

Reflections on Spanish Family Policies: What Can We Learn from the Spanish Case?

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Family Policies in Europe:
Best Practices, Partnership and Governance

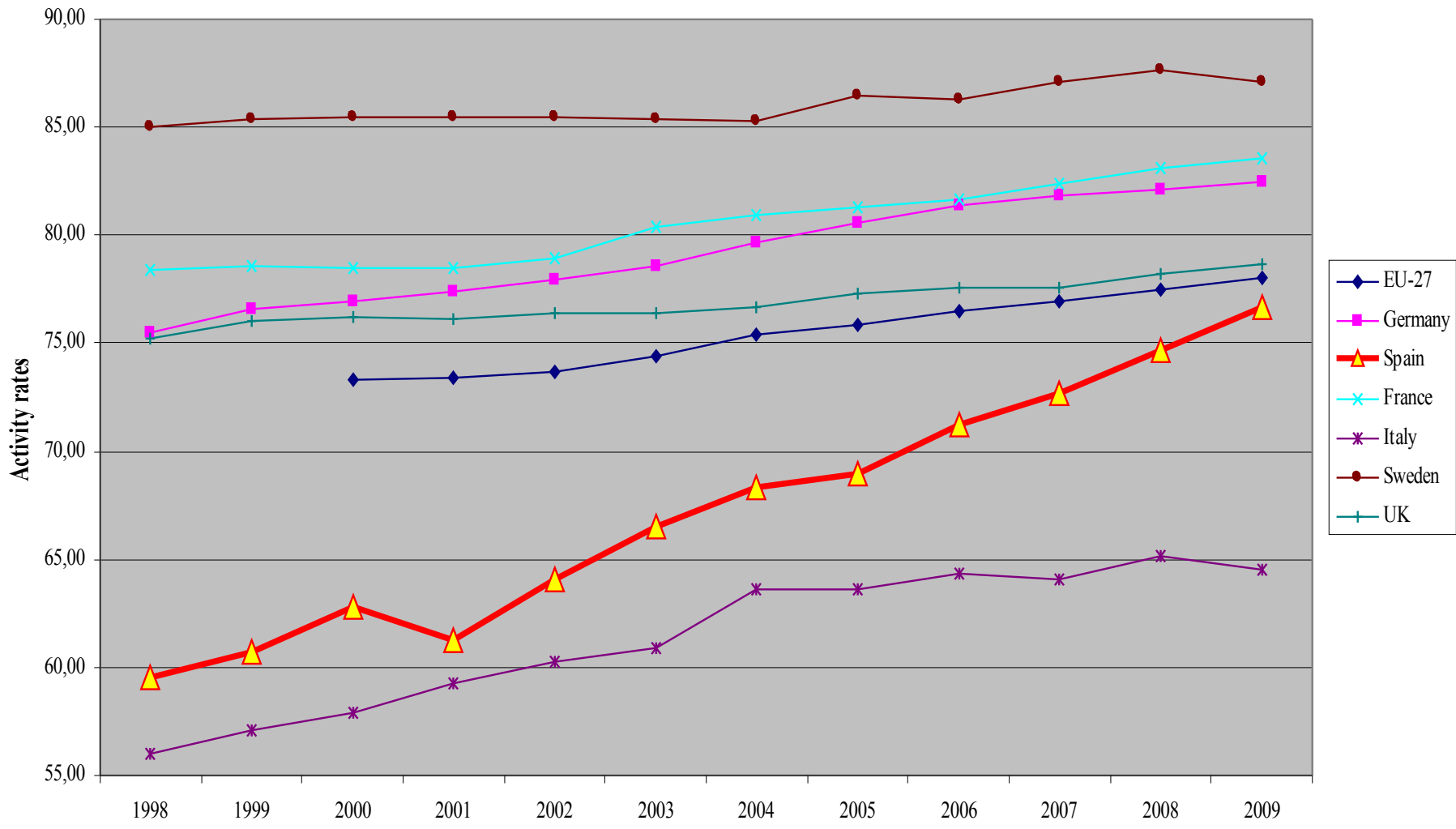
Bologna 27th-28th september 2010
Palazzo D'Accursio – Cappella Farnese
Comune di Bologna
Osservatorio Nazionale sulla Famiglia

Low profile and residual function of family policy in Spain

- In Spain family policy has been for long the Cinderella of social policies. One of the reasons for this neglect was the mistaken association between family policy and Conservative social policy in general after Franco's death owing to the fact that the protection of traditional family had been one of most characteristic hallmarks of Francoism.
- The weak status of family policy is also explained by low demand from citizens due to low female activity rates and high female unemployment rates. This situation was fully in accordance with the prevalence of the family/kinship solidarity welfare model, in which strong intergenerational ties and intense kin solidarity along the life course were expected both within the household and between households.

