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The Activation Trend in the Portuguese Social Policy. An Open Process?²

Abstract: Until quite recently, activation was an almost unknown concept in Portuguese law and political discourse. But it now pervades the major legal instruments on social protection, such as the 1999 law on protection against unemployment, the 2002 Social Security Law of and the 2003 Social Insertion Income Scheme.

Throughout Europe, a growing criticism of ‘passive’ welfare state policies resulted from the inefficiency of social benefit based policies in addressing the persistent risk of insecurity and the new forms of social vulnerability. For this and other reasons, active social policies consisting in programmes capable of being adjusted to individual needs became more and more popular and widespread. At the same time activation came to be the key word in the mobilization of policy users as well as policy services for the new method of intervention.

However, activation proved to be a rather ambiguous instrument of policy. Open to the most disparate goals, it can be appropriated by different political and ideological projects at different levels (basic principles, policy making and programme implementation) and assume a more or less compulsory nature. This paper discusses this ambiguity and shows how the increased emphasis put on activation in Portugal has been expedient in attempts to legitimate unpopular neoliberal policies, while for economic, social and political reasons, and especially costs, the compulsory side of activation has been limited.

1. The EU Strategy for Employment: From coordination to convergence

The Luxembourg process is the outcome of a long journey and of multiple ideas. It has emerged because of a strong desire for coordinated action at the European level, but been strongly resisted by forces and institutions deeply embedded in national culture, institutions, and social and economic structures.

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The story of this strategy links directly to the critical position of EU national economies in the context of globalised capitalism. Globalization has been changing employment and labour market relations in different ways. Amongst the visible effects of this macroprocess, labour market flexibilisation is clearly at the forefront, together with unemployment and job insecurity. The impact of these phenomena on social well-being has aggravated poverty and social exclusion and has inspired, on the part of the national governments, the adoption of a diversified range of measures to fight these unwanted effects.

Simultaneously, the processes of globalization, while disclosing a loss of capacity of national regulation, have forced national states to engage themselves increasingly in international arrangements in order to coordinate actions and reinforce the means of coping with those processes.

Generating similar problems of structural adjustment in different parts of the world system, economic globalization has caused an increasing homogenization of policies at a national scale and, thus, the apparent convergence of national policies. However, the strong disparities amongst countries and regions, their irreducible historical and cultural density, and the differences in their social and political regimes make the convergence thesis very questionable.

How much room for manoeuvres do national states still have to escape the global constraints inscribed in the policies of international organisations and intergovernmental agreements?

In the case of the European Employment Strategy (EES), it is clear that the impact of some supranational arrangements on national policies and their capacity to overcome the de-structuring effects of globalization has been very relevant. We can assess whether or not a real trend for the convergence of social policies has been launched with those arrangements, and how far the room for manoeuvre of national states in the development of social policies is being affected by national dependence on international change. There are domains where Europeanization responds readily and accurately to the requirements of the world economy. In the case of those policies aimed at combating unemployment and, more recently, poverty and social exclusion, the European method of open coordination allows for adjustments to globalization at a pace compatible with the social and political conditions of each member-state. Again, the

underlying issue is the degree of balance between convergence and historical specificity.

The adoption of a common strategy compelled the member-states to develop National Action Plans for Employment (NAPs). From the substantive point of view, the content of the Plans reveals some innovation and some positive aspects. However, the way NAPs have been defined by the generality of the member-states reveals clear limitations and insufficiencies. These relate to (i) the vague character of the nationally proposed goals and priorities; (ii) the difficulties in the creation of comparable follow up systems (CE, 2001a:2); (iii) the divergences in changing goals; (iv) the limitations in the transferability of best practices for political, institutional and cultural reasons; and (v) the rather hesitant and less than mandatory character of recommendations to member-states.

Such limitations are greater because of the historical differences between national welfare systems. For instance, relative to Germany, the UK, France and Scandinavia, southern European countries such as Greece, Spain and Portugal have less developed economies, more recent democratic regimes, and welfare states either still under construction or weakly consolidated. Because welfare states have not reached maturity, and passive social policies have been maintained at a modest level, the pressure to adopt active social policies is very low and, for that reason, these policies just recently started to emerge. Their most salient feature seems to be the reduced priority given to activation when compared to redistributive policies.

The most recent programs and reforms of social protection systems have been hybrid, combining elements of different ideal types corresponding to different welfare systems and showing some tendency to a convergence between the North and the South of Europe. Moreover, a recent study on the future of the European social model claims that success in adjusting is more evident in those countries that had to deviate most from their initial model in order to combine the best of the different welfare regimes (Ferrera *et al.*, 2000: 52; Andreotti *et al.*, 2001).

In Portugal, the course of social policies and reforms (more announced than implemented) seems to have been influenced, in great measure, by European standards, both in terms of EU priorities and individual member states experience. EU membership also influenced Portuguese social policies in two contradictory ways. First, by means of the Structural and Cohesion Funds, which became decisive for launching programs in

the areas of employment, vocational training, education, housing and combating social exclusion. Second, by means of the European monetary system and the Stability Pact that converted the argument of convergence into an unquestionable justification for curtailing social programs.

The future of the Portuguese social model will depend on the outcome of a set of reforms in the domains of social security and social welfare and of health care. What it is essentially at stake is an option between a neoliberal model of social protection which defends a drastic reduction in public social provision, and the European social model that supports a universalistic social protection based on social citizenship (Santos, 1999).

Portugal has a very progressive political constitution in the sense that it consecrates a wide range of social rights defining a high standard of social citizenship. However, the protection actually offered by existing services and systems of provision clearly falls below these standards. This problem tends to be seen in different ways according to the political orientation of governments. But the lack of political hegemony among leading social actors has led to a continuous delay of reforms and to the emergence of an electoralist discourse (eventually radical and populist) that has confused the population and has not allowed for the emergence of consensus. Lacking common ground on roles for a mixed economy, social partners have polarised the debate on issues such as decreasing social inequalities, improving a dynamic and competitive economy, and modernizing public and private institutions.

Nevertheless, the influence of EU guidelines on the expansion of active social policies and activation in Portugal is very evident and widely recognized.³ Before the EES (European Employment Strategy) implementation there were already a broad range of programs aiming at increasing the employability of unemployed workers,⁴ with a good platform of compensatory measures combined with a relevant degree of activation (CIDES, 2003: 43; Hespanha *et al.* 2002). This experience was enough to allow effective adaptation of the programs to the European guidelines. However, the previous

³ The same conclusion is expressed by an official evaluation study: “The impact of EES on policies has been rather strong and very clear in the case of employability and activation policies. The proximity to the spirit and the letter of the EU guidelines led to a significant increase of the programs foreseen in the Portuguese Action Plan (PNE). This increase is very positive for the capacity to attend to very diverse situations, but generated some problems of ‘proliferation’” (CIDES, 2003: 150).

⁴ About 23, according to CIDES (2003: 128).

active labour market policies lacked strategic objectives and priorities, quantified goals and coherence.

In implementing the EES, Portugal made successive changes in the direction of EU activation policies. A concept of preventive activation, based on the idea of a ‘new start’ for people on unemployment benefit, was promoted in the first version of the guidelines. This restricted concept then evolved towards a more comprehensive one, capable of including those groups most excluded from the labour market. In 1999, a new guideline was introduced in order to promote the integration of individuals with particular difficulties, such as disabled persons, ethnic minorities, immigrants and other groups. In 2001, this guideline was extended in order to address all forms of discrimination. After five years of implementation, the EES was substantially reformed in 2003 and oriented towards promoting social cohesion through a more inclusive labour market. An important role was accorded to activation policies in new guidelines 1b (the long-term unemployed), 7 (persons facing particular difficulties in the labour market) and 8 (incentives for making work pay). After the Council of Nice in 2000 a new EU strategy was launched aiming at strengthening the action of member states in combating poverty and social exclusion: the EU strategy for social inclusion. Two objectives in particular stressed the importance of appropriate activation policies for the insertion of those people at risk of exclusion: (i) the creation of trajectories of inclusion by mobilizing training initiatives; (ii) ensuring that access to a job means an increase in income and a real opportunity of professional insertion (Silva, 2004: 6).

2. The legal basis for activation in Portugal: recent trends

Before the EU influence made itself felt, and despite previously consistent practice, activation itself was an almost unknown concept in Portuguese law and political discourse. But it now pervades the basic norms of social protection, such as the law on protection against unemployment of 1999, the Social Security Law of 2002 and the Social Insertion Income Scheme 2003.

An earlier 1985 programme in Portugal that implicitly included activation and refers to the allocation of temporary jobs for unemployed people is POC (*Programa Ocupacional para Desempregados*). Formally, POCs were created to “combat

de-motivation and marginalisation tendencies” among the unemployed, and to aid their social integration through a “socially useful occupation”. It was recognised that the programs “are neither targeted at job creation nor at being engaged in productive jobs in the labour market”. Job placements under this programme were restricted to public services and non-profit organisations. Participation in a POC was explicitly temporary and at least in the beginning had an integrative rationale. Later on this rationale shifted to a more compulsory participation. According to a recent review of the law (1999⁵), recipients of unemployment benefit (contributory) or social security benefit (means tested) are obliged to accept a job offer. Otherwise they will lose their benefit entitlements. POC placement entitles recipients to an income supplement of 20% on top of unemployment benefit, plus transportation, meals and costs with insurance.

