From a provider to a market regulator?
The changing role of the German Federal Employment Agency

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Participatory local welfare, citizenship and third sector organizations. What is at stake?

Stream 4: Public, for profit and not for profit actors: changing roles and relations, and the effects on rights, duties and the welfare institutional building

1. Introduction

Unemployment policies in Germany have undergone a major transformation in the past two decades. The most striking features of the recent reforms are privatization and contracting-out. Of course, private providers and contracting out is nothing completely new for the German welfare state. What has changed, however, is not only the intensity and scope of non-public intervention. What’s more, the relation between the public agency and the private providers has changed from a network cooperation based on trust and long-term relations to market interactions. While in former times contracting-out was often carried out without public tendering and was based on corporatist structures, contracting out today takes place in a competitive market environment. In this new actor constellation, the German Federal Employment Agency is considered to be the market regulator. Its tasks are controlling market entry, organizing bidding procedures, purchasing goods and services, managing quality control.

The paper discusses this transformation from the perspective of the Federal Employment Agency and by highlighting the questions of power, public responsibility and accountability. The newly evolved welfare market is characterized by numerous actors with different interests and expectations. This makes it difficult for the Federal Employment Agency to achieve coordination, allocate responsibility and secure the transparency needed for effective public governance (Romezk 2011). The quest for accountability in public service delivery is crucial “because of the presumption that its absence means that those in power have the capacity to act without regard for those who authorize their actions and for those whose lives are affected by those actions” (Barnett and Finnemore 2004, 171).

This raises the question how the private providers of unemployment services are held accountable. What new instruments and mechanisms are introduced to govern the welfare market? Have new institutions (e.g. institutions for monitoring and enforcing contracts) been implemented to manage problems like free ridership, opportunism etc.? How do these institutions influence the actors’ behavior? And how do actors of governance deal with these new instruments. In particular, how do bureaucrats adapt to their new role - how do they process the information and signals they receive and how do they then make decisions accordingly?

The paper will discuss these questions by applying an analytical framework combining theories of accountability, organizational institutionalism and the welfare regime approach. It proceeds as follows. It first introduces into the accountability literature by giving a short definition of accountability and by distinguishing between different regimes of accountability. Four idealtypes – the democratic, the administrative, the market, and the network accountability regime – are described
in order to assess the changes in German labour market administration. Against the backdrop of these four ideotypical accountability regimes the empirical part of the paper first describes how recent labour market reforms have changed the actor constellations as well as the coordination and control principles in the provision of labour market services. Secondly, it should be analysed if these reforms have lead to a change in the accountability regime and how these changes could be classified. We have gathered empirical data through both expert interviews and extensive document analyses, the later including official documents of the Federal Employment Agency, laws and legislative proposals, official comments from affected actors of reform proposals, documents from private actors such as annual reports, strategic plans, information available on websites, academic literature relevant to our research question etc. The personnel interviews followed a semi-structured guideline and had an average length of 1.30 hours. In total 8 persons were interviewed. The selection of interview partners was based on the idea not only to discuss with all actors involved, namely senior bureaucrats from the Federal Employment Agency, senior bureaucrats from the labour ministry, representatives of the private providers, and representatives of private intermediaries, but also with actors which have specific insights into the different stages of the process of private service provision (accreditation, certification, tendering, purchasing, quality control etc.). The aim was to contrast the answers and to get a comprehensive understanding of the shifts in the accountability regime and the problems and pitfalls of both the old and the new accountability regime.

2. A framework for studying issues of accountability

2.1 Accountability - What are we talking about?

Accountability describes a relationship between two actors (individuals or organizations) in which one – the accountee or forum – evaluates and judges about the conduct of the other, called accoun\-ter. Accountability can take place within an organization, when for instance a superior judges about the conduct of his/her subordinate. The assessment of an individual or an organization, however, can also be carried out from outside; interest groups, ombudsman, clients/customers, or courts might take on the role of an external accountee. Narrow definitions of accountability classify a relationship only as an accountability relation if the relationship has a formalized character, if the accountor feels an obligation to inform about his or her conduct and if the accountee has the possibility to make use of positive or negative sanctions (Bovens, 2005; Schillemans, 2011). Newer contributions in the literature, however, emphasize the effects of informal mechanisms, such as informal norms, expectations, and behaviours, which help to ensure appropriate behaviour on both the individual and the individual level (Romzek et al., 2012). In informal accountability relations accountees call accountors to account without legally fixed accountability rights and with having only ‘soft sanctions’ at hand, such as social exclusion or the questioning of the legitimacy of an organization.

2.2 Varieties of accountability in public policy making

There is no easy definition of accountability and a variety of different conceptual approaches of accountability exist in the literature. Dubnick is even emphasizing that ‘accountability has taken on a ‘life of its own’ as a symbol detached from any specific meaning, yet with the capacity to generate a response when put to rhetorical or iconic use’ (Dubnick, 2002:11). The different classifications range from dichotomist classifications (Mattei, 2007) over fourfold typologies (Romzek and Dubnick, 1987) up to a sophisticated typology with 15 types of accountability relationships (Bovens, 2007). In contrast to these ever expanding classifications of accountability, we start from
the assumption that accountability always involves an interaction between two or more actors (Mulgan, 2000) an thus constitutes a social relationship. This is distinct from the conception to see accountability mainly as an instrument. Accountability as a social relationship implies that formal rules, structures and roles of the relationship are subject to negotiation and interpretation. Furthermore, accountability relationships have to be seen as dynamic arrangements which are undergoing changes and transformation. If we perceive accountability as a social relationship, the main distinction between different accountability regimes should be drawn according to their dominant mode of coordination. Here we mainly distinguish between hierarchical systems of command and control, competitive systems of the market or the political system and interdependent system of networks based on groups sharing similar norms and values. Out of this basic distinction, it could further be differentiated according to whom is the accountor answerable and who is the (internal/external) accountee, and what is the content of accountability. Accountors can be held responsible - amongst other things - for financial results, for the quality of the product delivered, for the observations of rules, or for due process requirements and thus have to deliver different kind of information. By answering these questions, we can distinguish four different accountability regimes which are relevant for the understanding of welfare provision in the German labour market: these are the democratic, the administrative, the market, and the network accountability regime (see table).