Evolution of activity rates of women 25 to 54 years

Selected EU countries, 1998-2009

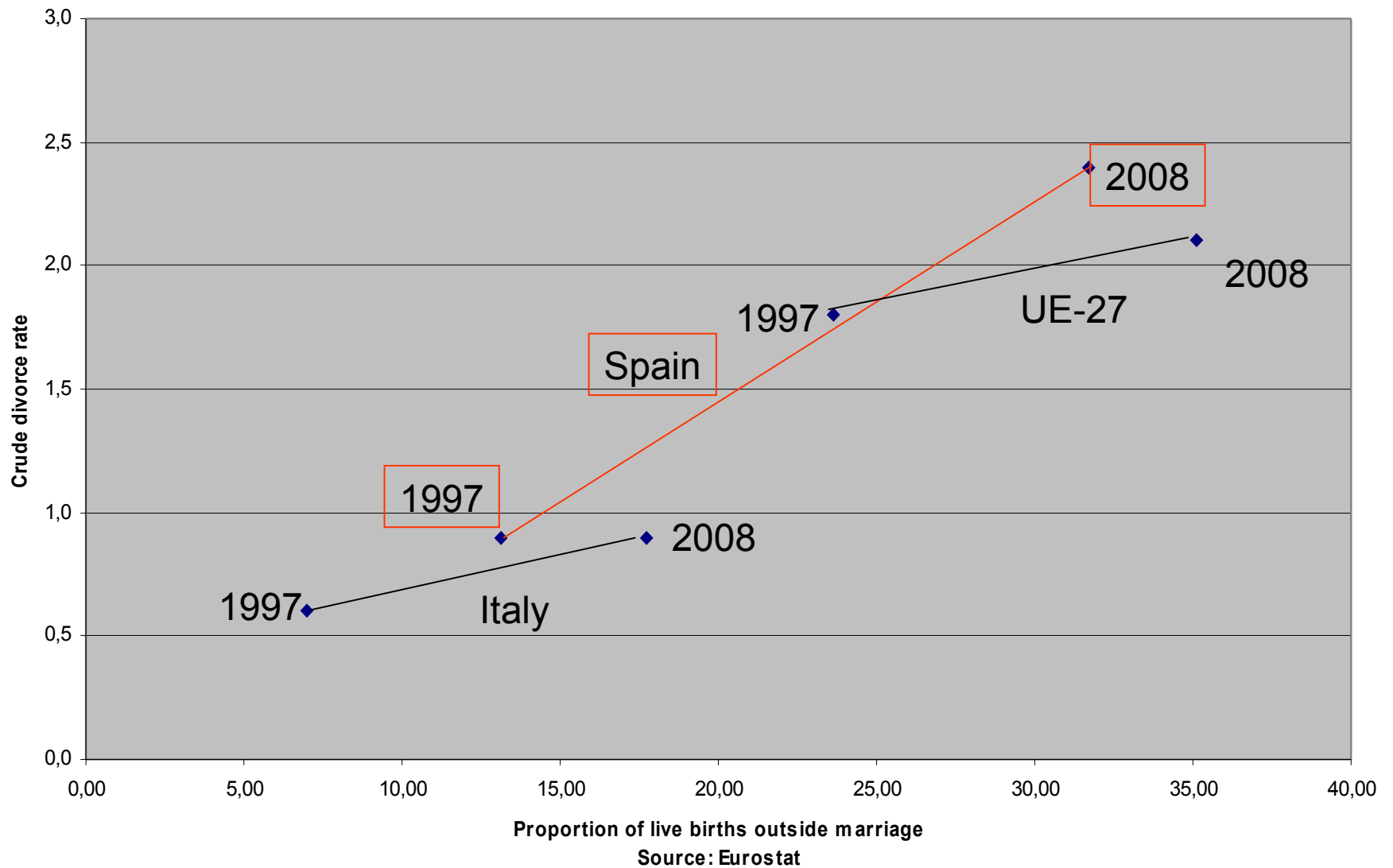


Source: Eurostat

Recent radical change in family patterns

- Contrast between a traditionally underdeveloped family policy and an intense family change in the last decade.
- Spain is the EU country with the highest growth in female activity rates between 1998 and 2009: 17 percentage points versus 7 for the EU average.
- Accordingly, changes in other family dimensions have also been drastic: Between 1997 and 2008 the proportion of live births outside marriage have evolved from 13.1% to 31.7% (in contrast to 23.6% to 35.1% for the EU-27 average). In the same period, the crude divorce rate has climbed from 0.9 to 2.4 per 1,000 population (in contrast to 1.8 to 2.1 for the EU-27).