A Guaranteed Minimum Income (GMI) scheme (1996), re-baptized Social Insertion Income in 2003 (RSI),⁶ followed the activation rule, obliging recipients to accept an insertion plan consisting predominantly in a job placement or training. The right wing coalition in government from 2002 to February 2005 promised to reform the scheme in order to avoid fraud and disincentives to work, and new legislation to this effect went through Parliament following a ministerial claim that “The most efficient way to combat poverty is through work”.⁷ Both financial and social reasons were also invoked by the government: it is necessary “to spend our money better with those who effectively are more in need”.⁸ An audit made by the Accounting Court to the GMI scheme, issued in 2000, supported the government’s argument that the GMI scheme was subject to abuse. As a result, the new law restricted entitlements (the lower age limit rose from 18 to 25), converted the benefit into a *right with obligation*, reinforcing conditionality by obliging recipients to accept some kind of activation (training, job placement). Also, mechanisms of surveillance, control and sanctioning were reinforced.

⁵ DL 119/99, April 14.

⁶ Law no. 13/2003, May 21.

⁷ Presentation of the bill to Parliament (2002, June 14).

⁸ “When, under the impulse of the new realities of the national and world economies, the Keynesian ‘welfare state’ was forced to move to the Schumpeterian ‘workfare state’ (Robert Jessop, 1993), this meant, in addition, the recognition of the inevitable necessity of containment or even reduction of public expenses. This had a marked effect on the volume of transferences to social protection systems, due to their alleged incapacity to face the emergent effect of the process of fordism accumulation that led, during the ‘glorious thirty’, to economic growth, full employment and the expansion of protection systems” (Minister of Social Security, 2004, October 12).

Another relevant law for activation is the new Social Security Law of 2002,⁹ proposed to Parliament by the same coalition government. The previous one was approved in 2000, during the socialist government, with the votes of communists.¹⁰ One of the basic principles instituted by the new law was the principle of contractualization of insertion plans.¹¹ According to article 60, “Whenever appropriate (...), the law provides for the assumption by the beneficiaries of a contractual plan of insertion, as well as its actual fulfilment”. The same principle applies to the social assistance subsystem: “For the prosecution of its objectives the social assistance system is based on the following principles: (...) (g) Contractualization of the responses in order to engage recipients and make them accountable” (art. 83, g). Article 86 also states: “The public development of social assistance does not cancel out the principle of the responsibility of persons, families and communities in the pursuit of social well-being”.

An important step to regulate the duties of the unemployed on benefits in terms of activation came with the law on social protection for unemployed people, in 1999.¹² Beyond the two pre-existent types of unemployment benefits – the *subsídio de desemprego*, based on workers contributions; and the *subsídio social de desemprego*, for those not entitled to the former and dependent on a means test – two new types of benefits were created: the *subsídio de desemprego parcial* (for those who can access a part-time job) and the *subsídio de desemprego de longa duração* (for those who are unable to find a job).

According to this law, entitlement to any of those types of benefits is conditional on the following obligations: 1. to accept: (i) a suitable job; (ii) socially necessary work; (iii) a vocational training course; (iv) a personal plan for employment; 2. to be present at the Job Centre whenever he/she is called; 3. actively to seek a job; 4. not use fraudulent means to get the benefits. The intention of activating those on benefits is very clear, but trade unions were alert to the risk that activation would become an instrument to reduce the number of beneficiaries, and the government has been very cautious in implementing the law. In 2003, the right wing coalition prepared a revision of this law

⁹ Lei de Bases da Segurança Social: Lei no. 32/2002, December 20.

¹⁰ Lei de Bases do Sistema de Solidariedade e Segurança Social: Lei no. 17/2000, August 8.

¹¹ The insertion plans are associated to another basic principle: the principle of social inclusion. “The principle of social inclusion is characterized by the active, preventive and individualized nature of the actions developed under the system in order to eliminate the causes of social marginalization and social exclusion and to promote human dignity” (art. no. 13).

¹² Dec-lei no.119/1999, dated April 14.

in order to make it more stringent, but it was not approved before the suspension of parliament, in December 2004. One of the issues that raised more criticism from the unions was the latitude of the concept of ‘adjusted job’ used by the new law to define the kind of jobs that unemployed people were obliged to accept. Too broad a definition of adequacy could conflict with one’s professional competence. In that definition, the location of the new job was not considered a motive for refusal if the distance between the job place and the worker’s residence was less than 40 km and the travel costs did not exceed a fifth of the salary. Later the Government created incentives for the geographical mobility of unemployed persons accepting a job not less than 100 km from their home, or in a less favoured locality (with a purchasing power under three quarters of the national average).

Instead of revising the 1999 law, the government decided to create a Program of Employment and Social Protection (PEPS) aiming to offer the unemployed (and also employed people at risk of losing their job) a set of incentives and opportunities both in terms of social protection and employment.¹³ The program was justified by the increase in unemployment following a national and international economic slow-down. In terms of employment and training, these new measures¹⁴ created new opportunities to activate persons in different situations: a) skilled¹⁵ unemployed persons lacking training (*Fordesq*); b) skilled unemployed lacking specific training for a particular new job (*Formeq*); c) unemployed persons lacking initial training for a particular job (*Em-Forma*); d) those unemployed lacking training for temporary jobs replacing workers on parental leave (*Em-Familia*); e) unemployed persons and employed persons at the risk of job loss¹⁶ but lacking incentives to geographical mobility (*Incentivos à mobilidade geográfica*); f) employed persons needing retraining in sectors of activity undergoing restructuring, redirection, reorganisation or modernization (*Face*); and g) those unemployed lacking training and incentives for new jobs in the areas of handicraft, traditional professions and heritage (*Apoio ao Desenvolvimento do Artesanato e do Património Natural, Cultural e Urbanístico*). The unemployed or employed persons at risk of unemployment were obliged to participate in the measures

¹³ Dec-lei no. 84/2003, dated the 24th April

¹⁴ These were established later in Dec-lei no. 168/2003, dated July 29, and Portaria no. 1252/2003, dated October 31.

¹⁵ With level IV and V qualifications.

¹⁶ Those employed in an enterprise whose economic sector has been declared under restructuring or in difficulty.

by force of the above mentioned law and of the Labour Code. Activation is incidentally referred in the provisions of the Labour Code relating to employers who organize training courses for their personnel. In these situations workers cannot refuse to participate (even if they are in a reduced or suspended work period).¹⁷

The Labour Code was an innovation in terms of pulling together varied, sparse and fragmentary legislation in a single document. The Code introduced new rules on labour relations and changed the philosophy of many others in three main directions: a more flexible and open regulation, a reduced role for trade unions and collective bargaining, and less balanced labour relations. Changes dealt with dismissals, fixed term contracts, work duration and mobility, collective bargaining, minimum service provisions during strikes, etc. Strong criticisms coming from both the trade unions and the left wing parties in Parliament resulted in a Presidential veto of the legislation based on the non-constitutionality of several of its provisions,¹⁸ and led afterwards to a re-consideration and reformulation by Parliament.

We must recognize that both the European Strategy for Employment and the later European Strategy for Inclusion exerted a strong influence on the official discourse about activation throughout this period.

Portugal has enormously increased activation since the first NAP in 1998, namely along guidelines 1 to 3. The main aim was expressed clearly by the Minister of Labour and Solidarity: “to find a solution that should take into account the possibilities in the region where the person is integrated, the employment supply, the opportunities of training or occupational programs and, therefore, to help social integration” (MTS, 1999: 8). According to an official report published in 1999, the percentage of expenditure on active measures as a share of the total cost of the employment policy “had consistently grown and was then close to 50%” (MTS, 1999: 62; see also MTS, 2002: 11). Training, subsidized jobs, self-employment schemes and insertion programs for Guaranteed Minimum Income earners are the main instruments now being used for activation. Preventive action against unemployment and an early start approach to employment has been provided by two new programs clearly inspired by guidelines 1 and 2: the *Inserjovem* – an integral follow-up project for young people – and *Reage* – a

¹⁷ Arts. no.s 123 and 345.

¹⁸ On 18 June 2003 the Constitutional Court decided to suspend four articles from the Code: i. favouring the derogation of collective labour agreements; ii. Limiting the more favourable treatment clause; iii. allowing employers to access information on health or pregnancy condition of their workers; iv. admitting that trade unions may partially waive strikes in new collective agreements.

similar project for adult unemployed persons. Portugal, with 29% in 2001, exceeded the goal of activation of unemployed persons established in the guidelines.¹⁹

The Employment Action Plan for the period 2003-2006²⁰ illustrates the importance given to the implementation of programs that increase employability, with a particular focus on unemployed persons with greater difficulties in gaining insertion and employed persons at risk of losing their jobs. In this document, the Government recognizes that Portugal has developed principles of activation in several domains of social policy: the cases of the social insertion income, of the accumulation of part-time work with partial unemployment benefit, unemployment benefit itself, etc.). But it stresses also the importance of broadening these principles. Early school leavers, people with deficiencies, the unemployed and inactive searching for a job, low qualified workers and the long-term unemployed, immigrants and ethnic minorities as well as other groups with low participation in the labour market (active members of single-parent families, aged workers, beneficiaries from Guaranteed Minimum Income Scheme) are to be sought out and become a target for active and preventive programmes aiming at their inclusion.