Table 1: Four idealtypical regimes of accountability

<table>
<thead>
<tr>
<th>Source of Control</th>
<th>Political</th>
<th>Administrative</th>
<th>Market</th>
<th>Network</th>
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<tbody>
<tr>
<td>Dominant control mechanism</td>
<td>Party competition</td>
<td>Hierarchy</td>
<td>Competition</td>
<td>Interdependence</td>
</tr>
<tr>
<td>Who is accountable?</td>
<td>Election</td>
<td>Regulations</td>
<td>Price</td>
<td>Reputation/ Long-term relationships</td>
</tr>
<tr>
<td>Internal Accountability to whom</td>
<td>Elected officials/ Ministries</td>
<td>Agencies/ Public officials</td>
<td>Firms</td>
<td>Network members</td>
</tr>
<tr>
<td>External Accountability to whom</td>
<td>Political Superior</td>
<td>Superior (political/administrative)/ Peers</td>
<td>Owners</td>
<td>Network members</td>
</tr>
<tr>
<td>Consequences</td>
<td>Voters/ Media/ Interest groups</td>
<td>Courts/ Ombudsmen/ Interest Groups/ Citizen</td>
<td>Client</td>
<td>Citizen/ Media/ Interest groups</td>
</tr>
</tbody>
</table>

Source: own compilation

Democratic accountability can be defined as responsiveness to citizens and political constituents. In a democracy, accountability is thought to form a closed chain of delegation and accountability that starts and ends with the sovereign people, with the parliament, the government, the ministers, and the public administration acting as intermediates (Strøm, 2000). In Germany, ministerial accountability constitutes an important part of democratic accountability: the Minister is responsible to the Chancellor for his department and all subordinated agencies. In the case of a scandal
or a highly controversial political decision, it is the minister of the respective policy field who has to take responsibility and possibly has to resign. While the parliament, the government, and the ministers can take on the role of both accountors and accountees, the sovereign people and the public administration do not change their role. Citizen act as accountees holding the political-administrative system accountable, whereas the administration is being held accountable by the political system.

As the above described chain of democratic accountability has already shown, accountability in public administration is closely related to the question of democratic accountability. However, we have to distinguish carefully between the political and the administrative realm. Politicians and bureaucrats not only have different roles in political decision making and implementation; moreover the norms and values by which their conduct is judged differ widely. Thus, the content of accountability, the source of control as well as possible sanctions are different. Administrative accountability aims first and foremost at compliance with the political and programmatic provisions adopted by the government and at conformity with the legally established rules and norms, the obedience to organizational policies and deference to professional expertise (Mashaw, 2006:120; Koliba et al., 2011:122). It takes place within the public administration and is exercised by administrative units which have a hierarchically higher formal position, with the minister as the ‘last accountee’ in the hierarchical line.

With the upcoming of the NPM-movement the traditional modes of administrative accountability have been altered by strengthening the rights of external accountees. On the one hand ‘diagonal’ lines of accountability have gained in importance. New semi-autonomous agencies with considerable more discretion than traditional administrative units – just to give one example - have been established ‘outside’ the vertical lines of public administration. As intermediary forums operating in the shadow of hierarchy they are expected to regulate private service provision which has increased due to processes of privatization and liberalization. On the other hand, ideas of horizontal accountability have gained increased attention in administrative accountability regimes. Against the backdrop of participatory governance mechanisms, these are “mechanisms and practices where public sector organizations directly account for their conduct […] to citizens, clients or more generally to societal stakeholders” (Schillemans and Meijer, 2009:255). The locus of citizen accountability can be within the organization, e.g. when representatives of the wider public have a seat in the supervisory board, or in the environment of public administration. In the latter case the rights of the external accountees, but also the forum where they can ask for information and explanation, are less specifically defined. Moreover, the means to sanction often have informal character, e.g. the withdrawal of public support or the questioning of the legitimacy of the organization, and therefore are less clear in their effects.

In market environments, social exchange is mainly coordinated through competition and contracts. The most conspicuous difference between the market accountability regime and the democratic accountability regime becomes obvious with regard to the forum: while in a democratically public realm all citizens - at least theoretically - have equal rights to call a public organization to account, in private markets this right is restricted to the owners of the organization or particular groups of individuals such as affected clients or employees (Mulgan, 2000). Moreover, the contents of accountability mark a difference between the democratic and the market accountability regime: while democratic accountability aims at contributing to the public good (anyhow this is defined), the final aim of accountability mechanisms employed in market environments is to increase individual or organizational gain. Consumers on the one hand and owners/shareholders/investors on the other hand judge the actions of the provider according to the
criteria of price, quality, or return on financial investments (Mashaw, 2006: 122; Mulgan, 2000). The accountability rights of shareholders and investors are defined in the rules of corporate governance, just as the mechanisms according to which managers have to give account and have to inform the accountees about their strategies and decisions. Customers or clients, to the contrary, judge the performance of the organization with their decision to buy or not to buy.

Whereas prices and contracts constitute the principal means of coordination in market relationships, social relations serve a similar function in networks (Powell, 1990). The emphasis is on social relationships based on trust rather than on hierarchical super- and subordination or on impersonal economic exchange (LeGrand 2002). In contrast to democratic and administrative accountability, where vertical lines of accountability are dominant, the network accountability regime is mainly characterized by horizontal lines. Individuals/organizations are first and foremost accountable to their peer group, thus, accountees and accountors are at par with each other. In networks, the content of accountability relations as well as the instruments and mechanisms of account giving are not externally imposed, but defined by the members of the network themselves (Mashaw, 2006: 126). In the context of welfare provision, professional norms and values are an important aspect of network accountability. The observation of these rules and norms is often controlled by professional bodies, which – although having a semi-public status – act according to the idea of self-governance. Next to these formalized lines of accountability informal mechanisms of accountability like naming and shaming are of vital importance in the network accountability regime. It is the fear of a loss of reputation and the ‘shadow of the future’ which ensures appropriate behaviour: being aware of both their mutual interdependence and the importance of social capital, network members have a high intrinsic motivation to behave according to the rules.

2.3 Problems and pitfalls of accountability

What make the notion of accountability so attractive that nobody can be against it (Bovens, 2007: 448) are the promises inherent in this idea. Accountability is a democratic means that allows monitoring the conduct of politicians, bureaucrats, and their proxies: Mechanisms of accountability are designed to control the (material/personnel) input into public policies, to ensure appropriate behaviour as well as to monitor and improve the performance of organized efforts. Moreover, accountability mechanisms prevent the abuse of power and thus are said to enhance the trust in those who control the resources and to sustain a culture of social interaction, which is associated with justice and fairness (Dubnick and Frederickson, 2011: xvii; Meijer and Schillemans, 2009: 258). However, what should have become clear by now, is that there are several regimes of accountability, each giving a very different answer to the question who is accountable for what, to whom and according to which criteria.

Besides the indeterminateness of the idea of accountability, other deficits of accountability might provide problems. Each of the four described regimes has its specific shortcomings. Pure ‘public hierarchies’, e.g. the principal-agent-line starting with the sovereign people and ending with the street-level bureaucrats, but also pure markets and pure networks are imperfect and tend to state-, market- or network-failure. One important reason are imperfectly working accountability regimes: In modern societies, for example, the line of delegation and accountability in the democratic accountability regime is quite long. The citizens’ voice might get lost in the multiplicity of intermediates, and the complex and tangled lines of authority might hamper the citizens to recognize the actor in charge for a public policy.
Administrative accountability has its weaknesses, too. The focus on strict compliance with legally established rules and norms all too often results in ignorance of the appropriateness of the results of administrative action. An apparent lack of both efficiency and effectiveness might contribute to a loss of public trust in public administration – which might increase even more when rigorous observance of formalities prevent responsiveness to changed citizens’ needs. In the case of labour market administration, where numerous street-level bureaucrats work in direct interchange with either clients or service providers, not only external accountability to citizens’, but also internal accountability to supervisors provides particular challenges. Street-level bureaucrats enjoy considerable room of manoeuvre with only modest oversight by their supervisors (Lipsky, 1980). The lack of direct supervision makes authority based control difficult to pursue – in most cases the supervisors just don’t know enough of the behaviour of their subordinates to deliver an adequate judgement. Even if this information asymmetry could be overcome through ever more sophisticated system of audit and control, it has been argued that

"the threat of external punishment drives out so-called intrinsic motivation: that is, the motivation to perform activities ‘for their own sake’. Staff are demotivated, morale is low, individual initiative suppressed. The quantity and quality of service provided is low, as is productivity. Systems of monitoring put in place to try to counter these effects encourage attention to be paid only to those things that are monitored (and then only sufficient to get by)" (LeGrand, 2002: 16).