Change in the proportion of live births outside marriage by crude divorce rate
EU-27, Spain and Italy 1997-2008



Recent family policy provisions

- **New developments in family law**
 - Law against gender-based violence (2004)
 - Legalization of same-sex marriages (2005)
 - New divorce act (2005)
- **New developments in family policy**
 - Law on the promotion of personal autonomy (2007)
 - Law for effective equality between men and women (2007)
 - Baby cheque of 2,500€ (2007-2010)
 - New scheme on maternity and paternity leave (2009).

Important family law reforms in 2005

- The legalization of same-sex marriages has been quite successful: every year marry about 2,000 male couples and about 1,000 female couples in contrast to 194,000 traditional couples.
- The 2005 Divorce Act departs from the old model based on fault and sanction and comes to accept divorce as an act of free will, which should not be restrained by legal barriers. It provides for a vast simplification and liberalization of proceedings involving direct access to divorce just three months after marriage without going through any prior formal separation. The grounds for divorce of the former law have also been abolished.
- In keeping with the liberal nature of the law the possibility of separation as a permanent status is not abolished, but it is left open for those who for whatever reasons do not wish to resort to divorce as a first option.
- The divorce reform also promotes the use of family mediation, regulates the exercise of joint custody and provides for a fund for advanced child maintenance payments.

Sole vs. joint custody

- Sole custody most often consists of the allocation of the care of children to the mother, while the father takes exclusive (or a great part of) responsibility for economic maintenance. Joint-custody arrangements require a greater coordination of parents in the rearing and education of their children and this usually involves the latter's alternate residence. The advantage of joint custody is the possibility of reaching a greater balance between ex-partners, both financially and with respect to the care of children.
- In fact, joint custody is only ordered by courts in about one out ten cases of separations or divorces involving minor children. About one in two cases of divorce involve minor children.
- Joint custody is presently a controversial issue and a heated debate is opposing groups and associations for and against it. In general women prefer sole custody because only the father is responsible for paying child support. In Spain only 4.5% of mothers with children are getting orders for child maintenance. In another 6% of cases of divorces involving children both parents are due to pay maintenance. An important point is that the law requires to provide support to a child until he/she is truly economically independent and payments must be made to the parent with whom children live (most usually the mother), even if they have already come of age. It is understandable that divorced fathers' associations are favouring joint custody, but also some feminist groups endorse it because they think that sole custody reinforces women's dependence.