Accordingly, a strategic axis of that Plan (axis no.3) is an action programme to eliminate and prevent unemployment and poverty traps and to promote labour market participation by those who are most excluded or marginalized (women, older workers, people with deficiencies).

In the same vein, the Portuguese Action Plan for Inclusion (2001-2003)²¹ embodies all the previous basic principles, such as responsabilization, activation and contractualization. “The commitment and mobilization of society as a whole and of each person in the effort of eradicating poverty and exclusion, with a special emphasis on the contractualization of social protection programmes” (Resolução 91/2001). For those persons identified as socially excluded, the Plan provides that they will be contacted by the local agencies of social assistance, within one year, in order to enter a social insertion agreement, adjusted to personal circumstances and involving a large set of measures covering the areas of education and training, housing, health, social protection, basic income and access to social services. But all these measures are

¹⁹ Although the effort rate reached a positive value, the rates of entrance in LTU had increased much for the young as well as for the adult unemployed.

²⁰ Resolução do Conselho de Ministros no. 185/2003

²¹ Resolução do Conselho de Ministros no. 91/2001

conditional on individual commitment to perform the actions considered necessary for the success of the labour market inclusion, such as the enrolment in the Job Center, as long as he or she is aged between 16 and 65.

Now we move to target groups. Activation policies address specific categories of people and as a rule each program defines its own clientele. Given the number of activation programs with different priorities, it is not an easy task to identify target groups and to rank them in terms of priorities. Constant changes in programs make the task more difficult.

Activation measures may be oriented to labour market inclusion or to social inclusion. There are two main strategic programmes defining employment and welfare policies and identifying target groups on the basis of this distinction – the PNE (Portuguese Action Plan for Employment) and the PNAI (Portuguese Action Plan for Insertion).

Unemployed people are one of the main categories targeted by the PNE, but several sub-categories with different levels of priority are usually considered. According to the Program for Employment and Social Protection (“PEPS” 2003), which regulates incentives for job creation and geographical mobility,²² the incentives must focus on those persons in economic difficulties or with reduced access to the labour market: young people, the long-term unemployed, unemployed aged over 45, and young people unemployed with high or medium education levels.²³

According to the PNAI, all the disfavoured social groups should be activated through contractualized personal or family plans for social insertion. However, the scale and diversity of the cases led the Ministry of Social Security to establish priorities in accordance with three basic criteria: (i) accessibility to resources; (ii) vulnerability to exclusion, and (iii) the degree of urgency (ISSS, 2004).

²² DL. No. 168/2003, dated July 20.

²³ It must be remembered that the priorities in PNE 1998 concentrated on short-term unemployed due to the preventive approach adopted by guidelines 1 and 2.

3. The institutional setting of active policies

The role of the State

Compared with relatively weak institutions of civil society, the role of the State in Portugal has been strong since the 1974 overthrow of dictatorship by the military, with a highly regulatory role including widespread nationalisations in 1975 (Santos, 1993). Because of concern to overcome the previously lack of institutions representing the interests of different sectors of civil society, the State promoted and institutionalised collective agents, thereby reinforcing its own regulatory position. Paradoxically, also, although the relative balance of public and private power has changed since the early 1980s, the central regulatory role of the State was reinforced when Portugal joined the European Union in 1986 and adopted its wide ranging regulations as part of the *acquis communautaire*.

In the period following the overthrow of dictatorship in 1974, and before joining the EU, the regulatory role of the state focussed on the institutionalisation of trade unions and workers' rights and on the construction of a public system of social protection that would respond to the expectations of the population. In regard to labour disputes, the inability of the social partners to find negotiated solutions given the weakness of employers caused by the nationalisations of 1975, as well as social pressure from workers, led to their resolution by administrative means – through the mediation of the Ministry of Labour and through arbitration imposed on the parties.

During the first half of the 1980s the effects of a deep economic crisis and, additionally, the need to control public expenditure imposed by the IMF led to a reorientation of state intervention in order to restore the confidence of investors and to attract new capital. Gradually, the previous pro-labour orientation in policies changed to a pro-employer orientation favouring the emergence of an industrial bourgeoisie capable of adjusting to the new market conditions. In broad terms, these policies operated through the concession of incentives to enterprises, the re-privatisation of a large part of public enterprises, and an increased focus on flexibility in labour legislation and wage demands. However, such a change was only possible because of the closing of firms, arrears in salaries, redundancies, and a general rise in the rate of unemployment that dramatically weakened workers' effective pressure on the State and

reduced their resistance to the deregulatory measures claimed by employers. The creation in 1984 of the Permanent Council for Social Concertation (CPCS), composed of representatives of the government, employers, and unions, did neither substantially alter the government's room for manoeuvre nor reduced the regulatory role of the State.²⁴

Trade Unions

There is a clear contrast between the views of workers and employers on the role of the State. Employers argue for the liberalisation of the labour market and demand from the State the necessary reforms to guarantee the viability of private initiative (including the flexibilising of labour laws). Unions try to maintain employment levels, gain enforcement of labour laws and also the development of policies to counteract the tendency towards job insecurity.

For the CGTP, a pro-communist trade union confederation, “unemployment is the main factor in social exclusion, and job insecurity represents the first step in that direction”.²⁵ The CGTP stresses that the chasm between the levels of employment in Portugal and the EU tends to increase because Portuguese workers earn one quarter of the European average, their hours are much longer, social protection is inferior, there are many more work-related accidents, the level of education and training is much lower, and the information and participation of workers in the life of firms is almost non-existent (CGTP, 1996a: 3).

The other trade union confederation, UGT, closer to the Socialist and Social-Democratic parties, shares the same idea that job security and stability must be defended, but is more open to the acceptance of specific modes of temporary work and part-time work corresponding not only to the demands of firms but also to the diversity of workers' time requirements, thus allowing them an employment strategy (UGT, 1996: 7).

In terms of employment policies, the CGTP is opposed to job subsidies, arguing that it benefits firms and not workers (CGTP, 1996b: 21) and discriminates against workers (CGTP, 1996c: 35). For the UGT active and passive policies should

²⁴ Several other agencies have this tripartite nature: the Instituto de Emprego e Formação Profissional (IEFP), the Observatory of Employment and Training, the National System of Certification, the Institute for Training Innovation (INOFOR), the National Commission for Apprenticeship.

²⁵ Quoted from interviews made within the framework of a research project on globalization (Hespanha and Valadas, 2002).

complement one another, but while in the European Community active measures of re-integration of the unemployed are favoured to the detriment of passive subsidy measures, in Portugal, given the low level of unemployment benefits, it is not possible to reduce or downgrade these measures (UGT, 1996: 22). Arguing that the two policies are complementary, the UGT supports passive employment measures whenever active measures do not produce the conditions for the creation of jobs.

Social partners were invited to support the first Portuguese National Action Plan (PNE) and have been contributing to the preparation, development and follow-up of the process of implementing the EU guidelines for the PNE, while claiming a more central role in its implementation and in the evaluation of the results (MTS, 1998a: 66). Through an unprecedented initiative involving the social partners, a Joint Declaration attached to the PNE was supported by them in the Permanent Committee of Social Concertation (CPCS). The terms on which each partner would be involved and the degree to which they would be responsible for the achievement of the Plan's goals nonetheless were rather unclear. In particular, the social partners expressed no view on activation policies, while recommending investment in education, training and life-long learning.

The social partners nonetheless demonstrated consent to the philosophy of the guidelines, and a willingness to negotiate on specific subjects which in fact divided them (for instance, on the development of life-long learning programmes), through a tripartite work group established in 2000 for the follow-up of the PNE. This was especially relevant in the negotiation of a set of legislative initiatives in the domain of labour and in the reflection about the role to be played by the Public Employment Services in the launching of the PNE.

While the social partners made such a strong commitment in principle to the PNE, there were significant divergences at the level of implementation. This was the case of the programmes aimed at the upgrading of employed workers' qualifications, concerning which the trade unions were highly critical of the type of intervention or involvement advocated by employers: "(...) the employers' discourse is very retrograde in relation to permanent learning. They consider work time only as the time dedicated to production; work time dedicated to training and improving qualifications is something that does not enter into their discourse. Therefore, permanent learning is not easy to develop with such an attitude". In turn, the representatives of the employers'

confederations were very critical of the recommendations on training, which they claimed did not meet the needs of firms: "we are all offering hours and hours of training, [but] the majority of the profiles needed are not met by those courses. Therefore we may be training people who in the next two years will be dismissed".²⁶

In effect, while there may have been an underlying consensus on the need for education and training, and a mutual recognition of the importance of knowledge, abilities and skills, the social partners had different interests in and perspectives on training. Both prioritised their own agendas, as evident from the following example.

The CCP – Portuguese Confederation of Trade Employers – stressed the importance of ‘making work pay’ in the context of the second phase of the EES and clarified its particular understanding of this priority in this way: “The importance of ‘making work pay’ is particularly relevant in Portugal where the high levels of unemployment protection disincentive work. We have to stop this by two different forms of intervention: a rigorous and efficient fiscal response to abuses of the unemployment benefit in order to combat any form of parallel economy, and a reform of the level of benefits by decreasing them in order to make work pay” (CCP, 2004a: 5). Concerning priority 1 of the EES – “active and preventive measures for unemployed and inactive persons” – the same Confederation stressed the need to recognise constraints within the programme, citing the limited capacity of the Employment Services (ES), the importance of taking account of the real needs of each unemployed person (with the implication of making personal plans for employment very selective), the limited effectiveness of individualised programmes and the need to promote a more balanced sharing of responsibility between the ES and unemployed workers, through a greater emphasis on individual effort (CCP, 2004b: 5).

