danish National Labour Market Authority, in <https://www.oecd.org/employment/leed/40575308.pdf>.
- HYMAN R. (2007), *Il futuro del principio "il lavoro non è una merce" tra mercato e stato sociale*, "Diritto delle Relazioni Industriali", 4, p. 988 ff.
- JØRGENSEN H. (2010), *Danish "Flexicurity" in Crisis – or Just Stress-Tested by the Crisis?*, in *Report to the Friedrich Ebert Foundation*.
- JØRGENSEN H., BAADSGAARD D., NØRUP I. (2009), *From Learning to Steering – NPM-Inspired Reforms of the Famous Danish Labour Market Policy Illustrated by Measurement and Organizational Recalibration in the Employment System*, CARMA, Aalborg University, Conference Paper, Chicago, 15-16 May, in <http://vbn.aau.dk/files/19167298/Chicago09.doc>.
- KANANE J. (2012), *Nordic Paths from Welfare to Workfare: Danish, Swedish and Finnish Labour Market Reforms in Comparison*, "Local Economy", 27, p. 558 ff.
- KETSCHER K. (2007), *Contrasting Legal Concepts of Active Citizenship – Europe and the Nordic Countries*, in B. Hvinden, H. Johansson (eds.), *Citizenship in Nordic Welfare States – Dynamic of Choice, Duties and Participation in a Changing Europe*, Routledge, New York, p. 146.
- KLUVE J. (2006), *The Effectiveness of European Active Labor Market Policy*, IZA Institute of Labor Economics Discussion Paper, No. 2018.
- KRISTIANSEN J. (2015), *The Growing Conflict between European Uniformity and National Flexibility*, Djørf Publishing, Denmark.
- LASSANDARI A. (2016), *La tutela immaginaria nel mercato del lavoro: i servizi per l'impiego e le politiche attive*, "Lavoro e Diritto", 2.
- LENERTS K., VERHOEVEN A. (2002), *Institutional Balance as a Guarantee for Democracy in EU Governance*, in C. Joerges, R. Dehousse (eds.), *Good Governance in Europe's Integrated Market*, Oxford University Press, Oxford.
- LISO F. (2007a), *Brevi appunti sugli ammortizzatori e sui servizi all'impiego nel Protocollo del 23 luglio 2007*, in A. Perulli (a cura di), *Le riforme del lavoro. Dalla legge finanziaria 2007 al protocollo sul Welfare*, Halley Editrice, Macerata.
- ID. (2007b), *Servizi all'Impiego* (voce), in *Enciclopedia giuridica Treccani*, Istituto dell'Enciclopedia Italiana, Roma, pp. 1-10.
- ID. (2009), *Gli ammortizzatori sociali. Percorsi evolutivi e incerte prospettive di riforma*, in P. Curzio (a cura di), *Ammortizzatori sociali. Regole, deroghe, prospettive*, Cacucci, Bari, p. 30 ff.
- LOI P. (2008), *Gli ammortizzatori sociali*, in M. Magnani, A. Pandolfo, P. A. Varesi (a cura di), *Previdenza, mercato del lavoro, competitività*, Giappichelli, Torino, p. 217.
- MADSEN S. (2009), *Activation Policy in Denmark*, Centre for Labour Market Research, Aalborg University, Conference paper, Korea Labor Institute, Seoul, November, in [http://vbn.aau.dk/files/18792428/Madsen\\_Danish\\_Activation\\_Policy\\_Seoul\\_091009\\_v2.pdf](http://vbn.aau.dk/files/18792428/Madsen_Danish_Activation_Policy_Seoul_091009_v2.pdf).
- ID. (2011), *Reagire alla tempesta. La flexicurity danese e la crisi*, "Diritto delle Relazioni Industriali", 1, p. 78.
- MARIUCCI L., BIANCHI P., BARBIERI M., CARUSO B., VALENTE L. (2016), *Tre domande e quattro risposte sul governo del mercato del lavoro*, "Lavoro e Diritto", 2.
- MÜGGE D. (2011), *Limits of Legitimacy and the Primacy of Politics in Financial Governance*, "Review of International Political Economy", 18, 1, pp. 52-74.
- OECD (2000), *OECD Reviews of Regulatory Reform: Regulatory Reform in Denmark 2000*, OECD Publishing, Paris.
- PIETERS D. (2002), *The Social Security Systems of the Member States of the European Union*, "Social Europe Series", 1, p. 48.

- RENGA S. (2015), *Post fata resurgo. La rivincita del principio assicurativo nella tutela della disoccupazione*, "Lavoro e Diritto", 1.
- ROSHOLM M., SVARER M. (2008), *The Threat Effect of Active Labour Market Programmes*, "The Scandinavian Journal of Economic", 110, 2, pp. 385-401.
- SALOMONE R. (2016), *Le prestazioni di politica attiva del lavoro al tempo del Jobs Act*, "Lavoro e Diritto", 2.
- SARTORI A. (2016), *Il Jobs Act e la riforma dei servizi per l'Impiego in Italia: finalmente la svolta nel solco dell'Europa?*, "Rivista Italiana di Diritto del Lavoro", 1.
- TANGIAN A. (2010), *Not for Bad Weather: Flexicurity Challenged by the Crisis*, ETUI Policy Brief, European Economic and Employment Policy, Issue 3, in <https://www.etui.org/Publications2/Policy-Briefs/European-Economic-Employment-and-Social-Policy/Not-for-bad-weather-flexicurity-challenged-by-the-crisis>.
- TORFING J. (1999), *Workfare with Welfare: Recent Reforms of the Danish Welfare State*, "Journal of European Social Policy", 9, p. 5 ff.
- SCHARPF F. W. (1997), *Economic Integration, Democracy and the Welfare State*, "Journal of European Public Policy", 4, 1, pp. 18-36.
- ID. (1999), *Governing in Europe: Effective and Democratic?*, Oxford University Press, Oxford-New York.
- VALENTE V. (2015), *Il contratto di ricollocazione*, in E. Ghera, D. Garofalo, *Le tutele per i licenziamenti e la disoccupazione involontaria nei primi decreti attuativi del Jobs Act 2*, Cacucci, Bari.
- VARESI P. A. (2014), *Il workfare territoriale*, in D. Gottardi, T. Bazzani (a cura di), *Il workfare territoriale*, Edizioni Scientifiche Italiane, Napoli.
- ZÜRN M. (2004), *Global Governance and Legitimacy Problems*, "Government and Opposition", 39, 2, pp. 260-87.

