

THE EUBS: QUESTIONING AND REACTING

by Martina Menghi*

This paper deals with the main issues related to the implementation of a European Unemployment Benefit Scheme (EUBS). The main purpose is to show that, in spite of the practical difficulties, advantages are more significant than disadvantages. The concerns of moral hazard and fiscal responsibility are critically and constructively discussed, and responded to, with a particular focus on the feasibility in Italy.

Moreover, this paper wishes to contribute to the debate around such a scheme through the illustration of a “pilot project”, which would be applied only to the category of “European workers”. In times of crisis and Euroscepticism, this would represent a remarkable effort towards political European integration.

Il presente articolo tratta dei principali profili problematici legati all'introduzione di un Sussidio europeo di disoccupazione (EUBS). L'obiettivo principale è di mostrare che, al di là delle difficoltà di ordine pratico, i vantaggi sono più significativi degli svantaggi. I rilievi mossi in termini di azzardo morale e responsabilità fiscale vengono criticamente e costruttivamente discussi, e agli stessi viene data risposta, concentrandosi in particolar modo sull'attuabilità di un tale sussidio in Italia.

Inoltre, il presente articolo desidera contribuire al dibattito in materia, grazie all'illustrazione di un “progetto pilota”, il quale potrebbe essere applicato solo alla categoria dei “lavoratori europei”. In tempi di crisi ed euroscetticismo, questo rappresenterebbe un notevole sforzo di integrazione politica europea.

1. INTRODUCTION

It is common opinion that the European Union needs measures to address the social cost of the crisis¹. Anything is possible when the rules are changed. However, it is necessary to find out what can be done now. According to Art. 4 of the Treaty on the Functioning of the European Union (TFEU), social policy – for the aspects defined in the treaties – is a shared competence between the Union and the Member States.

Curiously enough, the adjective “social” appears 140 times in the treaties – significantly more than others, for instance the adjective “monetary” is used 56 times, while the word “competition” appears 38 times. It is thus clear that there is a legal basis in the treaties allowing EU institutions to take action in the field of social interventions.

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¹ Cf. Padoan (2015a).

The European Unemployment Benefit Scheme (EUBS) cannot be considered as *something new* (this idea was born in the '70s)², and since 2012³ it is regularly invoked in political debates. Many issues need to be addressed in order to find out if it could be an effective instrument to tackle the economic crisis and its consequences⁴.

The aim of this paper is to argue that the EUBS would be an extremely useful measure, and that even if its implementation might not be easy, the search of new alternative models for its introduction should be improved.

The main critical aspects raised against the EUBS will be analysed, and responded to adequately. Moreover, some EUBS models will be illustrated, taking into account their concrete chances to be realised.

Therefore, the added value of the EUBS will first be examined, while responding to the main concerns and criticisms (Chapter 1). In order to analyse its concrete feasibility, some practical applications will be discussed more in detail, with a special focus on its compatibility with the Italian system, illustrating how to implement the EUBS in Italy. Finally, a *pilot project* idea will be illustrated, on a small scale (Chapter 2).

The first chapter of this study will be more theoretical, while the second will be more practical, focusing on some possible variants in EUBS concrete implementation.

2. THE RATIONALE BEHIND IT: WHY AN EUBS?

The EUBS would be a supranational instrument of social protection, which would provide income replacement benefits to unemployed persons in the EU⁵. It would function as a supranational automatic stabiliser, diminishing economic disparities among Member States and their citizens.

Its source would come from a "European fund", financed by Member States. Clearly one of the main controversial aspects concerns redistribution. It is probably easier to explain *why* an EUBS is needed, rather than explaining *how* it might work in practice.

The EUBS is a good idea from an economic, legal and – last but not least – political perspective. A brief analysis of these reasons will allow us to outline its added value.

2.1. From an economic perspective

The ongoing Great Recession area has proven the need for European intervention⁶. Solutions adopted at EU level are more effective than isolated and fragmented decisions, adopted at national level. In fact, when national economies are strongly integrated, national instruments of economic policy are less effective⁷. One of the main challenges related to the EUBS is to prove why it would be useful, and why every Member of the EU would take advantage of it. It is undeniable that in the short term the most vulnerable States would be the main beneficiaries. However, also for the others, positive effects should not be underestimated. In point of fact, it would prevent negative spill-over, while preventing

² Cf. Marjolin *et al.* (1975).

³ A blueprint for a deep and genuine economic and monetary union Launching a European Debate (Communication from the Commission), Brussels, 30.11.2012, COM (2012) 777.

⁴ The need of a stabiliser for the Euro area was stressed in the Five Presidents' Report (Junker *et al.*, 2015).

⁵ The EUBS would be applied only to unemployed individuals who have previously worked and who lost their job.

⁶ Cf. Tiraboschi (2012).