The shortcomings of both traditional democratic and administrative accountability explain why ideas of market and network based public policy provision have become so attractive in the last decade. Yet, they are also characterized by particular deficiencies. Privatization and contracting-out – to begin with the market accountability regime - are said to have major impacts on the publicness of welfare provision. Privatization is mainly about freeing organizations from the burden of political control (Bovens, 2005: 201): with private actors getting involved in public policy making, the ideally closed chain of delegation and accountability of the public accountability regime, that starts and ends with the sovereign people circle, has got broken (Strøm, 2000). Formally institutionalized direct political influence on private organizations is limited by definition; accountability in markets is therefore considerable more fluid than in public governance (Mashaw, 2006: 122). ‘Importing’ mechanisms of market accountability into public service delivery creates distinct accountability problems: it leads to a restricted understanding of accountability, first with regard to the rights of the forum, second with respect to the content of accountability, as market accountability emphasizes the importance of maximizing individual/organizational gains instead of maximizing the public good. Assumed that the goods and services delivered should remain ‘public’ goods and services, transparency, the representation of public interests, and the possibility of public participation and political influence, continue to be important criteria for accountability, but cannot be guaranteed by the market accountability regime.

Like markets, networks can increase the intransparency of decisions making processes, not due to lacking disclosure of information, but due to the large number of actors involved (Papadopoulos, 2010: 1033 f). As a matter of fact, networks are established to share power. Joint decision making, however, can also lead to what is called the ‘paradox of shared responsibility’ (Bovens, 1998: 45–52), and thus to difficulties of holding actors accountable for their decisions.

“With no single authority, everyone is somewhat in charge, thus everyone is somewhat responsible; all network participants appear to be accountable, but none is absolutely accountable” (Agranoff and McGuire, 2001: 309).
Even more problematic from the perspective of democratic accountability are, however, differences of power or social status among the network members which might turn a network of equals to a ‘hierarchical’ network dominated by one or only a few actors. Power differences might also become problematic with regard to the environment of the network. Networks often tend to exclusionary and particularistic policies, which contribute to the welfare of a particular social group, neglecting thereby the interests of the whole political community. Such a network is undemocratic – and thus lacks the necessary degree of accountability. To sum it up in the words of Janet Newman: "both markets and networks are linked to weak legitimacy (in terms of accountability); but both offer more dynamic ways of delivering change and innovation" (Newman, 2007: 368).

3. Outsourcing and Vouchers in the German public employment service

Most Western countries have a long tradition of employment service provision by public bodies and non-profit organisations, but not by for-profit organisations. Under the influence of the activation policy, an increasing number of countries are introducing a quasi-market structure in the organisation of publicly financed labour market services (Sol, 2010). The main functions of public employment services include three aspects (Thuy et al., 2001):

- Administration of unemployment benefits;
- Job broking and placement services;
- Administration of active labour market programmes (job search assistance; training and education programmes; direct job creation programmes).

The administration of unemployment benefits has remained a sovereign task in Germany. The introduction of the unemployment benefit I and unemployment benefit II in January 2005 has created a new division of competences between the federal and the municipal level. The Federal Employment Agency deals with recipients of the contribution-based unemployment benefit I in the local employment agencies. The tax funded unemployment benefit II for all unemployed that are not eligible for unemployed benefit I is usually administered by consortia, called joint facilities, where the Federal Employment Agency is working with the municipalities. The employment associations are established through a contract between the local authority and the local Employment Agency and the responsibilities for tasks and funding are clearly separated. Furthermore, 110 municipalities have been licensed to administer the new unemployment benefit II out on their own, the so called opt-out municipalities.

The provision of placement services has been a public monopoly until 1994. Since then, the monopoly has been soften more and more and resulted in a complete deregulation in 2002. The current system is a mixture between the public provision of placement services by the Federal Employment Service, competitive tendering systems through which selective placement services are contracted to private providers and a voucher system that gives unemployed the possibility to choose a private provider of placement services.

By contrast to placement services, the Federal Employment Agency has never provided training and education programmes itself, but has contracted them to private facilities. These facilities have often been owned by the social partners (Bruttel, 2005a). Here, too, the instruments how customers are assigned to the different measures have been altered by introducing a competitive tendering system and training vouchers for long term training and education measures. In contrast to placement services, the introduction of competitive tendering and vouchers in the training and
education branch has been combined from the very beginning with a comprehensive system of certification and quality assurance.

In the case of placement services the introduction of market mechanisms has been something completely new and created a quasi-market which is mainly dominated by temporary work agencies and small private placement agencies. What concerns the ‘market’ for training and education programmes, the corporatist network that has dominated this branch has been weakened by strengthening consumer choice and introducing a competitive tendering system.

In the following, the voucher system as well as the competitive tendering system which form the most dominant instruments for the involvement of private actors should be described in more detail.
3.1 Voucher system

In a voucher system the provision of public services is separated from its financing as the funding remains with the government in the form of a voucher which is issued to individuals. The voucher-holder then chooses among the different suppliers and pays with the voucher (Blöndal, 2005). A voucher system for the provision of public services was first proposed by Milton Friedman as early as in 1955 for the educational sector (Friedman, 1955). More than 40 years later, Friedman described the positive expectations associated with a voucher system as follows:

"Such a voucher system will encourage privatization of a sizeable fraction of educational services. That will unleash the drive, imagination and energy of competitive free enterprise to revolutionize the education process. The competition will force government schools to improve in order to retain their clientele. Except for a small group who have a vested interest in the present system, everyone would win: parents, students, teachers, taxpayers, private entrepreneurs and, above all, the residents of the central cities" (Friedman, 1997: 341).

Despite these enthusiastic expectations, vouchers are only seldom used as financing mechanism for public services and their use is mainly focused on housing, education, child care, and care for the elderly (Blöndal, 2005; Colin, 2005) with only limited diffusion in employment services (Hipp and Warner, 2008). Even though Germany could not be seen as a front-runner in the marketisation of employment services, a voucher system for placement services and long-term training has been introduced as a part of the larger attempts to reform German employment policies that are known as so-called Hartz-reforms¹. The main rationale for the introduction of a voucher system was to foster competition and thus efficiency among providers as well as to increase consumer choice (Kaps and Schütz, 2012).