Within the EU, Portuguese social partners are debating the future of the EES at the institutional levels open to their participation, namely the Employment Committee where social partners join together with representatives of the Council, the Commission and the European Employers’ Federation. In the opinion of one of the trade union confederations, dialogue between the employers’ associations and the trade union confederations at the European level has never existed. On the contrary, “the European employers’ representatives (who initially appeared to be more progressive than the

²⁶ *Idem* (Interview no. IV:10).

Portuguese employer confederations) are currently involved in a process of boycotting some of the initiatives proposed by the workers in the framework of the EES”.²⁷

Local Roles

The Portuguese Action Plans also stress the need for decentralised initiatives through municipalities and other local collective agents (mostly NGOs). New instances of regional/local regulation emerged or reinforced their role associated with EES: that was the case of the Territorial Pacts for Employment, the Regional Employment Networks and the Social Network. Although some disparities resulted from the implementation of these agencies, this has not offset the effort made to convert them into strong partnerships able to ameliorate the implementation of PNE and PNAI²⁸ programmes. In general, decentralisation means changing roles and responsibilities in the management of welfare state arrangements. However, until now, in Portugal this process has not led to a privatisation of activation services through for-profit companies. Employment services – job centres and vocational training centres – are still in the hands of IEFPP, the Institute for Employment and Professional Training, a tripartite managed body with the status of a public service.

4. The cultural and ideological background of active policies

The set of values and the cultural framework underlying activation programmes are not easy to discern. The explicit motives presented in official documents rarely coincide with underlying motives, because the rhetoric of political discourse is concerned with conforming to EU praxis. Such political correctness implies broad consensual arguments and exclusion of the more sensitive issues. This appears very clearly when we analyse the discourse of a particular social force (whether a political party, a trade union or an employers’ association) in different contexts: inside or outside their walls, under an oral or a written form, in electoral campaigns or during

²⁷ *Idem* (Interview I: 14).

²⁸ National Action Plan for Inclusion. In the case of the minimum income scheme, Local Follow-up Commissions were created at the municipal level; the Rede Social – a partnership intended to coordinate programmes for combating poverty and social exclusion – was established at the same level; the MSE – Social Market for Employment – has been strongly associated to Networks, Pacts and Regional Employment Plans.

parliamentary debates, etc. Presentations of motives in legislation are carefully filtered in order to nuance strong ideological inspiration. Official documents tend to present activation as a technical rather than an ideological issue. Thus, words, whether spoken or written, cannot be taken at face value.

A deconstructivist approach has to be made to unveil motives beneath, behind or beyond official explanations. This approach involves the search for the natural history of policy programmes, comprising an intensive scrutiny of key events (political debates, compromises), of social forces (ideologies, political power) and social contexts related to the process of designing and implementing the programme.

An example of one of the more controversial social policy programmes in Portugal – the Guaranteed Minimum Income Scheme (GMI) – can be used to illustrate how that approach may operate.²⁹

Political forces revealed strong disagreement towards the GMI based on conflicting sets of values, such as social inclusion (perceived either as combating exclusion or a subsidy for those unwilling to work), individual autonomy (either the right to find a job which is fulfilling or preventing dependency), equity (reciprocity of rights and obligations or the right to offer the going wage), individual responsibility (either as an employee or an employer) and costs (either the social costs to individuals and families of unemployment, or the costs to employers and taxpayers from offsetting it). The ideological dimensions of such differing views represent a continuum which nonetheless polarises different ideas of emancipation and regulation.³⁰ Emancipation equates with promotion of the individuals' autonomy, with participation of policy takers in the design of the programme and in the choice of the insertion goals, and with mutual trust between state and clients. Regulation equates with promotion of responsibility, combat to passivity, control of obligations, sanctioning of non-compliance, mutual distrust.

The divergences appear quite clear when we compare the views of right and left wing parties, of employers' associations and trade unions, when we take the discourse produced by those forces during electoral campaigns or parliamentary debates, and when we use internal documents instead of official statements.

²⁹ Additionally, this is also that programme where activation took its most mandatory configuration.

³⁰ This dual nature of social policies may be expressed in different but close terms, like “social integration” v. “social discipline” (Larson and Mayland, 2005) or “republican solidarity” v. “rights with obligations” (Barbier, 2005).

The GMI scheme was created in 1996 when socialists returned to the government after twelve years of liberal rule.³¹ Portugal was then one of the three EU member states which had not yet followed the Council recommendation no. 92/441 (CE, 1992). The scheme was very well accepted by the Portuguese society and easily became a landmark in the socialist political legacy. Nevertheless, detractors insinuated that the GMI was used by the government as a political tool to reinforce clientelism instead of a programme to alleviate poverty. For five years a growing criticism coming both from the parties to the right of the socialists, and conservative sectors of Portuguese society, exaggerated some negative side-effects of the scheme's implementation, claiming fraud, dependency and laziness. An audit by the Accounting Court confirming the existence of some irregularities in the first two years of the GMI has been largely used to support these general claims.

After the fall of the socialist government towards the end of 2001, the liberal (PSD) and the conservative (CDS/PP) parties, both very critical of the scheme, announced their intention to make a deep reform in order to change its basic philosophy. Again, during the 2002 electoral campaign, the GMI scheme became one of the most controversial issues, and again the ideological differences came to the surface, the CDS/PP leader often expressing the opinion that the GMI was for people who did not want to work.³² The new law, prepared by the governmental coalition formed by PSD and CDS/PP, was approved by Parliament in 2003, but vetoed by the President and only published after some reformulations introduced by Parliament.³³ The GMI scheme was re-baptized as Social Insertion Income with only minor amendments to the previous legislation.

The amendments referred to the transitory and subsidiary nature of the benefit, to a more restricted set of conditions for the entitlement, and to a more heavy sanctioning system for non-compliance, abusive or fraudulent behaviours. The new regulation makes very clear that benefits depend on the contractualisation of an

³¹ During that period, the socialist party, in opposition, proposed to the Parliament the creation of a minimum income scheme, but the proposal was rejected. The registers of the debates are crucial to grasp the main arguments used on the occasion to support or to reject the socialist proposal. The high cost of the policy and the imperatives of citizenship were the two main competing arguments.

³² "Once given to a 20 year old person, the GMI, instead of stimulating him/her to work and overcome difficulties, becomes a kind of financing of laziness" (*Jornal Nova Guarda*, 28/02/2002). "We are going to stop the abuse and fraud" (...); "with us the GMI, such as it exists, will finish", because "we do not want to give incentives to laziness, but to work", and another priority is "to help more those who worked all their life" (<http://www.cdspcores.com/contents/noticias/notic30.htm>).

³³ Law no. 13/2003, dated May 21.

insertion programme. Among a large range of possible obligations, the benefit recipient must accept to be activated in different ways: through a job placement or a vocational training action; an educational or apprenticeship course; an occupational programme aiming to ease the integration in the labour market or the fulfilment of social, communitarian or environmental needs; some work within the institutions of social solidarity; self-employment initiatives.

The official explanation for the changes was very cautious taking into account the opposition to them. As the Minister of Social Security said on presenting them to parliament: “It is with a constructive spirit that we are now proposing the creation of a social insertion income scheme, in order to deepen the social and family focus of the measure, and at the same time to confer greater effectiveness, more transparency and more requirements in the attribution and control of the benefit. Let me be clear: the social insertion income scheme was created not to save money, much less to save money with the poor and disfavoured. To the contrary, its philosophy and rules are oriented to spending our money better with those who effectively are more in need”. This did not prevent considerable related rhetoric such as: “What the Government is proposing is not a simple change of name or an alteration of detail. It is a change in philosophy, namely in what we mean by the terms ‘social’ and ‘insertion’ in the name of the scheme itself, instead of a mere ‘unaccountable guaranteeism’”. (Minister of Social Security, during the presentation of the bill to Parliament) (Diário da AR, I Série – No. 020, 15 June 2002).

This rhetoric was echoed by other political leaders of the coalition: “This model is manifestly different from that followed by the previous government. Contrary to the orientation of the previous government, of following an assistencialist model, the majority and the present government prefer an integrative model, where social support functions as a second line acting after the exhaustion of active integration attempts. Of course, we are not going to give up and reject our responsibilities with the mere distribution of resources, but we prefer that those in need be stimulated to make all efforts in order to be compensated for their integration into work” (Diário da AR, Debate Parlamentar do Decreto no. 34/IX).