⁷ Cf. Beblavý, Marconi, Maselli (2015, p. 4).

future economic shocks. When it comes to structural policies, negative spill-over may arise if reforms are adopted only by one Member State. In fact, an isolated action would be likely to improve that Member State's competitiveness, at the expense of other Member States. Thus, regarding the implementation of structural reforms, deeper coordination and harmonisation can be expected to pay off⁸. The need for a common vision is fundamental, and "there should be no excuse for concentrating only on the short term"⁹.

2.2. From a legal perspective

Clearer rules lead to more legal certainty and enable more efficient actions. The current situation, where rules are set mainly through soft law, cannot be permanent. In addition, the general principle of subsidiarity stands in the way of a European intervention in this field: the action of the EU shall be preferred every time that it would be more effective than actions at Member State level. EU common action and strategy are needed.

Only measures that can be adopted without a new treaty should be considered.

One of the main advantages of the EUBS is precisely the fact that it could rely on these provisions and thus be adopted in the framework of the existing treaties. It would allow a pure exploitation of existing rules. This policy goal should not be considered too ambitious, because so much can already be done in the existing legal framework¹⁰.

2.3. From a political perspective

The slogan "we need more Europe" is often used in political debates¹¹, and according to the TFEU's Preamble EU Members are "resolved to ensure the economic and social progress of their States by common action to eliminate the barriers which divide Europe".

The EUBS would have positive effects on the perception that European citizens have of the EU, which is often *accused* of being too far from them¹². Such measures, bringing tangible effects in everyday life, would give the European citizens a strong sense of the EU's dedication to the social dimension, increasing trust in European institutions¹³. It has been pointed out that "the EU owes its citizens these sort of mechanisms if it is to ask them to participate in a tight monetary and fiscal union. If a helpful (albeit small) payment came from Europe it could only help citizens develop a more concrete understanding of the gains from EU membership than the harder to grasp gains from trade and the internal market. And it is something that the countries who will end up paying should and might accept as a small 'payment' for the benefits that the single currency gives them and the problems a fiscal union causes for weaker countries"¹⁴.

At the same time one might argue that populist and Eurosceptic parties in the richest Member States could exploit the EUBS, to further criticise the EU, arguing that the EU is taking their money away. This argument does not seem particularly novel: unfortunately, such critics already exist¹⁵. Those political parties use anything to criticise the EU; this issue

⁸ Cf. Weyerstrass *et al.* (2006).

⁹ Cf. Padoan (2015b).

¹⁰ Ivi.

¹¹ Cf. Menghi (2014, p. 7). "Stating that there is need for more Europe is no longer sufficient: there is need for a different kind of Europe".

¹² Cf. Leconte (2010).

¹³ Cf. Beblavý, Marconi, Maselli (2015, p. 9).

¹⁴ Cf. Corry (2013).

¹⁵ Cf. Bindi, D'Ambrosio (2005, p. 67). For instance the famous Margaret Thatcher's speech: "I want my money back!".

has to be fought in other ways (for instance transparency, diffusion of information, culture, etc.), whose discussion would exceed the scope of this paper.

2.4. From an Italian perspective

Italy has been deeply affected by the crisis. The question of social benefits has always been in Italy – even before this economic crisis – the object of political debates¹⁶, a number of reforms, sometimes said to be inadequate to face the difficulties of the labour market¹⁷. Unemployment benefits have been significantly reformed many times, more recently with the *Jobs Act*¹⁸. However, the most recent reforms have not been completely implemented yet. The EUBS would probably represent for Italy the chance to strengthen and improve the current system, which seems having reached a certain stability only recently, after many different governmental interventions¹⁹. Art. 38 of the Italian Constitution states that: “Every citizen unable to work and without the resources necessary to live has a right to maintenance and assistance. Workers have the right to be provided with and assured adequate means for their needs and necessities in cases of [...] involuntary unemployment”. Moreover, “the duties laid down in this Article are provided for by organs and institutions established by or supplemented by the State”. The EU can be seen as an institution and/or an organ supplemented by the State. Therefore, the EUBS appears in principle as an adequate instrument, compatible with the Constitution, and able to respond to the need for stability and legal certainty.

2.5. Main challenges

One might wonder if there is any serious chance that Member States would adopt the EUBS, or if it is a sort of Utopia. This measure faces many obstacles, the EU itself today faces many different types of crisis²⁰. Hereafter the most important critics raised against the EUBS will be analysed and responded to.

2.5.1. Moral hazard

One of the most important concerns is the so-called phenomenon of moral hazard. This point has often been raised in the debate concerning the EU in a broader perspective, it doesn't apply exclusively to the EUBS.

Moral hazard can be identified as any situation where one party has an incentive to use more resources than he/she would have used otherwise, because another party bears the costs following the risky action. Perhaps the most well-known scenario is represented by the “Tragedy of the Commons”²¹. The concept is particularly obvious through the example of *free riders*²².