The Placement voucher

The disbursement of a placement voucher is an obligatory benefit for jobseekers receiving unemployment benefit I and a discretionary benefit for jobseekers receiving unemployment benefit II. With the placement voucher a jobseeker can mandate a private placement agency to find him a job. Private providers are only paid if they successfully place a jobseeker, so the payment is completely performance based (no cure, no pay). A first payment of 1,000 € to the private agency is due six weeks after the individual has taken up the job, the second payment between 1,000 € and 1,500 € is due after six months. Vouchers are only valid for a period of three months and in order to avoid misuse only placements with employers for whom the recipient has never worked before are rewarded (Winterhager et al., 2006). The regulation of the placement voucher has been adjusted regularly due to a number of cases of abuse (Kaps, 2009), so the following table gives an overview on the different adjustments within the last years.

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¹ For a comprehensive description of the different elements of the Hartz reforms see (Kemmerling and Bruttel 2006).
Table 2: Changes in the regulation of placement vouchers, 2002-2011

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<tbody>
<tr>
<td>Social Security Code III (SGB III)/Recipients of unemployment benefits I</td>
<td>Legal entitlement after 3 months of unemployment</td>
<td>Legal entitlement after 6 weeks of unemployment</td>
<td>Legal entitlement after 2 months of unemployment</td>
<td>Legal entitlement after 6 weeks of unemployment</td>
</tr>
<tr>
<td>Time of payment for the first disbursement</td>
<td>At the beginning of starting an employment subject to social insurance contributions</td>
<td>After 6 weeks of starting an employment subject to social insurance contributions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time of payment for the second disbursement</td>
<td>After 6 months of employment subject to social insurance contributions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount of the first disbursement</td>
<td>1.000 €</td>
<td>1.000 €</td>
<td>1.000 €</td>
<td>1.000 €</td>
</tr>
<tr>
<td>Amount of the second disbursement</td>
<td>Up to 6 months of unemployment: 500 €</td>
<td>1.000 €</td>
<td>Usually 1.000 €</td>
<td>For people with disabilities and long-term unemployed (at discretion): up to 1.500 €</td>
</tr>
<tr>
<td></td>
<td>6 to 9 months of unemployment: 1000 €</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>More than 9 months of unemployment: 1500 €</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Security Code II (SGB II)/recipients of unemployment benefits II</td>
<td>-</td>
<td>Discretionary benefit</td>
<td>Discretionary benefit</td>
<td>Discretionary benefit</td>
</tr>
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</table>

Source: translation from Bernhard und Kruppe 2010.

Since 2002 private placement agencies no longer require a specific license from the Federal Employment Agency which has been the case before; a business registration is sufficient. This means that practically everybody can practice as placement agency and cash in a voucher (Kaps, 2009). According to Bruttel (Bruttel, 2005b), the reduction of licensing requirements have been introduced in order to facilitate the market entry, to decrease bureaucracy and to take away the control over private providers from the Federal Employment Agency. There exist some voluntary quality standards that have been elaborated by the industry in collaboration with the federal ministry. However, there are practically no controls or quality and performance assurance practices in place. The absence of such procedures is justified by the fact that the no cure – no pay system provides the incentives necessary to assure the quality of private placement services (personnel interview).

Due to the deregulation, statistical data for the market of private placement services are inexistent. What can be observed from the statistics is that less than 10% of all placement vouchers are cashed-in, signifying that a successful placement hast taken place (Bernhard and Kruppe, 2010). The reasons for the relatively low rate of redemption are seen in the in a lack of initiative and trust by the jobseekers and in information asymmetries concerning the market structure and the supply of private placement services. Furthermore, creaming effects might be another reason, meaning that private providers are only accepting individuals that have comparatively good labour market prospects (Bernhard and Kruppe, 2010). What also becomes evident from the statistical data is that in less than 50% (49% for 2010 and 47% for 2011) of the cases, the second disbursement is
paid out. This implies that every second person placed by the voucher system is again unemployed within 6 months.

The following graph gives an overview about all cashed-in placement vouchers and the expenses for placement vouchers over time.

**Graph 1: Placement vouchers over time**

![Graph showing placement vouchers over time](image)

**Source: Own calculations, data from Bundesagentur für Arbeit**

By relating the expenditures for the placement voucher to all expenditures for active labour market policy, it becomes obvious that the placement voucher is of minor importance in comparison to other instruments and that most of the placement services are still provided by the Federal Employment Agency itself. But despite critics especially from the General Court of Auditors (Bundesrechnungshof, 2006; 2011) about misuses of the placement voucher, the voucher still persists as an instrument of active labour market policy. However, the recent reform of active labour market measures saw a change in the registration procedures for private placement agencies. As already described, the market entrance barriers for private placement agencies have been rather low (only a business registration). This has changed in 2012 as all private placement agencies need a certification if they want to cash in a placement voucher. The certification process is similar as for the training voucher which will be described below. It could be estimated that the introduction of a formal certification process will reduce the number of private placement agencies substantially. Furthermore, the reform of 2012 has also broadened the range of use of the placement voucher which is now called activation and placement voucher (Aktivierungs- und Vermittlungsgutschein). Like before, the voucher could be used by the jobseeker to mandate a private placement agency. Furthermore, it could now also be used for short-term measures like job application training or the subsidisation of internships etc. The consequences could not be estimated for the time being, but in general, it signifies a further strengthening of the voucher system in the German employment policy.

**Training vouchers**

Training measures in Germany as part of an active labour market policy can roughly be classified into short qualification programmes, providing professional and practical skills, and long-term training programmes with a duration of up to 2 years that aim at providing a certified vocational
training degree (Bernhard and Kruppe, 2012). As already mentioned, training and education programmes have never been delivered by the Federal Employment Agency itself, but contracted to private providers. However, the provision of long-term training programmes was substantially changed when the Hartz reform came into force. In fact, the introduction of the training voucher (Bildungsgutschein) for long retraining programmes replaced the former de facto contracting-out system. In the old system, the case manager in the local employment agency sent the jobseeker to a private provider for training. These providers had to be approved by the local employment agency but there was no direct legal contract between the local employment agency and the private provider. Legally, it was the individual jobseeker that paid for the course and was reimbursed by the local employment agency afterwards (Stephan and Pahnke, 2011). However, the local employment agency and the private providers worked closely together. At the beginning of each year, they developed training plans which set the annual volume and content of training programmes (Hipp and Warner, 2008). In the following, the jobseekers were assigned to training providers according to the existing supply, and thus "the employment agencies tended to assign unemployed persons to approved courses, even though the training provided did not meet their needs" (Hipp and Warner, 2008:83). Furthermore, the system has been criticized because the contracting process was often carried out without public tendering and competition but rather based on familiarity with the provider. More precisely, it has been argued that providers operated by the social partners have been received preferential treatment by the local public employment agencies, which were governed by a tripartite board (Kemmerling and Bruttel, 2006).