More explicitly, the leader of the CDS parliamentary group expressed the new philosophy of mistrusting recipients and combating fraud. “I remind you that the previous law has been known by the ‘three F's law’, meaning by that not only *Férias*,

Feridos e Faltas,³⁴ but also *Falhas, Fraudes e Fraquezas*.³⁵ (...) I feel that it will be an improvement in the combat against fraud as well as in control [in spite of the means to do that]. Social workers, who have the obligation to make the follow-up of the cases, often complain that they are subject to coercion, that they are easily deceived and that they do not have the conditions for making the follow-up” (MP Telmo Correia, *ibid.*). Left wing parties agreed on the existence of a follow-up problem, but they associated it with the shortage of human resources allocated to the scheme. However, restricting the access to the scheme because of that shortage was unacceptable to them. In the same vein, the then Prime Minister, now President of the EU Commission, claimed that “in some cases it [the scheme] operated more as an incentive to idleness and laziness, not respecting the intended objective: social re-integration” (Diário da AR, Debate Parlamentar do Decreto no. 34/IX).

Until now we have stressed the importance of ideological differences, namely those of political parties, in the evaluation of a political programme. However, some ideas emerging during the debate on minimum income schemes show clearly that there also are underlying economic social and cultural issues. The cultural differences reflect opposing views on work and leisure, rights and duties, and the relative roles of state and society.

This has to be understood in context. In the mid-1970s, at the time of the overthrow of the dictatorship, Portugal had been in stasis for forty-five years. While the rest of Western Europe, excepting Spain, had modernised, two out of four Portuguese workers were still in agriculture. Urbanisation and outflow of the young from rural areas was dramatic, with a construction and employment boom aided by Structural Funds equivalent to three per cent of GDP, and new, although temporary, foreign direct investment. But this process excluded the most remote and less educated sectors of the population. It also did not mean successful adaptation either by indigenous private firms or public institutions. Hence, from Portugal’s acceptance of the Maastricht debt and deficit criteria for a single currency, governments reined in public investment and expenditure. With expectations that most of central Europe would join the EU after the fall of the wall, several foreign firms relocated there or, with their own downsizing and de-layering, went home. Portugal was increasingly on the periphery and at the margins

³⁴ “Vacations, holidays and absences”.

³⁵ “Imperfections, frauds and failure” [of the Government to do what has to be done].

of Europe. The transition both to democracy and to Europe faltered. Expectations were unfulfilled.

However, while the strong modernising trend over three decades in Portugal could not be absorbed by those unprepared for urbanisation, a predominantly rural work ethic remained. Consistent with a still widespread Catholicism, this blamed the poor for not being diligent enough in meeting their needs, stressed particularist rather than universal values, supported individual charity and altruism rather than general welfare, and atavistically mistrusted the State. Such values collided with modern ideals of social citizenship and a welfare state. Added to them was a mix of neoliberal ideas deifying the market and free choice, distrusting the state as welfare provider and believing that social problems will be solved as long as the economy is healthy.

If we take the notion of “worklessness”, many distinct meanings can be found across Portuguese society. In rural areas dominated by a peasant culture it would be understood first of all as a loss of (productive) time and then, maybe, as a sign of bad conduct, eventually laziness. In these contexts, work is viewed as a decisive instrument of survival, while a special *ethics of life* postulates an intensive and wise use of work.³⁶ Moreover, being an economy based on reciprocity, someone who gets paid without any obligation to work or to give something in return would look strange – if not unacceptable. As peasants developed an accurate moral sense of equity, any social provision that benefits those who are seen as less diligent or well-to-do becomes subject to criticism and a source of unrest. This is the case, for instance, of the strong objection that many people living in remote rural areas express towards the demands for free housing or other facilities coming from poor urban families.

The Welfare State developed late in Portugal and never reached levels of protection similar to those of northern EU countries. The authoritarian regime that ruled the country for nearly half a century had adopted a model of social regulation adverse to the development of comprehensive social policies. It staked itself, rather, on familism, a conservative ideology supported by the rural condition of a large part of the population, amplified by a deep-rooted and anti-liberal Catholicism, which permitted the maintenance of social support based on family and community solidarity and on weak expectations in relation to consumption and quality of life. It was only after the

³⁶ The pre-capitalist dominant classes were accused of being idle, in the sense that they were not living from their own work, but from the work of those they controlled through land or capital ownership. However, the idleness of the elites was not seen as problem, only the idleness of workers.

establishment of democracy in 1974 that the first systematic programmes aiming at the construction of a welfare state were developed.

The principles of social justice and equity introduced by a welfare system led to a slow but steady progression from reliance on the family to universal citizenship. During the period of democratic transition, strong and mostly urban social movements joined forces with the State with the objective of fulfilling new aspirations, in terms of housing, transportation, childcare facilities, etc. These aspirations were legitimized by the State itself as rights sanctioned by the Constitution (Hespanha *et al.*, 1997). In spite of the scarcity of state support, these widespread solidarities had a fundamental role in the improvement of the living conditions of the Portuguese population. Joining the EEC in 1986 reinforced this process of building a modern system of social protection, the progress of welfare state programmes representing a real effort to extend social services and a consequence of the “obvious need for building the legitimacy of the new democratic governments” (Laparra and Aguilar, 1996: 97).

How far has this trend to expand social citizenship and universalism changed people’s minds and removed conservatism as a distinguishing cultural feature associated to authoritarianism and Catholicism?

Recent studies on social attitudes have shown that there has been a large support from Portuguese people for welfare state policies, but opinions differ on rights and duties. One of the studies (Cabral *and al.*, 2003), using unemployment benefit and minimum income as reference policies, shows that 37% of the population consider the entitlement to these policies as an unconditional right based on social justice; 47% as a conditional right dependent on the willingness of the beneficiaries to work in return; and only 16% consider that those policies reduce the willingness to work. This study confirms the conclusion of a previous one (Cabral, 1995) that social policies are largely appreciated, although there are many criticisms on their implementation. Another finding is that opinion about social policies is influenced mostly by education and political preferences. Therefore, the negative opinion about the effect of social policies on the willingness to work increases when levels of education decrease; the opinion about policies as unconditional rights varies positively with levels of education, while the idea that the welfare state must get something in return from the welfare programmes’ beneficiaries seems to be stronger at both ends of the education level scale

(basic and higher). The effect of political preferences on attitudes and opinions is also revealing. The idea that policies meet unconditional rights is clearly associated with the left, while the idea of a policy trap is associated with the right. The perception of rights as conditional seems to be stronger in the moderate left and right wing parties (the PS and PSD), which have governed alternately since the 1980s.³⁷

In effect, conservatism in Portugal is associated with those strata of the population which are less modernized or less educated, with right wing parties and with Catholicism. These strata tend to see welfare policies as subsidiary to individual responsibility, prefer paternalistic aid to citizenship-based solidarity, distinguish between deserving and undeserving poor, and are more emphatic on obligations than on rights. As Silva notes, “most NGOs, trade unions and religious institutions have blamed the activation of social policies for many of the negative changes that have occurred in the labour market – precariousness, the deterioration of the work quality, the aggravation of exclusion, the ‘working poor’ – while not taking into account other plausible determinants of the changes in western societies, such as globalisation or the accelerated dissemination of the new technologies of information” (Silva, 2004).

Conservative thinking is very suspicious of redistributive policies, assuming that subsidies will lead forcibly to work phobia and dependency. For that reason, activation as a work incentive is considered an obligation – those who benefit from welfare must be prepared to give something in return..

To analyse the real impact of conservatism on activation in Portugal we must have in mind that activation is a rather open process in the sense that it can be appropriated by different political and ideological projects.³⁸ Appropriation may operate at three distinct levels and become visible in three distinct *loci*: at the level of basic principles the specific *locus* is public debate (electoral campaigns); at the level of legislation the specific *locus* is particular policy making institutions (parliament, government); while at the level of programme implementation the specific *locus* is the administrative agencies for the management of the programmes (job centres).

³⁷ Taking into account the activation trend in the EU, it is expectable that parties with governmental experience will disseminate this perspective among their members and supporters.

³⁸ As Jean-Claude Barbier puts it, “Very different value choices fit in the common framework” (Barbier, 2005).

The introduction of the minimum income scheme shed some light on the first two levels. Little attention, however, has been paid to level three. There are many relevant aspects in the implementation process while, as has been argued, “a great deal of the steering policy is now in the hands of ‘implementers’” (Hudson and Lowe, 2004: 204). I will just refer to discretion as an opportunity for political, ideological and cultural biases to penetrate the scheme

A common feature of active welfare policies is the individualized approach, i.e., a method of designing the programme in such a way that it adjusts to the particular profile of the user in terms of needs, abilities and expectations. This *intuitu personae* approach requires a close contact of the professional with the user, a deep knowledge of his/her profile and a reasonable margin of manoeuvre to design the most suitable programme. This is the reason why professionals who implement these policies are given relatively large discretion. But discretion is the main point of access for political and ideological bias. Contrary to what professionals often sustain, discretion is closely influenced by norms and values which may be unconscious or unintended but nonetheless result in bureaucratic, ethic or political bias. This occurs especially with the lack of clear guidelines or administrative criteria to adjust programmes to new situations, and when new evaluation procedures are not available. In these circumstances, there is a tendency for the presumptions, personal values and beliefs of professionals to dominate outcomes. A study of the minimum income scheme (Hespanha and Gomes, 2001), shows that clients frequently claim that social workers decide on the basis of personal moral judgements.