This concept clearly involves the concern that Member States with the weakest economies will abuse the scheme, while the States with a strong economy will have to bear

¹⁶ Cf. Ravelli (2014, pp. 147-61).

¹⁷ Cf. Monti (2012).

¹⁸ Cf. Alaimo (2015).

¹⁹ Cf. AA.VV. (2014).

²⁰ Cf. Archick (2016).

²¹ Cf. Jager *et al.* (2000).

²² If resources are publicly owned, each individual actor has an incentive to consume as many as possible because he/she does not bear costs equal to his/her resource usage.

its costs. This would lead to the unfair consequence that the richest States' contributions would be more significant than their potential advantages.

The promoters of the EUBS stress the need to avoid possible distortions, which would completely betray its nature. In fact, the EUBS should help the Member States to overcome the economic crisis, while sustaining their unemployed individuals, and should not be confused with the distortive idea of permanent transfers of money from one group of States to others. From an economic perspective, it would not be sustainable. From a political perspective, it would neither be legitimate nor fair. You cannot ask *tout court* some States (and their citizens) to bear the difficulties that some others are facing; it is a question of responsibility and accountability.

Therefore, most scholars who have analysed the possible implementation of the EUBS have focused their attention on possible ways to prevent abusive behaviours. It has been showed that there are several options for reducing the risk related to moral hazard²³.

However, fear itself is not the primary barrier to EUBS implementation.

2.5.2. Fiscal responsibility

The idea of fiscal responsibility is strictly related to the concept of moral hazard. If the fund is financed by every State, EU Member States with a weaker economy (and thus with a higher number of unemployed citizens) would use it more than the others. In other words, they would take advantage of the financial help coming from States with a stronger economy (and with lower unemployment). The consequence would be that weaker States would not feel the need to adopt the structural reforms they should do, but they would rather profit from the fruits of others' labour.

In particular, those who express concerns related to fiscal responsibility, argue that the EUBS mechanism would have the perverse effect of destroying national responsibilities for their negative labour markets' situations. The thrust of this argument is that if a State's labour market registers high levels of unemployment, it is that State's own responsibility to try to deal with it, to find a solution and possibly to provide its citizens with a national benefit scheme.

The Eurozone is "more than just an economic convenience. It is part of the political construction of an integrated Europe"²⁴.

First, those who say that unemployment benefit schemes have to be financed exclusively at national level (the *status quo*), forget that Member States who are hit the hardest by the crisis are not really in the position of doing so. The result is not surprising: in States dealing with crisis, unemployed citizens do not benefit from unemployment schemes, and if they do, the benefit levels are very low. It is a vicious cycle, and the EUBS rationale lies exactly on this point: the goal is to break the cycle of shock-hit States, having to impose extra spending cuts or increased taxes, in order to offset falling revenues and rising unemployment expenditure.

Since the very birth of the European Monetary Union (EMU), scholars and policymakers have remarked that economic and monetary unions provide important automatic mechanisms to offset economic fluctuations, like unemployment allowances: this happens in Australia, Canada, USA, and Germany²⁵. In most currency unions, there is an ability,

²³ Cf. Beblavý, Marconi, Maselli (2015, p. 18).

²⁴ Cf. Buonanno, Nugent (2013, p. 224).

²⁵ Cf. Beblavý, Marconi, Maselli (2015, p. 3).

through a strong federal budget and other policy measures, to help parts of the union when they are facing economic difficulties, known as fiscal transfer payments²⁶. However, the EU does not currently have a federal budget to respond to asymmetric shocks that often end up affecting certain members of the monetary union more strongly than others²⁷. In these States, fiscal responsibility can also become an issue in the political discourse²⁸, but it seems more acceptable by public opinion than it is in the EU.

This is a consequence of the bizarre nature of the EMU, which can be defined as a *unicum*²⁹.

However, Member States are not *strangers* the ones to the others, they are members of a *union*³⁰. Unfortunately, when this Union was created, many crucial aspects were not regulated. As it often happened in the history of European integration, Member States have to experience *big shocks* to take *big decisions*³¹.

Time has probably come to remind or even rethink the reasons for the creation of the Union. Was the EU created only to preserve national interests? This might be the answer, according to the theory of European integration known as *intergovernmentalism*³². However, national views should take second place to supranational objectives, and this is an existential question, because it goes further than the debate surrounding the EUBS. It is about the EU itself. It is not only about politics and economies, but it touches upon Europe's *raison d'être*, involving considerations of mutual trust.

"Nothing undermines solidarity in the EU as much as the deep crisis of mutual trust. Whether it is a matter of the fair distribution of asylum seekers, debt relief for Greece, a stronger common foreign and defence policy, or the necessary steps to make monetary union sustainable, in the absence of confidence, none of these objectives can be reached"³³.

Mutual trust is not something that can be created from one day to the other, through economic reforms or legal interventions³⁴.