"Nonetheless, the amalgamation of management’s and labour’s interest in labour market policy, especially in expenditures for training schemes, has been publicly criticised as "cartel agreements". Because the trade unions and the employer’s association are the owners of the largest training institutes in the country, they have gained a strong market position in the "system of preferred suppliers" of outsourced vocational training measures. Beyond the widely discussed "self service" mentality and consonance of interest of unions and employers, however it is the more far-reaching, close-knit symbiosis between the state, management, and labour which for decades has determined the form and content of corporatist labour market policy" (Konle-Seidl, 2005: 195).

The work of the Hartz-Commission has then opened a window of opportunity for significant changes in the provision of training and education programs, even though the reform of the training and education programmes has not been a focal point of the work of the Hartz-Commission. Since 2003, the case worker has to issue a training voucher to the jobseeker if a training measure is deemed necessary for a future placement in the labour market. The training voucher has to state the educational goal, the core theme of the qualification and the duration of the course. The voucher has a validity of up to three months. After the issuing of the voucher, the jobseeker is free to choose an appropriate provider that offers the respective training measure. The case managers have no right to advice, support or influence the jobseeker in the search process but the Federal Employment Agency is offering self-search systems like electronic databases. These changes have mainly been justified by arguments that vouchers boost competition among providers and thus might enhance the quality of training. Moreover, vouchers increase clients’ choice (Bruttel, 2005a). Clients, however, are only allowed to choose among providers and measures which are approved by the Federal Employment Agency. The official recognition of private providers is based on a two-tiered approach.

(1) Certification – the ticket to market entry: The training providers as well as their training measures have to be certified by a private certification company according to input criteria like the capacity of the provider, the existence of a quality management system, qualification of personnel, sufficient classrooms, etc. The provider is free to choose among 32 certification companies (in 2011) and has to bear the expenses for the certification. The certification is valid for five years. Since the beginning of 2012, the Federal Employment Agency
has a de facto veto against the certification of all measures if their costs per hours exceed a defined threshold.

(2) Controlling the controllers: The certification company itself has also to be certified. Until April 2012 this has been done by an accreditation unit within the Federal Employment Agency. Although this accreditation unit was not subject to directives of the head of the Federal Employment Agency, it has been criticised for not being independent enough from the very beginning (personnel interview). Thus, in 2012, the accreditation unit has been abolished and it tasks have been transferred to the Deutsche Akkreditierungsstelle (DAkkS). The DAkkS is a non-profit organization and acts as the national accreditation body for Germany. It assesses and monitors the technical competence of laboratories, certification and inspection bodies as an independent body. Shareholders of the company with limited liability are the Federal Republic of Germany, the Federal states and the industry represented by the Bundesverband der Deutschen Industrie e. V. (BDI; Federal Association of German Industry).

The following table shows the development of certified training providers and measures in the last three years. It could be observed that the number of certified providers as well as the number of measures is steadily rising. However, in 2003, the number of training providers that are generating revenues from the budget of the Federal employment Agency have been estimated up to 20.000 (Bruttel, 2003). It seems that a certain market adjustment has taken place or that some providers have not invested in the certification process.

**Graph 2: Number of certified training providers and measures**

![Graph showing the development of certified providers and measures from 2009 to 2011.](image)

**Source:** own compilation, data from Bundesagentur für Arbeit.

Even though especially the local employment agencies and joint facilities have lost discretion in the selection of providers and the allocation of participants, their position is still influential. First of all, they decide if a jobseeker receives a training voucher or not. Secondly, every year the local employment agencies and the joint facilities are developing a so-called Bildungszieleplanung (regional training plan) which designates which measures should and could be supported (e.g. qualification as elderly care nurse) and how many training vouchers should be issued for the respective measure. In order to prepare the regional training plan, the actual and expected requirements of the regional labour market are observed and thereof the need for training measures is deducted. The most important criteria for the incorporation of training measures in the plan is the expected integration rate of participants, signifying the percentage of jobseeker placed in regular employment within 6 months after the training measure has finished. Until the end of 2005, an internal instruction of the Federal Employment Agency has stipulated that training measures should only be funded if they have shown an integration rate of at least 70 %. After opposition from the provider associations as well as from the scientific community, the internal instruction has been re-
pealed. However, the integration rate remains the most important indicator for case workers in order to judge the eligibility of training measures (personnel interview). The strong reliance on the integration rate as sole indicator for the eligibility of a training measure has lead until 2005 to a sharp decline in long term training as the following graph shows. After 2005, a slight increase could be observed with a maximum as a result of the financial crisis in 2009. Since then, the level has again declined to a pre-crisis value.

Graph 3: Participants in training measures

Source: own compilation, data from the Bundesagentur für Arbeit.

The local employment agencies and the joint facilities are also involved in the sampling inspections that are conducted jointly with the central audit service of the Federal Employment Agency. In 2011, 480 audits for long-term training programmes have been conducted. Furthermore, both entities can initiate own audits which happens normally because of complaints of participants. The sanction mechanisms are twofold: Firstly, the results of the audits are reported to the certification company which then can decide upon actions which in the worst case can result in the removal of the certification for the measure. Secondly, the local employment agencies can withdraw a funding decision for a measure if detected shortcomings are not eliminated. However, this is an exceptional case and normally the conflicts are resolved in cooperation between the provider and the local employment agency (personnel interview). The following graph shows the process of certification, voucher issuing and quality control.
3.2 Competitive tendering

Most of all other measures of active labour market that are conducted by private providers and not funded by vouchers have to be purchased in a competitive tendering process. This includes assessment measures, short-term trainings, and specialized courses for persons with disabilities or courses for young or low-skilled persons who are not prepared to attend regular long-term trainings (this includes especially a first professional education which is done in a special facility and not in an enterprise). The standardised tendering system has been introduced in 2004. Before, there has been no centrally regulated procedure and it has been criticized that every local employment agency is following their own procedures without overall quality standards, a lack of transparency, limited competition because of the direct award of contracts and sometimes even in disregard with public procurement law. For this reason, in total five regional purchasing centres (Regionale Einkaufszentren – REZ) have been established that conduct the tendering process in cooperation with local employment agencies and the joint facilities according to a standardised process. The involvement of the regional purchasing centres is compulsory for the local employment agencies whereas it is voluntary for the joint facilities. However, in 2011 more than 97% of the joint facilities have used the service of the regional purchasing centres. The following graph shows the total volume of the tenders that have been handled by the regional purchasing centres in 2010 and 2011. In total, more than 7.000 contracts have been concluded.
At the beginning of the tendering process, the local employment agencies and joint facilities are announcing their requirements to the regional purchasing centre. The frequency of the announcement depends on the instruments; for long-term instruments like professional education there is just one announcement per year, for more short-term instruments like activation, there are up to four announcements per year. The regional purchasing centre is preparing the bidding documents according to the announcements and then put the measure out to tender for the whole region. The assessment of tender responses is divided between the local employment agencies and the regional purchasing centre. The local employment agencies are responsible for the functional assessment. The functional assessment is done by specialist in the employment agencies according to a rating matrix that differs between the instruments. Just to give a few examples, the matrix includes indicators like cooperation with the regional labour market, quality management, integration strategy etc. The final selection of the proposal is then done by the regional purchasing centre according to cost effectiveness criteria. Quality assurance is also divided between the two actors whereas the regional purchasing centre is responsible for the imposition of liquidated damages and the local employment agencies have rather a monitoring function. The payment modalities differ from contract to contract and range from no cure-no pay models to a fixed compensation. The following graph gives an overview of the procurement process.
The establishment of regional purchasing centres was and is highly controversial. It has been criticized that the procurement of labour market services for a whole region is favouring large national-operating companies to the detriment of locally rooted providers with specialized knowledge of the regional labour market. This has led to a damage of well established local networks of labour market actors and to a marketisation of relations. According to these critics, the price has become the decisive criterion for the award of contracts which has excluded small- and medium-sized providers from the market due to cost disadvantages. Furthermore, flexibility and individual solutions are constrained due to standardization and the protracted procurement process (Wirth, 2007, 2012; Schütz, 2009).