Allowing for this, it cannot be said that activation programmes have been influenced by general ideological or cultural principles. But those EU programmes which have been developed since the Lisbon Summit in 2000 are very much exposed to ideological and cultural influence by political parties, social partners and local bureaucracy. The policies for social inclusion have not lost general legitimacy, but are an arena exposed to assault by conflicting ideologies. In this sense, it is not the legislative framework which is determinant but implementation. The recent experience of the RSI scheme made clear how easy is to block the implementation of a programme without having to reform the law, just manipulating the formal proceedings.

5. Types of activation

Different criteria can be used for typologies of activation. Some of these may address more general problems such as the basic philosophy underlying activation policies. Others concern more formal aspects of the design and implementation of activation programmes.

Beginning with a basic criterion, based on the *degree of coercion* put on activated people, two main types of policies can be distinguished: first, those policies under which activation is imposed to policy takers (workfare); second, those policies under which activation is merely encouraged.

The first case includes some passive policies and some active labour market policies that are conditional on individual behaviour such as taking a job or a training course, in the context of an insertion plan.³⁹ Examples of these policies are unemployment benefits that may be conditional on acceptance of a temporary job (e.g. under the occupational programme or the Enterprise Entry programme) or a training course (under *Integrar*/measure no.1); the minimum income provision that is conditional on the formalization of an insertion contract; and some activation schemes that may be conditional on the acceptance of a personal plan for employment by young and adult unemployed under the *Inserjovem* and *Reage* programmes.

The second case – unconditional activation policies – includes a large set of activation programmes, such as job placement in the private or public sector or in NGOs,⁴⁰ sheltered employment, incentives to employers,⁴¹ incentives to workers,⁴²

³⁹ This conditionality is clearly expressed in the Social Security Law: “The law foresees, as a condition for the attribution of solidarity subsystem benefits, the assumption by the beneficiaries, when adjusted, of a contractualized commitment for insertion and its effective fulfilment” (article 60).

⁴⁰ “Plano nacional de estágios” (National plan for apprenticeship, since 1997), “Programa de Promoção do Emprego Temporário na Administração Pública” (Programme for Job Promotion in Public Administration, targeted at youngsters and LTU, since 2001).

⁴¹ “Majoração dos incentivos à contratação de mulheres desempregadas com mais de 45 anos” (Majoration of incentives for hiring over 45 year-old unemployed women) since 1993; “Programa Estímulo à Oferta de Emprego” (Programme for stimulating job supply), (Portaria no. 196-A/2001, dated March 10).

⁴² Incentives to the geographical and occupational mobility of unemployed persons (since 1987); “Pagamento Global das Prestações de Desemprego” (capitalization of unemployment benefits, under the “Regime de Prestações de Desemprego”, approved in 1999); CPE (Programme for the creation of self-employment, targeted to subsidized unemployed persons, since 1994); Job Clubs (since 1993) and UNIVAS (Units for insertion of youngsters in an economic activity, since 1996); “Programa Estímulo à

training in a work context,⁴³ self-employment, education and training,⁴⁴ integrated programmes,⁴⁵ incentives to older people.⁴⁶

Regarding entitlements, the trend in the last few years has been to increase the levels of insertion (from insertion into the labour market to increased employability) and to enlarge both the areas of participation (work, education, training, life-long learning, apprenticeship, self-employment, etc.) and the target groups (young people, women, aged women, aged employed, long-term unemployed, recently unemployed, handicapped people, etc.).

The level of ‘generosity’ of the policies is easier to measure in the case of passive policies combining some activation schemes, because the remuneration (in the form of wage, grant or scholarship) may be related to the foregone benefit. In general, the ‘attractiveness’ of the schemes depends on the level of income supplement accorded to the benefit, although in general that supplement is kept at a modest level. For instance, in the case of the Occupational Programme for the unemployed the pay for the new job is equivalent to the unemployment benefit plus a supplement of 20% and a monetary compensation for food and insurance costs.⁴⁷ In the case of training courses for the unemployed a scholarship is granted corresponding to the minimum national wage (MNW) for those searching a new job, and to a supplement of 25% of MNW for first job seekers. On top of this, there is an allowance for transportation, housing, food and insurance.

But there also are other criteria.⁴⁸

Oferta de Emprego”; Partial unemployment benefit for unemployed workers who have a part-time job (RPD, DL119/99).

⁴³ “Programa Formação-emprego” (Programme Training in job, for unemployed, beneficiaries of minimum income scheme and handicapped, since 1993); training scholarships (since 1994).

⁴⁴ “Qualificação Inicial para Jovens” (Basic qualifications for young people with low levels of schooling under POEFDS, since 2001).

⁴⁵ “Programma Integrado de Combate ao Desemprego de Longa Duração” (Integrated Programme to Combat Long-term Unemployment, since 1998).

⁴⁶ “Regime de flexibilidade das pensões de velhice” (Regime of flexible old age pensions, since 2001).

⁴⁷ The unemployment benefit (contributory) equals *grosso modo* 65% of the wage income and cannot be more than three times the minimum wage. The unemployment social benefit (means tested) equals *grosso modo* the minimum social benefit.

⁴⁸ Armindo Silva distinguishes three main categories of activation policies: i. Those based on the principle of reciprocity; ii. those based on the concept of insertion trajectory; and iii. those based on the ‘make-work-pay’ principle (Silva, 2004: 9).

Degree of individualization

Some activation programmes, the like minimum income schemes Inserjovem and Reage, are very strict on the individualization principle. They suppose the negotiation with the policy taker of a personal plan for insertion and the subsequent contractualisation of that plan. Other programmes are more universal in the sense that it is enough to belong to a pre-defined group (unemployed with low levels of schooling; women above a certain age; employed in an economic sector under crisis) in order to be entitled. The experience with the personal plans has been very fruitful since the introduction of the Guaranteed Minimum Income scheme in 1996, and has been abundantly studied. These studies have shown the difficulties of devising personal plans due to the different expectations, values and education of professionals and policy users, the amount of time and energy needed to elaborate a good plan, the costs involved in meetings and visits in order to get a reasonable knowledge of the claimant's situation, and the limited means available to meet the needs for a sustainable inclusion.

The “simplification” of the negotiation process also caused an overload of pending cases and resource constraints. The Institute for Employment and Vocational Training (IEFP) did not significantly reinforce its staff after launching the Inserjovem and Reage initiatives. An assessment study published in 2000 confirms that staff shortage and overloads were causing considerable delays in processing cases (MTS, 2000: 22).

Users' participation

Overall, the new approaches favour a more active role for users in the design of policies, a more diverse and flexible offer of policy instruments, a less asymmetrical power balance between policy agents and clients, and more accountability in the administration of programmes. But they also imply more discretion in actual implementation.

In broad terms, active social policies endow users with more autonomy and discretion in choosing their plans for improving employability or getting an adequate job. The personal plan for employment (PPE), under the Inserjovem and Reage programmes, is no longer simply decided and allocated by job centre professionals or counsellors, but is rather an outcome of negotiation between the client and the job

centre agents. Furthermore, a PPE is the result of, and is preceded by, a personalized analysis of the client's situation and environment in terms of his/her past employment trajectory, his/her capacity for improving qualifications, his/her willingness to accept dramatic changes in life, his/her provision of social capital in order to make better use of labour market opportunities.

The participation of users in the definition of the particular activity suggested by the employment services is mandatory under those programmes which involve a negotiated individual plan (Minimum Income, Inserjovem and Reage). In other cases of activation, such as the Occupational Programmes for unemployed, there is no negotiation or other forms of participation. Unconditional activation measures are very heterogeneous from this point of view. Some of them consist in pre-defined activities (e.g. training courses) which are not individually customised; others allow for a reasonable degree of individualization.

The outcome is a policy mix of traditional and new forms of intervention, combining active and passive approaches; a dissonance between discourse and practice (political or legal rhetoric supporting new approaches versus local bureaucracy continuing in a traditional way); and a philosophy of empowering the weakest citizens contrasting with a presumption against those in need.

User participation is significantly dependent on the culture of the institution, on the human resources available and on the professionals' discretionary practices. All these factors inhibit participation, which the Portuguese law includes in the basic principles of social policies.⁴⁹

Balance between rights and obligations

Throughout Europe, criticism of 'passive' welfare state policies has come from different directions (neoliberals, conservatives, the third way). According to Giddens, old style social democracy presumed ever fuller implementation of social rights rather than a balance between rights and obligations, and, though he makes the claim without supporting evidence, produced very negative effects on social solidarity (Giddens, 1998).

⁴⁹ The Social Security Law defines the principle of participation as "the involvement of the interested parties in the definition, planning and management of the system and in the follow-up and evaluation of its functioning" (article 19, Law 32/2002, dated December 20).

But progress towards activation in Portugal has shown a mix rather than a balance between rights and obligations. All the major legal instruments that regulate activation in Portugal refer, in a way or another, to policy users' obligations and responsibility. The same with the official discourse. Moreover, sanctions for non-compliance are also provided.

It is also noticeable that some activation programmes are more compelling than others. Even amongst those activation programmes that are considered more coercive (see above), differences still exist in their capacity to compel users to fulfill obligations. For instance, if we compare sanctions for non-complying with insertion plans, it stands out that while under the minimum income scheme beneficiaries lose their benefit, under Inserjovem and Reage users only lose the assistance provided by the job centre, and only for a short period. The ability to compel users to comply with activation depends on the magnitude of the benefits to which users are entitled.