The EUBS should be accompanied by instruments to fight abuses. The EU already has an independent institution that plays the role of the guardian of the treaties and of European legislation: the European Commission. However, it might be useful to create a specialised *ad hoc* institution, a supranational independent authority, in charge of controlling the effective respect by Member States of legislation concerning the EUBS, which would have to constantly verify if States abuse the system. A system of centralised control seems like an effective solution in principle.

2.5.3. Division of competences and legal basis

The issue of the division of competences inevitably involves the question of Treaty changes. It is clear that, if there is the political will, many ambitious initiatives can be

²⁶ Cf. Corry (2013).

²⁷ Ivi.

²⁸ "As a matter of fact, moral hazard can also exist in countries in which different layers of government intervene in the regulation of unemployment and in activation policies" (Beblavý, Marconi, Maselli, 2015, p. 15).

²⁹ Cf. Farina, Tamborini (2001, p. 8).

³⁰ This is not the first time a monetary union between nation states has been created. "Political unity is the glue that holds a monetary union together" according to Bordo, Jonung (2003, p. 58).

³¹ Cf. Buonanno, Nugent (2013, p. 225). In other words, it works only if it represents the *extrema ratio*.

³² Cf. Tortola (2014).

³³ Cf. Dempsey (2015).

³⁴ The current political context shows that Member States have difficulties in finding a common position in many contexts, not only when concerning the economic crisis. For instance, the debate on immigrants. The question of mutual trust between Member States goes beyond the debate on the EUBS.

envisaged through Treaty changes³⁵. Art. 1 of the Treaty on European Union (TEU) states that the Treaty “marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen”. In other words, there is always room for more integration.

However, it is important to investigate whether or not the EUBS could be implemented on the basis of existing treaties.

The EUBS can be seen as a complementary measure of economic coordination in the Eurozone. According to many analyses³⁶, Articles 136 and 175 TFEU already provide the legal basis. Moreover, Protocol No 28, annexed to the treaties, establishes that “the promotion of economic, social and territorial cohesion is vital to the full development and enduring success of the Union”. It recalls that “Title XVIII [...] as a whole provide the legal basis for consolidating and further developing the Union’s action in the field of economic, social and territorial cohesion, including the creation of a new fund”.

This ambitious interpretation affirms that the EUBS could be introduced following the ordinary legislative procedure. The so-called “Community method”³⁷ is characterised by some special features, the most important being a significant degree of supranationalism, where decisions are legally binding on all Member States, without being necessarily approved by every national governments³⁸. However, there is no need to go much into details when it comes to the legal basis: history has proven that if there is the political will, the legal basis can always be found somehow. Some rules can be interpreted extensively, and provisions that represent a potential legal basis already exist. This is not really the main obstacle to the EUBS, and its importance has often been overestimated. The main obstacle should be seen instead in the lack of political will; which is something that requires more time and it is harder to build than changing a legal provision.

2.5.4. *Effects on the labour market*

Some might call the EUBS an inappropriate choice of political economy. In particular, one might say that in order to overcome the crisis the market needs something else: the EU requires today something that encourages people to work and move, rather than something that encourages to stay home and rely on national or even supranational benefits schemes³⁹.

According to some economic analysis, redistribution is not a positive thing because it discourages wealth creators and reduces everyone to the lowest common denominator. They argue that this is deeply unfair because it punishes and steal money from the richest, and rewards the laziest, who were not motivated enough to do well for themselves⁴⁰.

Although this argument does make some sense, it cannot be forgotten that this instrument would not be permanent. Its role would be limited in time⁴¹, meaning that it

³⁵ Cf. Padoan (2015a, p. 1).

³⁶ Cf. *ivi*, p. 3.

³⁷ Cf. Daniele (2008, p. 6).

³⁸ Cf. Buonanno, Nugent (2013, p. 127).

³⁹ See for instance comments to the article by Politi (2015). The same point was raised in the debate concerning the guaranteed minimum income in Switzerland: Zantonelli (2016).

⁴⁰ *Ivi*.

⁴¹ The exact number of months, like other practical details, have to be defined.

would only support people in the short term, while they are looking for a job, it would not mean that individuals stop looking for work. It would have to be ideated in a way that does not discourage potential workers from seeking employment⁴².

Moreover, this point concerns rather the practical application than the opportunity itself.

At the same time, it would have a great impact for people in difficult situations. The EUBS would be a *transitional* support.

What was said above in regard to the Member States, equally applies for their citizens: they should not rest on their laurels.

3. SOME CONCRETE APPLICATIONS AND IMPLEMENTATION MODALITIES

It is essential to bear in mind that currently differences among national social systems are very significant⁴³, and they constitute a big obstacle to EUBS implementation⁴⁴. Systematic discrepancies logically lead to the situation in which there is no *master option*, but rather any option will always serve some Member States better than others.