However, it must be said that there are no data about changes in the market structure as well as about changes in the pricing policy of the regional purchasing centre. Proponents of the reform invoke that the standardisation of the procurement process has generated savings and has fostered competition. Furthermore, it is argued that the quality of measures is rated higher than the price.

4. Accountability regimes in the German labour market administration: before and after the Hartz-reforms

Turning now from the description of changes in the governance of active labour market policy to the question of accountability, the following paragraphs track the shifts in the accountability regime which have been triggered by the introduction of competitive tendering and a voucher system. The information and interpretation presented in this chapter mainly stem from own empirical research.

In terms of accountability the status quo ante the Hartz-reforms is best described as a mixture of an administrative and a network accountability regime with only few political and no market accountability. The notion of network accountability applied especially to the governance of the active labour market programs. Provided by organisations belonging in most cases either to the trade unions or the employer associations, the institutional logic of the governance of active la-
bour market services differed distinctively from classical bureaucratic public service delivery. The three main actors in this network – trade unions, employer associations, and local employment offices – operated at eye level. Labour market governance was a textbook example of ‘lived’ social partnership, that is the commitment to consensus oriented negotiations between the labour market parties, which has characterized industrial relations in Germany since the end of World War II. Thus, the day-to-day work of the Federal Employment Agency prior to the reforms had been dominated by what is called ‘welfare corporatism’, signifying the intensive involvement of the social partners in the steering and implementation of labour market policies.

Agreements about service delivery between local employment agencies and private providers were fixed in formal contracts. However, lacking effective formal sanction mechanisms, the contracts constituted no real hierarchical relationship between the purchaser - the local public employment office - and the private service providers. In sharp contrast to the today competitive tendering scheme, the main criteria for the selection of providers by the local public employment offices were not the price and the quality of an actual offer, but the ‘quality’ of prior collaboration experiences. Mutual understanding of what is really needed for local labour market policy and smoothly going negotiations about the details of service contracts were considered as important. Appropriate behaviour of the three network partners was ensured by informal norms stemming from long-term relations and from the feeling of mutual obligations.

The provision of the placement services by the Federal Employment Agency, to the contrary, has been a clear case of bureaucratic governance with an according accountability regime. The codes of conduct and sanctions in case of misbehaviour were routed in the idea of bureaucracy, thus obedience, professionalism, and the calculability of decision making played a major role. Formally, the frontline staff dealing with jobseekers was first and foremost accountable to their superior (and not, for instance, to the clients in front of them). Over the decades, however, both the strong focus on compliance with procedural norms and the difficulties to exercise internal accountability by controlling the actions of street-level bureaucrats gave rise to the typical weaknesses of administrative accountability. The result was severe short of public acceptance due to lacking responsiveness, efficiency and effectiveness. The traditional Public Employment Agency was seen as "a large, sleepy and inefficient public bureaucracy restricted by law and regulations and a lack of performance measurements and competitive incentives" (Kemmerling and Bruttel 2006: 94). Severe shortages of accountability and answerability became especially eminent in 2002 through the so-called placement scandal (Vermittlungsskandal) when the Federal Court of Auditors discovered that the placement statistics of the Federal Employment Agency have been souped-up.

The formal lines of accountability followed the lines of delegation from the ministry of labour down to the local employment offices in the reverse direction. One important difference between the administrative accountability regime in the German labour market and idealtypical administrative accountability, however, has to be stated. With regard to the relation between the minister and the subordinated administrative units the German labour market administration constitutes an exemption from idealtypical administrative accountability. As a result of its historical development and due to the specific role trade unions and employer associations play in this policy field, the governance of labour market administration differs from other parts of public administration and is an example for so-called ‘self-administration’. This mode of governance implies that the supervision of the labour ministry is limited to the question of the legality of the administrative activities, the functional adequacy of its actions, however, is (as a general rule) not judged. As a matter of fact, the labour market administration enjoys a considerable room of manoeuvre when compared to other administrative units.
The lower degree of ministerial accountability was thought to be compensated by additional internal boards holding the managers of the Federal Employment Agency accountable. There were tripartite boards of governors at national, regional and local level, and a tripartite management board at the national level. The social partners had not only wide-ranging competencies in the supervision but, through the management board, also competencies for operational, budget as well as staffing policy. These boards are interesting as they constitute a nexus between the administrative and the network accountability regime. In fact, the lower degree of ministerial accountability which should be compensated by participatory rights of the social partners brings the very idea of German corporatist welfare governance to light.

Of course, the Federal Employment Agency was also under the old system formally accountable to its political superiors who were subject to electoral sanctions. However, the length of the chain of delegation from the Bundestag to the local employment agencies with a magnitude of administrative discretion hampered democratic accountability. As a matter of fact, self-administration not only resulted in a lower degree of ministerial accountability, but also in a comparatively low degree of political accountability. Indeed, a certain reluctance of the government as well of the parliament concerning labour market policy could be observed until the late 1990s. Labour market policy has been dominated by a relative autonomous actor constellation consisting of the social partners, the labour market ministry and the social politicians of the Bundestag Standing Committee for Labour and Social Affairs of the CDU/CSU and the SPD. Changes in labour market policies have mainly been pre-shaped by the social partners and then delegated to the Ministry and the Standing Committee. In the German Bundestag, labour market policies was the solely domain of the social politicians of CDU/CSU and SPD that normally followed the negotiation results of the social partners. This was also due to the close links of the members the Standing Committee with either trade unions or employer associations (either through membership or through a political background) as has been shown by Christine Trampusch (Trampusch, 2005). However, this alignment between social partner, the ministry and members of parliament diminished political accountability as the legislators and the federal bureaucracy were themselves part of the network that they should hold to account.

Sure enough, public service provision in network settings with restricted administrative and political accountability, and no market accountability can have a number of advantages, e.g. low transaction costs due to well-rehearsed routines, high flexibility and the provision of innovative solutions. In the case of the corporatist labour market network its contribution to social conflict solving provided an additional advantage: the every-day-collaboration in the governance of active labour market programs helped to make severe conflicts among the labour market parties less likely.