Degree of discretion

Discretion in active labour market policies relates to the margin of manoeuvre that professionals enjoy in tailoring the existing programmes to each particular policy user. Sometimes the range of tools available is very large and the activation scheme very inclusive. That is the case with the minimum income policies Inserjovem and Reage, under which an individual insertion plan is a pre-requisite for activation. Discretion is central to the design of the plans and for follow-up on their implementation. In other cases the intervention is pre-defined, such as training courses, where discretion does not apply.

Understanding the Portuguese experience also needs a more general context. Discretion is associated with regimes of authority within organisations. In a Weberian bureaucratic regime, discretion is used within certain limits imposed by the organisation's goals and guided by some objective criteria justified by those goals. But other regimes of authority may coexist with a bureaucratic regime and induce some deviations in this model of discretion.⁵⁰ It may then be subject to different goals and contained by different limits. This occurs, for instance, when a very demanding

⁵⁰ One of the four structural elements that Santos uses to characterize the Portuguese Welfare State is precisely "a state bureaucracy that has not internalized social rights as citizens' entitlement rather than as state benevolence" (Santos, 1999: 7)

insertion plan under the minimum income scheme is used to discipline a ‘non-deserving’ poor family or to justify an intentional subsequent withdrawal of the benefit, or when an unemployed person under the occupational programme is placed in an unsuitable job just because the promoter (state service or NGO) needs low cost labour for normal activities.⁵¹ In contexts of resource constraints linked or not to the fiscal crisis of the welfare state discretion is expected to be used to differentiate among clients according to dominant values or subjective preconceptions, as M. Lipsky has shown (Lipsky, 1980: 114).

Quality of the action

Nonetheless, the information available for evaluating the quality of the programmes is rather scarce. Apart from some isolated studies on minimum income, occupational programmes and Inerjovem and Reage programmes, there has been no systematic and accurate evaluation of the quality of active labour market and activation programmes. The national training and employment agency IEFP announced the launching of a follow-up system for several programmes based on interviews to policy users, but no results have been published until now.⁵² The main official source of information available is a study on the impact of EES in Portugal, published in 2003 and based on a number of different sources, which includes a volume on labour market active policies (CIDES, 2003).

The conclusions of this EES study on the efficiency of activation policies refer to the *Estágios Profissionais* (professional apprenticeship) as a success case. The success is measured by the high levels of insertion into the labour market of highly qualified young people and by the presumed gain of high qualifications for the firms concerned. The other cases considered to be best practice are the Inerjovem and Reage

⁵¹ In a study based on the experience of users we confirmed the existence of some distortions in the implementation or even in the instrumentalization of this programme. Quite often, promoting organisations use POCs to recruit cheap labour for “normal” activities or for new activities that would be performed in any case. For instance, a Health Center recruited several unemployed women to help in the installation of a new computerized system of register. It was reported that some organisations used POC workers to replace regular workers during their holidays.

⁵² The main objective of this system of evaluation is to know, by mail inquiry, three months after the terminus of the action, the situation of users under programmes of Employment or Training, as well as users’ opinions about the level of satisfaction with the job and its quality, the forms of access to the job and the difficulties found in the job search. Currently, the users who participated in Occupational Programmes, Professional Apprenticeship, Programme FORDESQ/GESTIC and Vocational Training are under observation.

programmes. Two main reasons are adduced: first, the positive effect of activation on the job placement; second, the positive effect on those public employment services that adopt a more active, preventive and personalized approach (CIDES, 2003: 139).

6. The impacts of activation policies

According to the CIDES study published by the Ministry of Social Security and Labour (CIDES, 2003), the performance of the programmes included in the Portuguese Action Plans for Employment is rather unbalanced, but the results of those priority programmes may be considered largely satisfactory in terms of preventive action. Nonetheless, it should be noted that this positive evaluation did not take into consideration either the quality of actions or the side-effects on the regular labour market. Also, the conclusions of the study recognised the context within which the implementation of the NAPs operated: in particular an international economic environment (until the middle of 2001) that was very favourable to the growth of activity and employment rates and to the reduction of unemployment rates. Therefore, it becomes difficult to say whether improvements in performance are due to the active labour-market policy or more generally to the business cycle.

Also, the indicators of the impact of activation policy on users are less than informative and even contradictory. Several programmes have been evaluated at different times using different methodologies. A synthetic view of the results of these evaluations is given as follows:

Inserjovem and Reage (1999): increase in the employability of users; visible impacts on Job Centres; heavy bureaucracy and an administrative workload.

Estágios Profissionais (Job placement for medium/high level educated young persons) (1997-1999): complete achievement of the objectives of integration of users into the labour market; lack of follow-up by job centres and insufficient diffusion of the programmes; reinforcement of the image of the national training and employment agency IEFP; good adjustment to economic and social realities.

Sheltered Employment (1983-1996): the rationale of rehabilitation superimposes the rationales of work and enterprise promotion, with the goals for the programme insufficiently clarified.

Formação-Emprego (training in work context) (1993-97): reasonable rates of employability; integration of three different measures; difficulties in the articulation with Ministry of Education; does not allow for a certificated training nor tailored training; lacks flexibility and a decentralized model of implementation.

Occupational Programmes – POC (1994-97): the main formal goals of the programme were reached, with relevant social support to unemployed in need, but unsatisfactory results in terms of employability; the follow-up is merely administrative and occasional;

According to an official evaluation study, “the implementation of this model of intervention had deep and diversified implications on the way in which the public services for employment had to reorganize themselves to give an accurate response to the challenges posed by a new kind of intervention based on a personalized attendance and on a better articulation with each candidate” (MTS, 2000). Yet, while *Inserjovem* and *Reage* were initiatives directly inspired by the EES (under its two first guidelines), most of these programmes were created before the EES and have not been subject to significant changes since. The survey revealed that users have a very positive opinion of the process itself (elaboration of a personalised employment plan). But only 55% of the respondents have a positive opinion on whether it solved their unemployment problem. The major criticisms focused on the follow-up of insertion itineraries; the adjustment of actions to individual users; and the contribution of the personal plans for reducing unemployment. The view of IEFP professionals contrasts with that of users. IEFP claims that the programme led to an increase in employability of users, although recognizing that some obstacles such as work overload made follow-up difficult.

If we assess the overall success of active labour market and activation policies in promoting high-quality human resources, the answer could hardly be positive, even with limited indicators for precise evaluation. Most of the measures, and particularly those that have involved the largest number of users in 2003 – the *Programas Ocupacionais* (44,331), the *Estágios Profissionais* (14,675), the *Inserção-Emprego* for

minimum income beneficiaries (5,393), the *Empresas de Inserção* (4,603) and the *Escolas-Oficina* (2,256) – appear to have no concern beyond offering an opportunity to access the labour market. Excepting maybe the case of *Estágios Profissionais*, the profile of users in terms of qualifications is broadly speaking very low. None of these programmes refer explicitly to the key Lisbon agenda aim of a knowledge-based society (KBS) or incorporate any significant component of high quality training or promotion of work conditions. Lacking investment in life-long learning and disregarding knowledge and skills obtained from experience, the programmes do not fulfill and may even contradict the KBS demand for a high-quality workforce based on autonomy, creativity and participation (Moniz and Kovács, 2001: 55).

Also, the fact that activation policies are being focussed on low-skilled and under-educated workers, who cannot refuse the activities or jobs they are offered, risks producing negative effects on the labour market. The occupational programmes, for instance, offer very precarious temporary jobs to the unemployed. In principle, job placements in the public sector and associations are available within the ‘soft’ areas, such as social services, environment and cultural institutions. However, these jobs often compete with regular jobs, with these institutions being allowed to recruit unemployed workers under POC instead of full-time employees. A case study on POC users concluded that the activated workers do not have the same rights as full-time employees, either in terms of pay, entitlements, working time or working conditions. This can frustrate effective inclusion because the participants feel stigmatised or consider themselves as second class wage-earners (Hespanha and Matos, 1999).

The replacement of regular workers by POC subsidized workers is of concern to trade unions and a central issue in their contention about current active employment policies. POCs are arguably inhibiting the creation of new jobs and trade unions defend a profound reform of the programme in order to adjust it to the new social and economic contexts and also to the particular conditions of the unemployed persons. An evaluation study on POCs refers to several of the above-mentioned observations and concludes with recommendations to clarify the concept of ‘socially useful occupation’; to adopt a more plural legal frame in different regional contexts; to guarantee the acquisition of professional skills to reinforce longer term employability; and to make the local and central administration more accountable for policy implementation (Geoideia, 1999).

Programmes other than the POCs may also be contributing to a deterioration of the labour market. This occurs namely when people accept training opportunities but the skills acquired are not enough to access a stable job. For increasing employability does not only mean activating someone; high-quality policies are also needed to complement customised programmes for skill extension, reinforced by on-the-job training related to that skill. Otherwise, retraining may simply recycle the unemployed, returning them to the labour market with no prospect of obtaining a proper job. As CIDES claims, what happened during those years was “an accentuated qualitative impoverishment of the stock of unemployed people, which led to significant difficulties in the implementation of activation measures in populations with greater obstacles to insertion in terms of qualification, age and availability for the work” (CIDES, 2003: 151). Precarious jobs not only affect their public – those called “precarious periphery” by Robert Castel (LTU, youngsters searching for their first job, underqualified women, beneficiaries of minimum income in search of social insertion, among others) –, but also give legitimacy and incentive to “unstable stability” in areas where the job market was steady (Rosa, 2003: 37).