Many variants have been studied in the relevant literature⁴⁵. Each different model presents some controversial characteristics, and some points of strength. It is also worth mentioning some common denominators that need to be addressed in every possible concrete applications.

Finally, after having briefly compared these alternative implementation modalities, with particular attention on the effects they might have on the Italian system, a small-scale project will be analysed in greater detail.

3.1. *The importance of simplicity and the question of membership*

As a starting point, it is important to emphasise that “the design of the scheme should be as simple as possible”⁴⁶. It is indeed essential that the beneficiaries are able to understand how it works, how to access to it, what the relevant requirements are, etc.

This point is very important especially for the political rationale: the EUBS’s primary goal should be to serve citizens facing difficulties. It does not have to end up being an instrument of EU propaganda. It has to be effective and accessible – EU citizens do not need a bureaucratic and cumbersome machine.

Even if not every single model analysed in literature provided limited participation, it seems preferable to provide an EUBS only in the Eurozone, rather than in the whole EU. This would be essential for the above-mentioned principle of simplicity, since there would not be complex factors such as exchange rates, added costs, etc. It is the classical approach of a *multi-speed Europe*⁴⁷.

Moreover, in the Eurozone, participation should be mandatory⁴⁸. Unfortunately, there is evidence that, in order to make big steps towards deeper integration, States

⁴² This scenario where people do not look for an occupation because they receive an economic support does not really seem realistic. It could be a concern if the benefits were unlimited in time.

⁴³ Cf. Saraceno (2013).

⁴⁴ Cf. Beblavý, Marconi, Maselli (2015, p. 12).

⁴⁵ Cf. Beblavý, Maselli (2015, p. 3).

⁴⁶ Cf. Padoan (2015a, p. 2).

⁴⁷ Multi-speed integration has often been criticised, *per se*, Jacqué (2012, p. 285).

⁴⁸ Cf. Beblavý, Marconi, Maselli (2015, p. 16).

need to have no other choice. Otherwise, the risk of facultative measures is clear: for instance, when it came to third-country migrants' quotas, some States refused to accept the quota, because they could do so. The system was not legally binding, but relied on spontaneous adhesion⁴⁹. Soft law usually does not work in a panorama of such consistent differences.

3.2. *The equivalent EUBS*

This model is directly financed by Member States, which act as intermediaries between the European fund and unemployed individuals. There would be no need to amend national systems as regards substantial conditions and requirements. The only difference from the current situation would be the source of the unemployment benefits: a European fund.

This EUBS design leaves Member States the possibility to choose how to distribute money to unemployed individuals, which is an undeniable point of strength.

It would not be necessary to harmonise, and this is an important advantage: harmonising is never an easy task⁵⁰. This would lead to a minimal regulatory burden and straightforward EUBS, which would thus fulfil the need for simplicity, as previously emphasised.

This mechanism could produce a dangerous effect because it relies on European resources. A State could be incentivised to be more generous than it would be if it were relying only on its own financial forces. This is the well-known phenomenon of moral hazard, which is a consequence of the lack of harmonisation. Harmonisation would represent a valid tool to avoid political manipulations of the fund. In fact, harmonisation normally "makes some information mandatory" and "the politicians cannot decide by their interest what must be disclosed"⁵¹. However, without harmonisation, an alternative way to limit abuses by some Member States would need to be explored.

The first solution explored in the literature is the provision of a *trigger*, which would be a logical option in order to avoid permanent transfers of money from one State to the other⁵². It would be based on an *indicator* and a *threshold*. This means that the financial transfers to a particular Member State would occur only if some pre-determined conditions are fulfilled. If, in a particular State, the indicator exceeds the threshold, the State is able to draw money from the supranational fund. It means that the EUBS would be available for a given State if its short-term unemployment rate should exceed some levels. Moreover, if the trigger is high enough, only major shocks would activate it and stop transfers from the EUBS; "the social costs of these shocks would presumably be too high to induce moral hazard on the government side"⁵³.

The second solution that has been studied is the *claw-back*, which is essentially the provision of a safety valve in the system. It would guarantee that Member States' contributions and payouts will balance over the long run. After a number of years, a State becomes a net beneficiary, if it has paid in the system less than what it has received. As a result, the contribution of this State to the European fund would have to be increased⁵⁴.

⁴⁹ Cf. Frej (2015).

⁵⁰ Cf. Yetano Sánchez de Muniaín (2007, pp. 2-3).

⁵¹ Ivi.

⁵² Cf. Beblavý, Marconi, Maselli (2015, p. 14).

⁵³ Ivi, p. 13.

⁵⁴ Ivi.

This scheme appears compatible with the Italian system, which is facing a moment of implementation of significant national reforms through legislative measures related to the *Jobs Act*⁵⁵.

Some might argue that financing the European fund for the EUBS would mean in practice cutting resources from national unemployment schemes. However, this would be a problem for all Member States, not only for Italy.