Nonetheless this mode of governing the labour market was publicly disapproved. Voices critical of corporatist network governance could especially be heard when labour market problems became more severe from the mid of the 1990s onwards. Opponents of corporatist service delivery claimed a lack of both democratic anchorage and customer accountability. The corporatist network was especially open to the problem of partiality (Papadopoulos, 2010). In order to be in line with the requirements of democratic accountability, networks should exhibit a pluralist and representative membership structure, or should at least not exclude weak interests. The corporatist labour market network, however, was exclusive in two ways. First, it was more or less a closed shop, which hardly allowed new providers the market entry. In the decades after the implementation of the AFG 1969 (Arbeitsförderungsgesetz – law on employment promotion), which marks the beginning of active labour market policy in Germany (Oschmiansky and Ebach, 2009), both trade unions and employer associations expanded their service provision machinery by establishing nu-
merous new provider organizations. Being involved in the governance of active labour market programs not only on the side of the providers, but due to the idea of self-administration also on the regulation side, they were able to treat the provision of labour market services as a ‘club good’, that is to say they preferred their own institutions in the awarding of new contracts. This development has – in a broader perspective – described by Wolfgang Streeck as follows:

“But in Germany in the 1980s and 1990s, […] “social partners” learned to use their privileged political status to take advantage of the condition of semi-sovereignty and utilise core public institutions for the purpose of subsidising an increasingly untenable labour market regime. Step by step, the public use of private organised interests, as described by Katzenstein and others, turned into a private use of the public interest” (Streeck, 2003).

The problem of partiality or exclusiveness occurred, second, with regard to the interests of the consumers of their services. As the network members didn’t have to face severe sanction mechanisms, and as clients were more or less assigned automatically to their programs, they didn’t have to bother about customer satisfaction. In fact, the mechanism of peer accountability, the most important mechanism for accountability in network settings, failed in this particular case.

The remoteness of the political principal, the deficiencies of traditional administrative mechanisms of control, and the absence of customers being able to claim their interests combined with the proximity of the social partners at all levels has lead to an accountability dilemma for the labour market administration (satisfying multiple “forums” with different preferences) that was normally solved by satisfying the preferences of the corporatist labour market network. It was this “giant patronage machine of the Bundesanstalt für Arbeit” (Streeck, 2003) that was mainly abolished through the Hartz reforms.

The Hartz-reforms not only repealed the inclusion of the social partners in the formulation of labour market policies², but also changed the system of service provision and thus the accountability structure for the interplay between the Federal Employment Agency and the private providers. Referring to the above developed analytical framework, the new accountability regime displays features of market, (modernised) administrative and political accountability. The most obvious change becomes apparent in the introduction of mechanisms of market accountability. As a result, the sources of control, internal and external accountees as well as the consequences for inappropriate behaviour changed considerably.

With the introduction of a voucher system and a competitive tendering system and thus the introduction of a quasi-market two new sources of control became relevant, namely competing providers and customer impeding ‘exit’ in case of dissatisfying services (with the later mechanism as the weaker one). In the old system competition as a disciplinary force was not or hardly ever given. In the case of placement services the public monopoly prohibited competition until 1994; in the field of training and education programs, the contracting-out system awarded contracts to a small number of local network members, which rarely altered over the decades. The labour market reforms from 1994 onwards, especially the far-reaching Hartz-reforms, diminished the barriers for market entry and opened the field for new providers. The facilitation of market entry impacted not only on the number of providers and the welfare mix, but also on the content of accountability. The owners of private for-profit providers, now intruding especially the branch of placement services, expect the managers of their firms not only to operate without losses but to maximize prof-

² Only two of the 15 members of the Hartz-Kommission were representatives of trade unions, and only one represented the established organisations of business (Streeck, 2003).
its. Price developed to a dominant control mechanism, which influenced the organisational strategies of the providers noticeably. This is not only true for the for-profit providers, but also for the providers belonging to the social partners or the welfare associations, which traditionally operated on a non-profit-basis. Both increased competition and tighter public budgets turned the profit motive (respectively, the ‘no-losses’ motive) to an important aspect of internal accountability for this type of provider, too. The introduction of the voucher system constituted clients as new external accountees. However, their possibility to enforce accountability remains limited. Though the vouchers allow clients to choose their placement or training provider, their purchasing power is restricted as both the content and extent of labour market services are fixed in the voucher (Bruttel, 2005a). Moreover, the exercise of consumer accountability is hampered by continuing information asymmetries. The holder of a training voucher has to rely on the information that are provided through a database of the Federal Employment Agency and on the advertising of the providers. Independent information regarding the quality of the offered services, however, is not available at all. While it might be manageable for those who are used to conduct online research self-motivated and without assistance to find service offers with the desired content, the voucher system leaves those most in need of active labour market policy, e.g. low qualified or migrant jobseekers, alone. As matter of fact, the voucher system reinforces social inequalities as it gives good qualified jobseekers a competitive edge (Bruttel, 2005a). The recent evaluation have shown that especially jobseekers with low labour market chances – such as those without vocational qualifications – are less likely to redeem the vouchers (Kruppe, 2009).

Instead of critical clients, bureaucrats from the Federal Employment Agency keep on being the most important external accountee: The Federal Employment Agency has developed to a market regulator controlling market entry, prices as well as the quality of the services delivered. With respect to the intensity of administrative accountability, however, differences between the two branches of German active labour market policy – placement services on the one hand, training and education programs on the other hand – have to be taken into account. In the case of training and education programs, the tasks and competences of public administration to regulate the newly established quasi-market were from the very beginning much more elaborated than in the placement branch. This becomes especially apparent with regard to the control of market entry. Whereas in the placement branch, the barriers for market entry have been abolished nearly completely and providers only need a ‘normal’ business licences, the Federal Employment Agency selects very carefully its market partners in the case of training and education providers.

In both branches, administrative accountability in the new system has only few in common with the mechanisms of administrative accountability in the old system. The organisational structures of the Federal Employment Agency as well as the modes of interaction with private providers have been subject to far-reaching reforms. In order to enable the Federal Employment Agency for the new tasks as a market regulatory agency, substantial organisational reforms have been implemented and new internal divisions which are exclusively in charge of the regulation of the new quasi-markets have been established. The ‘Anerkennungsstelle’ – the internal accreditation unit which was until 2012 responsible for the control of market entry of providers for training and education – is one example. An even more prominent example signifying the shift to a market regulatory agency, however, is the establishment of the five regional purchasing centres. While a formal organisational split between purchaser and provider was always given, the Hartz-reforms introduced a differentiation between three roles: first, there are the orderers, namely the local employment agencies, second the purchasers – the five regional purchasing centres –, and third the private service providers. The five new regional purchasing centres have much contributed to chal-
lenge the former regime of corporatist network accountability and to reinforce administrative accountability. The purchasing process has been professionalised by improved abilities to negotiate and monitor contracts – the Federal Employment Agencies employs specially trained staff for these tasks (personnel interview) - and by a ‘blind’ review of the incoming offers which respects the rules of public procurement law.