Other indirect negative effects of low quality activation policies include: the creation of false expectations among activated people, institutionalising a secondary labour market for them, de-investment in passive policies and the reduction of unemployment benefit expenditure.⁵³

The appropriate implementation of active policies in Portugal, therefore, has been restricted in several ways: first, deficiencies of organisation in public employment services (partly due to the lack of tradition in active labour market policies, partly to the shortage in human resources and logistics); second, the high costs of individualised programmes; third, mistrust of users due to earlier negative experiences (job precariousness, social marginalization, stigma); fourth, insufficient recognition of competences and skills learned informally from working life; fifth, discontinuities in programmes due to political cycles, and short-term decision-making.

Since 2001 there has been a reduction in the number of programme users. This was the case with the programmes oriented to training and employment (*Formação e Emprego*) with a reduction of 24%; of the programmes oriented to the creation of jobs

⁵³ Paradoxically, while unemployment rates have been rising, the amount for payment of unemployment subsidies in the Budget of Social Security has decreased in recent years. For example, in the budget for 2005 this amount represents, in relation to the budget for 2004, an increase of only 4%, less than half of the increase of the previous year (in 2004, this amount increased 11.8%), and less than 1/8 of the growth in 2003 (34.8%) (Rosa, 2004).

and firms (*Criação de Emprego e Empresas*), with a reduction of 13,8%; of other programmes oriented to employment promotion (*Outras medidas de promoção do emprego*), with a reduction of 12,3%. Numbers in SII/GMI registered also a marked decrease, and all the programmes oriented to activity development in the area of employment (*Actividades Desenvolvidas no Âmbito do Emprego*) dropped significantly except Professional Counselling and Occupational Programmes, with a reduction of 4,7% (IEFP, 2004).

7. The impact of the EES on activation policies

Activation policies in Portugal nonetheless have produced some positive outcomes in terms of (i) cooperation amongst departments and administrative levels; (ii) involvement of the social partners, local authorities and other entities in joint actions; and (iii) modernization of public employment services.

The intersectoral approach

Activation policies directly and indirectly concerned several departments beyond those with specific competences in social affairs and employment. This move to more increased interdepartmental cooperation was strengthened by the EES, with the National Action Plans becoming integrative instruments for the policies of the Government as a whole (including important contributions from departments such as Education, Economy and Finances) (MTS, 1999: 8).

The integrative strategy operates at different levels. At the level of employment action, it links the fields of education, training and employment, in a way that may still be insufficient but does allow for the recognition of non-formal learning processes in the work context (MTS, 1999: 36). At the level of inclusive action, it relates social protection policy to employment and training policies, thereby at least aiming to avoid labour market marginalization leading to social exclusion. At the level of sustainable action, it brings together economic, employment and social policies with the aim of reinforcing each other.

The CIDES evaluation study points out successes in relating employment, training, social development, education and, in a more limited way, economic policies (CIDES, 2003: 151). But not all of this is due to the EES. Employment and training policies have been managed together by the same ministry since the 1970s, and the same institution, the IEF, since the 1980s. In a similar way, employment policies and social policies benefited from having been managed by the same ministry. Educational and employment policy thus already had a tradition of joint thinking and action. What is new and appears to be a relevant effect of EES is the great effort made to approach employment policy to the other sectoral policies.

The territorial approach

A new emphasis was also placed on local and regional partnerships as an instrument for implementing and diffusing employment and training policies, adjusted to the particular conditions of each territory. Since the 1998 NAP an important role has been played by Regional Networks and Territorial Pacts for Employment. Both forms of partnership preceded the EES but gained their real importance and were reinforced because of it. The Regional Plans for Employment are a product of these partnerships and were created to complement and develop the national plan at regional and local levels. Although the outcome of these regional bodies and instruments has been uneven and at times fragmented, this process of decentralization has been positive granted the earlier long tradition of state centralization in Portugal. In the area of policies combating poverty and exclusion, a new instrument of coordination based on partnerships was also created and is being implemented at the municipality level: the Social Network.

The organisational approach

A range of changes in the public services for employment and training resulted from the new methodologies of intervention, both in terms of how they were organised, and also of their role. First, they became more proactive in the sense of searching and calling clients to offer them suitable programmes instead of being the front desk for clients' demands. Second, an early start approach was taken to get for each registered unemployed a personal plan for insertion into the labour market. Third, access to job centres and vocational training centres by clients such as minimum income recipients,

drug addicts under programmes of detoxification, and ex-convicts on leaving prison is now compulsory.

The implications of these changes were both deep and varied. The public employment services had to reorganise themselves in response to the challenges of a more personalized approach, more discriminating policies and a greater proximity to clients. While procedures became complex and more demanding, a substantial increase in staff could have been expected⁵⁴ but, as already indicated, did not happen. For this reason, the Inserjovem and Reage evaluation study mentions that the overwhelming majority of the Job Centres complained that the increased workload meant reduced availability of professionally qualified staff and obstructed follow-up with clients (MTS, 2000).

The same study states that “at the present time the mission of the public employment service appears to be particularly focussed on clients with disadvantages vis-a-vis the labour market”, and recognises that this clearly was aimed at social inclusion, but adds that “As a result, some loss of competitiveness in the labour market has occurred” (MTS, 2000).

Activation policies have focussed on two main areas: employment and social inclusion. The *Instituto de Emprego e Formação Profissional* (IEFP) is the agency concerned with activation in the labour market, and the *Instituto da Segurança Social* (ISS) with activation for social inclusion.⁵⁵ As participation in the labour market is still considered by mainstream politics as the main road to inclusion, the borderline between the two institutions is not clearly fixed and shifts in their role and influence have resulted. For instance, minimum income recipients became dependent on IEFP both for drawing up their insertion plans and for implementation of the dedicated programmes

⁵⁴ Armindo Silva summarizes the reasons for the high costs of activation policies: “Activation policies based on the triptych integration-coordination-personalization are very demanding in financial terms since they assume that public social services or employment services will be endowed with human and informatics resources in order to dedicate sufficient attention to the most difficult cases and those cases that need most support. The effect of such policies could thus result in an immediate increase in the expenditure with active policies, which may or may not be compensated by a reduction in passive policies. This will depend on the more or less favorable conjuncture and on the degree of maturity of the social protection system. If activation policies achieve their ends and contribute to a significant reduction in structural unemployment and in social exclusion, an economy of costs is to be expected in the medium and long run” (Silva, 2004: 5).

⁵⁵ “The IEFP, as an employment policies’ executive body, plays a crucial role in the NAP’s implementation by promoting active employment and vocational training measures and developing interventions for the achievement of the objectives described in the different NAP guidelines, namely 1, 3, 4, 5, 7 and 10” (MTS, 2004: 39).

Horizontes 2000 and *Inserção-Emprego*. The same occurred with the programmes in the field of social economy for disadvantaged persons which are implemented by IEFP under *Mercado Social de Emprego* (Social Market for Employment). In this process, IEFP has gained a dominant position due to the priority now given in policy to the reduction of poverty, social exclusion, and inequalities, as well as to the presumption that prescribing work is a universal medicine.

No particular social group appears to have influenced significantly the course of development of activation in Portugal, except maybe professionals (mostly social workers) involved in the implementation of social inclusion programmes due to their strong professional ideology.

8. The impact of the EES on the institutional setting

When we analyse the impact of the EES on the institutional setting, changes are not readily visible in the sense that no new institutions or agencies were created to develop the NAPs. The coordination body for the NAPs is also very soft in structure – an Internal Group of the former Ministry of Social Security and Labour, an Inter-ministerial Commission, and a Social Partners' Technical Group.

There were also few changes in social protection principles when compared to the social protection practices induced by the EES (benchmarking, mainstreaming, mutual learning, management by objectives, integrated approach). Activation policies may be an exception in this matter, but mainly because of the explicit mention to their underlying principles in the above-mentioned social security and unemployment laws.

The number of persons that passed through all the above-mentioned activation programmes and the financial amounts spent with activation show that the real impact of activation is much lower than could be expected from the declarations of policy makers and the intentions expressed in official documents. This conclusion seems to be more accurate for the last three years, since the right wing coalition came into office. Paradoxically, it was during its rule that the most coercive laws towards activation were approved.

The NAP 2004 summarizes the achievements and intentions of the government: “In 2004, in order to make work pay, some measures have been implemented towards

the reformulation of the benefits which appear as disincentives to work and by introducing/reinforcing criteria for granting such benefits.” In addition, activation mechanisms for unemployed workers have extended the concept of suitable employment, cut off the unemployment benefit in the case of refusal, and included provisions that promote geographical mobility (MTS, 2004: 7).

This increased emphasis put on activation has been expedient in trying to legitimate unpopular neoliberal policies, while for economic, social and political reasons, and especially costs, the compulsory side of activation has been limited. For the same reason, the experience of other countries with “welfare-to-work” or “make work pay” programmes has often been used, in public debates and political discourse, as an example of how to reduce costs in social expenditure. The debates on minimum income scheme reform in Parliament mentioned above are very enlightening regarding the use of activation as a political tool for right wing parties, even if, at the time of writing, they look set to lose the forthcoming general election.

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