The success of this model is strictly linked to the definition of the mechanisms able to prevent distortive effects. The indicators need to be negotiated, and since States have different economies, this operation would be very delicate, and might cause tensions. Some States would not be willing to adopt it, given the risk of moral hazard. These States will probably be in favour of a very high threshold, showing fears and concerns that others will draw from the fund systematically.

Italy would probably be in favour of the establishment of a not very high trigger, but will meet some other States' opposition.

Even if the trigger seems, at least in abstract, a positive solution, it is far too optimistic to think that it would be easy to negotiate the supranational scheme.

In addition, in the optimistic scenario where Member States do find an agreement, there is the risk that, with these premises, the result of the negotiations would end up being rather *symbolic*, a choice of compromise, which would not be enough effective. A high trigger might reduce the scope of moral hazard⁵⁶, but it might also overly reduce the potential impact of the EUBS.

Finally, the balance between Member States' contributions would only appear over the long run, so this model implies that Member States, especially those that would not benefit in the short run, feel ready to make this sort of *investment*.

3.3. The basic genuine EUBS

While the equivalent EUBS is an indirect model, the genuine EUBS, conversely, allow individuals to directly access the European fund, which pays out unemployment benefits directly to unemployed persons, according to some conditions that have to be pre-defined at supranational level.

Each Member State maintains, if necessary, the possibility to increase the paid amount and the duration, at its own expense.

The essential elements that need to be defined at supranational level are the qualifying period, the benefit duration⁵⁷, and the replacement rate⁵⁸; while in the equivalent EUBS these are purely national political choices adopted at national level.

A common European benefit *minimum* would be established. Member States could decide to be more generous, if they want – and if they can afford it – on the basis of the national budget and national political choices. However, this would allow for the accomplishment of a fundamental step towards European social justice. Indeed, it would be an enormous element of integration.

This model requires harmonisation. Member States would have to define compelling elements, like the replacement rate and especially the minimum that shall be provided. The

⁵⁵ Law no. 183 dated 10 December 2014, notably Legislative Decree no. 22 dated 4 March 2015 and Legislative Decree no. 150 dated 14 September 2015.

⁵⁶ Cf. Beblavý, Marconi, Maselli (2015, p. 20).

⁵⁷ Number of months during which the unemployment benefit is paid out.

⁵⁸ Proportion of the reference wage that will be paid out as an unemployment benefit.

important differences concerning economic situations, including the difference in living costs, will be non-negligible obstacles to the establishment of a common framework.

The trigger does not seem appropriate in this model, because it would switch individuals' entitlements on the basis of macro-economic performance of the State where they live⁵⁹.

A claw-back has been identified as the best solution, but again it raises issues of political feasibility and legitimacy, if it is financed by individual contributions, making the contribution levels variable on the basis of past macro-performance. It would depend also on how it will be financed⁶⁰.

In principle, it would be a good option from an Italian perspective, being a useful source of integration for the current system's "generosity"⁶¹. However, in practice, it should be coordinated with transitional and new measures of social policy (for instance NASPI, Cassa di Integrazione, transitional mobility allowance, etc.). The legal framework is already very complex in Italy, given the coexistence of different models⁶².

Another problematic aspect would be the establishment of a *minimum*: Italian workers' unions would probably claim their say in the debate.

The risky aspect of this model is that without reforms at national level, there will be an *eternal return of the same issues* (like moral hazard). That is why it should go in parallel with structural reforms. It would probably be useful to introduce in every State beneficiary of the fund, some instruments of so-called "active policies", supporting people looking for employment. For instance, in Italy the National Agency for Active Labour Market Policies (ANPAL) has been introduced recently, but it is not operative yet. If this kind of instruments work effectively, they might reduce unemployment. However, this is a very challenging and uneasy task, which requires time and efforts at national level.

Moreover, the safety valve would work as a solution in the long term, while this model involves mutual trust among Member States today.

Many questions remain open: what happens if States do not do structural reforms and are not able to *refund the fund*? Will there be *European sanctions*? Will future generations pay for today's benefits?

3.4. The top-up genuine EUBS

This type of EUBS was elaborated as a *correction* of the most striking weaknesses of the genuine basic one. The main difference is that in this case the European fund does not apply automatically. A *minimum* has to be defined at EU level, then the supranational fund should supplement national payments, providing the necessary amount to meet the requirements.

Like the genuine basic EUBS, this is a direct model, but the access would be limited. The EUBS will intervene only to compensate national systems, playing thus a subsidiary role. It is a sort of *adjustment* of national systems that are too weak to provide unemployment benefits.

In this model the contributions required from Member States are lower than in the basic genuine EUBS. This is a point of strength, because States would probably be more willing to contribute.

⁵⁹ Cf. Beblavý, Marconi, Maselli (2015, p. 14).