The purchasing centres constitute not only an example for weakened network in favour of reinforced administrative accountability, but also for the modified content of administrative accountability, which becomes apparent first and foremost in the shift from input-oriented, procedural accountability to a greater emphasis on performance oriented accountability. The content of administrative accountability itself has been affected by the shift to market based governance of active labour market policy and has become more market akin. Especially in the early years after the implementation of the Hartz reforms, the price of the offers and realised placement rates in former contracts were the dominant mechanisms which controlled the selection process. After severe criticism from external accountees such as welfare associations and trade unions, complaining a solely price-oriented purchasing policy which not only neglects the needs of jobseekers but contributes to make working conditions in this particular service industry even more precarious, the modes of selecting offers have become more sophisticated. Today the RZE put much more effort in order to find a balance between the qualities of offers (operationalised mainly through input criteria, putting the importance of the placement rate into perspective), the fitting accuracy for regional distinctions, and the price (personnel interviews). However, most of the providers are still of the opinion that there is a price competition which endangered the quality of training measures (Koscheck et al., 2010).

The modification of traditional administrative accountability and the shift to a market regulatory system becomes also obvious in the establishment of new private (for-profit and non-profit) independent intermediaries who act as external accountees in the name of the Federal Employment Agency. Examples for such new intermediaries are the 32 certification companies and the DAkkS, both involved in the regulation of market entry and enforcing ‘diagonal’ lines of accountability between private providers and public administration. While the certification agencies, the DAkkS, and the REZ try to judge the accountability of potential service deliverers, the internal audit unit assesses the quality of the services during and after service delivery.

At first sight, the new modes of the Federal Employment Agency to hold private providers accountable seems to be a reasonable sequential arrangement with elaborated mechanisms in each critical stage of the provision process. Taking a closer look on the contents of the different accountability instruments, however, problems occur as each of the involved organisations considers slightly different criteria as important and thus contributes to an accountability regime with not only multiple but contradicting accountability criteria. Accreditation and certification are mainly based on input and process related criteria and have a proximity to the international ISO norms. The local employment agencies are more focussing on the implementation quality of a measure whereas the internal audit unit is also looking on the impact of the measures (Sauter, 2009: 34). So it can happen that either the audit unit or the local employment agency finds shortcomings in the training measures, but this will not lead to sanctions through the certification agency because they have different criteria. What is further remarkable is the increasing of evaluation activities also of measures that are provided by private actors introducing a new accountability mechanism. These evaluations have shown that the placement by private providers has not a positive effect, whereas the different training measures shows at least slightly positive results (Heyer et al., 2011). Also the main indicator, the integration rates after a training measure have risen from 43% in 2002 to 45%.
At least, the introduced new accountability mechanisms have done no harm to the performance. Finally, what can be observed is an increasing government activity in regulating the service delivery by private providers. Whereas the instruments of active labour market policy have always been subject to regular reform activities, the process of assigning jobseekers to the different measures has remained stable and the incorporation of private providers in the delivery of services was mainly the responsibility of the local employment agencies. The situation has changed through government attempts to create a competitive market and to insure quality standards within the market. This has lead to detailed regulations that prescribe the certification process, the procurement procedures as well as audits and inspections. In other words, the introduction of market competition has brought a process of increasing regulation. These rules are regularly adjusted which signifies a broader political involvement in a field which has been yield to the self-regulation of the corporatist network so far.

5. Discussion of the accountability changes

The German example of modified accountability of private providers of labour market services is part of broader process of liberalization that has taken place in advanced Western European economies. In the past decade, the long term stable corporatist network in German labour market administration has been abolished and as a result network based accountability mechanisms based on long term relationships and mutual interdependence have been repressed. The introduction of new modes of active labour market governance has led to an accountability regime which is mainly based on competition especially when it comes to the procurement of programmes and measures and to the assignment of jobseekers to the different measures. However, the private providers are also involved in a dense regime of administrative accountability which is mainly based on the introduction of certification standards as well as several ex-post control mechanisms of providers and measures. The combination of both measures is necessary as the exit option as a sanctioning mechanism in a voucher system can only function to a certain extent: It is extremely difficult for jobseekers to judge the quality of a qualification or training measure and even if he or she could, the incentives to leave a course and choose another provider are rather low as it is not the jobseeker that is paying for the course. Next to this, market failures like creaming and parking have to be eliminated. This results in a constant tension between the stimulation of competition between providers, including freedom of choice for the unemployed, and the reduction of socially undesirable risks (Struyven, 2007). This tension becomes also evident in the accountability regime that combines command and control with competitive elements.

"The ambivalence of today’s policy-makers is apparent in that they propagate market competition in the name of efficiency while, in the same breath, they wish to subject market competition to all kinds of social regulations in the name of justice" (De Jong, 1995: 116, cited from Struyven, 2007: 204).

As a matter of fact, governance of German active labour market policy resembles much more a quasi-market than a real market. Thus, administrative accountability plays a more important role than market accountability. Albeit the shift to market based governance, responsibility for public policy has remained in the hands of public actors: it was and still is the Federal Employment Agency that takes on the role of the external accountant for private providers, not the jobseeker as a critical client. Nonetheless the changes in the accountability regime should not be underestimated. In order to develop the Federal Employment agency to a market regulator, the traditional administrative accountability regime has been subject to far-reaching reforms, too. The modes of social interaction between public administration and private providers have changed completely and have become more market akin. New instruments, such as certification of private provider or active monitoring of service contracts, as well as new actors, e.g. the private certification companies, have been introduced. Thus; creating accountability in a quasi-market system is not a simple
choice for government. It calls for a complex balancing between command and control and the creation of room for market competition.

If we take the aims of the reforms as a point of reference - competition between different types of providers, transparency in the official contracting terms for the award of service contracts, a better quality of the services provided, and enlarged consumer choice to boost self-responsibility was intended (Sauter, 2009) – a partial success has been achieved: increased competition, improved transparency concerning the interaction between the Federal Employment Agency and the private providers, and enhanced responsiveness of the offered services of private providers to jobseekers’ needs have indeed been reached. The price, however, is decreased flexibility at the local level due to the preference of large providers offering many, but standardised products. Reinforced administrative accountability and the implementation of additional diagonal accountability mechanisms have created a trade-off between flexibility and efficiency. There is an in-built tension between higher standardisation (associated with the new mechanisms of administrative accountability) and flexibility and discretion for the providers of employment services.

To sum up, what can be observed is that the networks-based accountability system of welfare corporatism has not been replaced by another dominant accountability regime, but has lead to a hybridisation of accountability combining a mixture of market, administrative and political accountability mechanisms.

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Annex: List of persons interviewed

1. Senior bureaucrat of the internal accreditation unit (Anerkennungsstelle)
2. Senior bureaucrat of the Federal Ministry of Labour and Social Affairs
3. Senior bureaucrat of a regional purchasing centre (Regionales Einkaufszentrum)
4. Representative of a private certification company
5. Senior bureaucrat of the internal audit unit (Prüfdienst AMDL)
6. Senior bureaucrat of a local employment agency and a joint facility
7. Representative of an association of training providers
8. Researcher of the Institute for Employment Research (IAB)