⁶⁰ Ivi, "If a genuine EUBS is financed by individual contributions, making the level of individual contributions [...] variable on the basis of past macro-performance".

⁶¹ Cf. Di Stasi (2013).

⁶² Cf. Gragnoli (2012, pp. 573-618).

One might argue that it would not be politically acceptable to have such an unbalanced situation in the EU, with some States literally keeping the others in check. The situation might have the perverse effect of producing *de facto* a situation of political pressure and influence. Weakest States might end up being permanently in awe.

Some States would not see any political opportunity in this model because they would have, in a way, to *pay twice*. At national level to finance their systems, and at EU level, for States that cannot provide the minimum. The spectrum of moral hazard and fiscal responsibility appear again. However, in the relevant literature trigger and claw-back are referred to as solutions also in this model.

This model could have a positive impact in Italy, where unemployment is unfortunately still a big issue. Even if national reforms occurred, it is still too early to make an evaluation and see positive effects⁶³.

There might be some practical barriers, in coordinating with the new instruments of social policy recently introduced at national level. However, it would be possible to find a practical arrangement, through “transitional periods”.

This model implies that States with a generous system are the only ones that have to finance the EUBS, so this solution is clearly not very attractive for everyone. For some States there is no clear economic rationale.

Setting up this model probably requires a degree of solidarity and integration that does not exist yet, so this does not appear to be a sustainable solution⁶⁴.

3.5. Additional alternative: a pilot project

Once analysed the EUBS applications discussed in the relevant literature, an alternative *pilot project*, not yet considered, deserves to be explained. It would be the creation of a model only for European citizens who have previously made use of their freedom of movement.

This might be an *experiment*, before creating a universal EUBS for every unemployed individual. The practical reason behind is simple: if this does not work, the consequences of its failure will be less dramatic, and it would be easier to erase it, if necessary.

This perfectly reflects the pattern of European integration described in Schuman’s declaration “a Europe built by small steps”. If Member States are not ready yet to establish a general EUBS, they might accept to create it for a small category of citizens.

It would be applicable only for a specific category: *European workers*. In order to make this experiment successful, it would be useful to identify a specific group of workers who would be able to take advantage of it. For instance: Europeans employed by transnational enterprises, who work in different EU States; or academics who work and collaborate with different universities in different Member States; or flight crew workers. One point is crucial: these workers should be people who exercise their freedom of mobility. A citizen who exercises the right “of freedom of movement by becoming established in a Member State other than the Member State of which he is a national”⁶⁵.

The rights “conferred [...] by provisions of EU law on Union citizenship are rights

⁶³ For a first evaluation see Carinci (2016).

⁶⁴ Cf. Garofalo (2009).

⁶⁵ ECJ, 25 July 2008, *Blaise Babeten Metock and Others v Minister for Justice, Equality and Law Reform*, C-127/08, pf. 73.

derived from the exercise by a Union citizen of his freedom of movement”⁶⁶. This means that, in order to take advantage of the EU citizenship-related rights, European citizens need to use their freedom of movement.

3.5.1. *Encouraging the use of fundamental freedom, while fighting against social shopping*

There is a large number of points of strength. For Member States it would probably be easier to accept this pilot project, rather than a universal EUBS, since it would require a smaller economic effort.

Moreover, every State would have the feeling that, while financing this fund, it is paying for its own citizens (who lost their job in another Member State). Usually, if a European worker loses his/her job, he/she returns to his/her home State, and he/she does not get the unemployment benefits in the host State⁶⁷.

It would also be a way to prevent abusive behaviours of the so-called “social shopping”, which is a big concern for some States⁶⁸.

Another advantage would be that this type of EUBS might raise European mobility⁶⁹. Knowing that they are covered by an unemployment benefits scheme, European citizens might feel “safer” and circulate more in the EU. In fact, moving to another EU State involves some important costs, considering travelling costs, language classes, etc. This might be a way to amortise these costs, if the European worker loses his/her job⁷⁰.

Free movement of workers is ensured in the single market: we can easily understand why there must be an unemployment scheme for EU citizens who use the free movement.

3.5.2. *Some weaknesses in its practical implementation*

First of all, one might say that this model would not play the role of *macroeconomic stabiliser*. This might be true, at least in the short term, because its application would be strictly limited.

Moreover, some specific categories would require an *ad hoc* legislation (like posted workers, who work only for a limited period in another Member State).

Another argument against could be the fact that such model might appear only shaped for the *European élites*: people who travel for work are on average supposed to be already qualified enough, and do not lose their job frequently. But this is just a *cliché*, and it also depends from the category of people considered as European workers.

3.5.3. *How to mitigate moral hazard while respecting the principle of fiscal responsibility?*

This kind of EUBS would allow preserving the principle of fiscal responsibility, while preventing behaviours of moral hazard. In fact, a single State could not be tempted to use the European fund over its possibilities; it would not be able to misuse the fund. The benefits would be applicable only to a category of workers that is – in any case – impossible to influence through national policies.

It seems clearer that in this model there is no true risk of moral hazard.

⁶⁶ ECJ, 18 December 2014, *The Queen, on the application of Sean Ambrose McCarthy and Others v Secretary of State for the Home Department*, C-202/13, pf. 34.

⁶⁷ If the host State provides such benefits. Currently, the richest Member States already provide these benefits.

⁶⁸ Cf. Rinaldi (2016).

⁶⁹ Cf. Beblavý, Marconi, Maselli (2015, p. 5).

⁷⁰ Ivi.

3.5.4. Feasibility at national and EU level

For Italy it might be a good initiative: Italy has always proven to be strongly in favour of the promotion of EU mobility⁷¹, and many Italians use their freedom of movement⁷².

Concerning its duration, the current Italian system could possibly be an inspiration, in the sense that it takes into account territorial differences among regions⁷³. This EUBS could do so as well, providing different for weakest European territorial areas.

This EUBS model would be a starting point, more easily acceptable for Member States. Moreover, if it is true that only a small number of citizens use it at first, in the long term it might promote intra-European mobility⁷⁴.

Concerning the financing system, contributions from national GDP may not be the best idea. The main objection being that, paradoxically, in the other EUBS models the States with the strongest economies appear to be the least motivated to finance the European fund, while in this model probably those with the weakest economies would not be willing to pay. In fact, the risk is that they would finance a fund for citizens leaving their State of origin and working in another one.

That is why probably the most reasonable option is to finance it through a sort of *grant* from European workers' salaries. This would not mean that the net salary is lowered if you work in another EU State: it would not be compatible with the fundamental principle of non-discrimination.

The solution might be the following: the host State shall renounce a small part of taxation on the salary of European workers⁷⁵. The taxation would be a bit lighter for European workers, and the percentage of the salary shall be used to finance the EUBS⁷⁶.

Why would States be likely to renounce a part of taxation? There are different replies. First, they would not have to provide national unemployment benefits to that EU worker if he/she loses his/her job. It might be an interesting point. At least the host State would not have to pay them the contribution if they lose their job, so in a way it will be a smaller risk – and this is a good argument to the claim of moral hazard.

This means that Member States would not have to provide national unemployment benefits to these workers. The host State would not have to pay them the contribution if they lose their job, so in a way it will be a smaller risk – and this is a good argument to the claim of moral hazard.

4. CONCLUSION

Article 1 TEU, with similar wording to earlier treaties, states that: "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of

⁷¹ See for instance the Italian government's Program for the Presidency of the Council, available at http://italia2014.eu/media/1350/programma_ita_def.pdf.

⁷² *Rapporto Italiani nel mondo 2015*, Fondazione Migrantes, ed. Tau, 2015.

⁷³ In the transitional period from 1st January 2013 until 31 December 2016, the Italian system provides that the duration of mobility allowance depends on the Region where the person who has lost his/her job lives (for instance, people who are older than 50 and live in southern areas get 24 months' allowance, while those living in other areas get 18 months' allowance).

⁷⁴ Which is something – they say – that has to be improved. Time has come to prove if they really mean it.

⁷⁵ Then the role of timing should be discussed. How long shall the workers contribute? Maybe one year? Different solutions can be explored. This has to be negotiated at EU level.

⁷⁶ If someone argues that in practice this would mean creating a reverse discrimination, we might reply that it is not forbidden in the EU law.

Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen”.

A more integrated union can only result from strong and brave political choices, which are supported by a common European will. Unfortunately, this particular historical moment does not represent the best context.

The EUBS would represent an undeniable benefit to European integration, as emphasised in the first chapter. Unfortunately, the implementation models, described in the second chapter, show that unless the fundamental issues are resolved – notably mutual trust between Member States – the practical implications of the EUBS cannot be seriously discussed.

Practical models require finding a solution to the abstract questions. Otherwise, the same issues will always reappear. It is overwhelmingly true that these aspects represent existential questions for the EU, and go beyond the EUBS itself.

Discussing the practical models without having solved the crucial problems might be pointless.

The aim of this paper is precisely to show that, even if the existing models have proven to be not entirely satisfactory, the search of new alternative models (like for instance the pilot project on European workers) shall not stop. It is precisely the contribution we would like to give the debate.

One thing is sure: it is not possible to find the solution to pragmatic questions, such as the levels of the economic indicators, if there is no basis for a common European view. It would be like building a house without a foundation. In other words, biting off more than you can chew is never a good idea. This is something that the EU has probably already experienced in the past, and we should try to learn from our mistakes.

One thing is sure: every single EUBS model, even if with different degrees, requires a minimum of mutual trust, solidarity as well as a quasi-federal approach.

First, the political will and the shared views need to be identified, and only after that, concrete application can be discussed; otherwise, we are simply daydreaming.

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