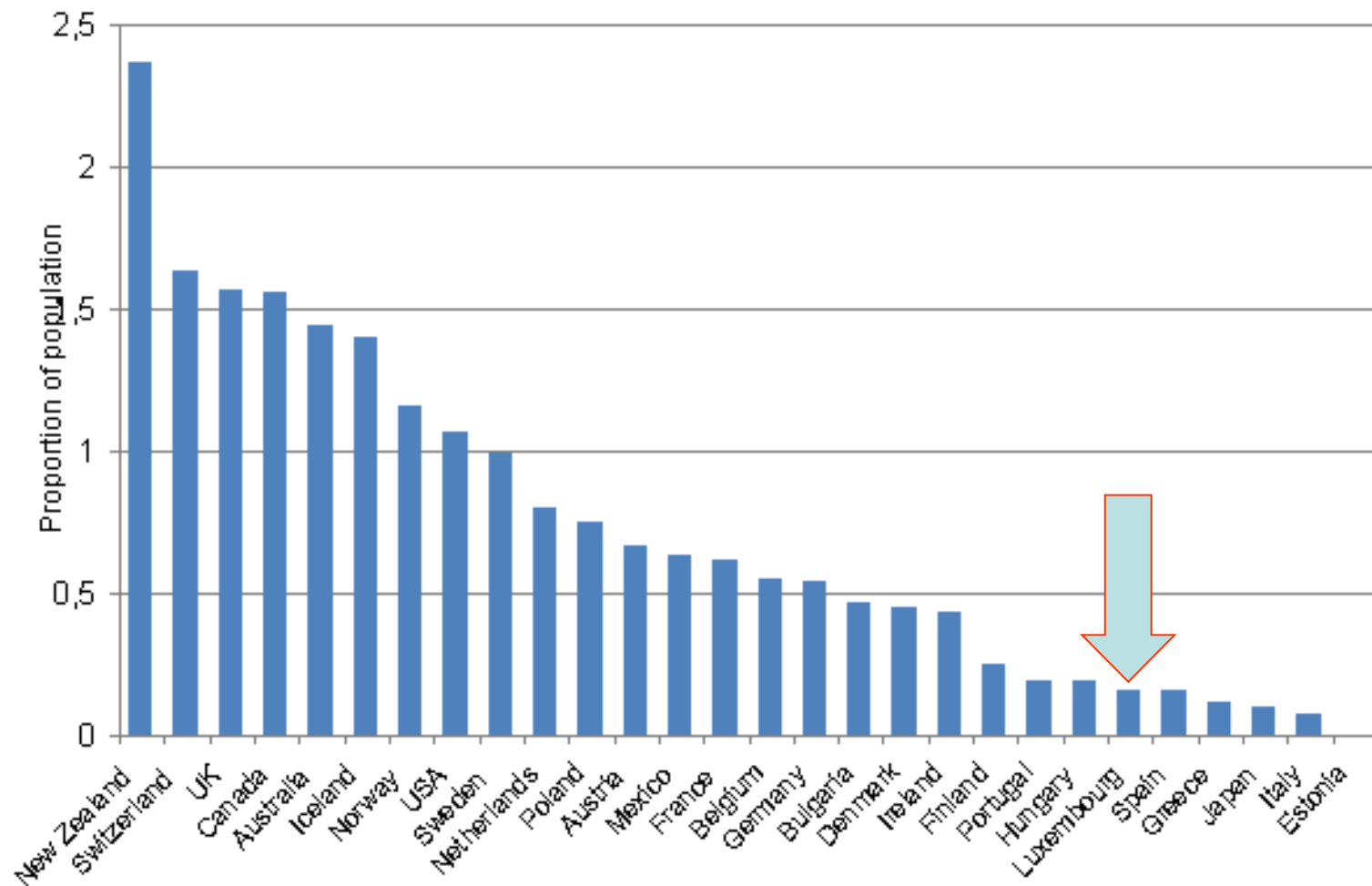
Joint custody as the standard arrangement

- In the state civil law no legal presumption exists over the attribution of custody by the judge so that joint custody is only to be granted if it is agreed by both parents. In case of opposition of both parties, it cannot be decreed by the judge.
- However, the legislators of some autonomous communities are considering the establishment of joint custody as the preferred arrangement even if parents fail to agree over the matter. Thus, the parliament of Aragon has passed a Law of Equality in Family Relations that establishes joint custody as the preferred custody arrangement. Likewise, the new Catalan Civil Code has also established joint custody as the standard although non mandatory arrangement. Other Northern regions are following suit and the reform of state civil law is under study.

Gender-based violence

- The purpose of the 2004 law against gender-based violence is to prevent and eradicate this kind of violence as well as protect victims. It takes a comprehensive approach and provides for the unification of criminal and civil jurisdictions in order to avoid that victims should be trekking around different courts in times of distress. It is focused on violence against women exerted by partners or ex-partners, but it does neither cover family violence against men nor against children.
- Gender-based violence is a very prominent issue on the political and media agenda and its visibility is enhanced by the existence of various observatories monitoring the evolution of the murder toll record, widely discussed in the mass-media (about 50-70 women killed by their (ex)-partners every year). However, comparative international data show that the incidence of this kind of violence is rather low in Spain.
- It is difficult to assess the very impact of the law. About 80 percent of reported cases (a yearly average of 135,000) end in conviction. The finding that the number of resulting deaths among migrants is much higher than among nationals (more than a third of total, i. e. higher than as much as double as the presence of migrants in Spain) suggests that the important influx of immigration during the 2010s has intensified the problem.

Prevalence of partner physical or sexual assault, women and men OECD countries, around 2005



Source: OECD

Law on the Promotion of Personal Autonomy

- In 2007 the 'Law on the Promotion of Personal Autonomy' established a new social right to public benefits for all dependent Spanish citizens, as one of the Socialist government's top agenda items and as the fourth pillar of the Spanish welfare state.
- The new act defines the framework for a national system of care services and benefits, based on universal coverage for residents according to different levels of dependency, and on cooperation between state, regional and local levels together with market-based and third-party non-profit-sector cooperation.
- As long as public formalized services are not available to all entitled residents, cash benefits, training and respite care schemes will be provided in order to formalize the employment of housewives who are already the main informal carers, or to formally employ personal assistants, most of whom are female Latin American migrants.
- In times of budget stringency the implementation of this law is encountering enormous difficulties and it remains to be seen the extent to which it will bring more formalisation of the care sector and also more professionalisation of carers, as cash-for-care benefits still are predominating over the development of services.

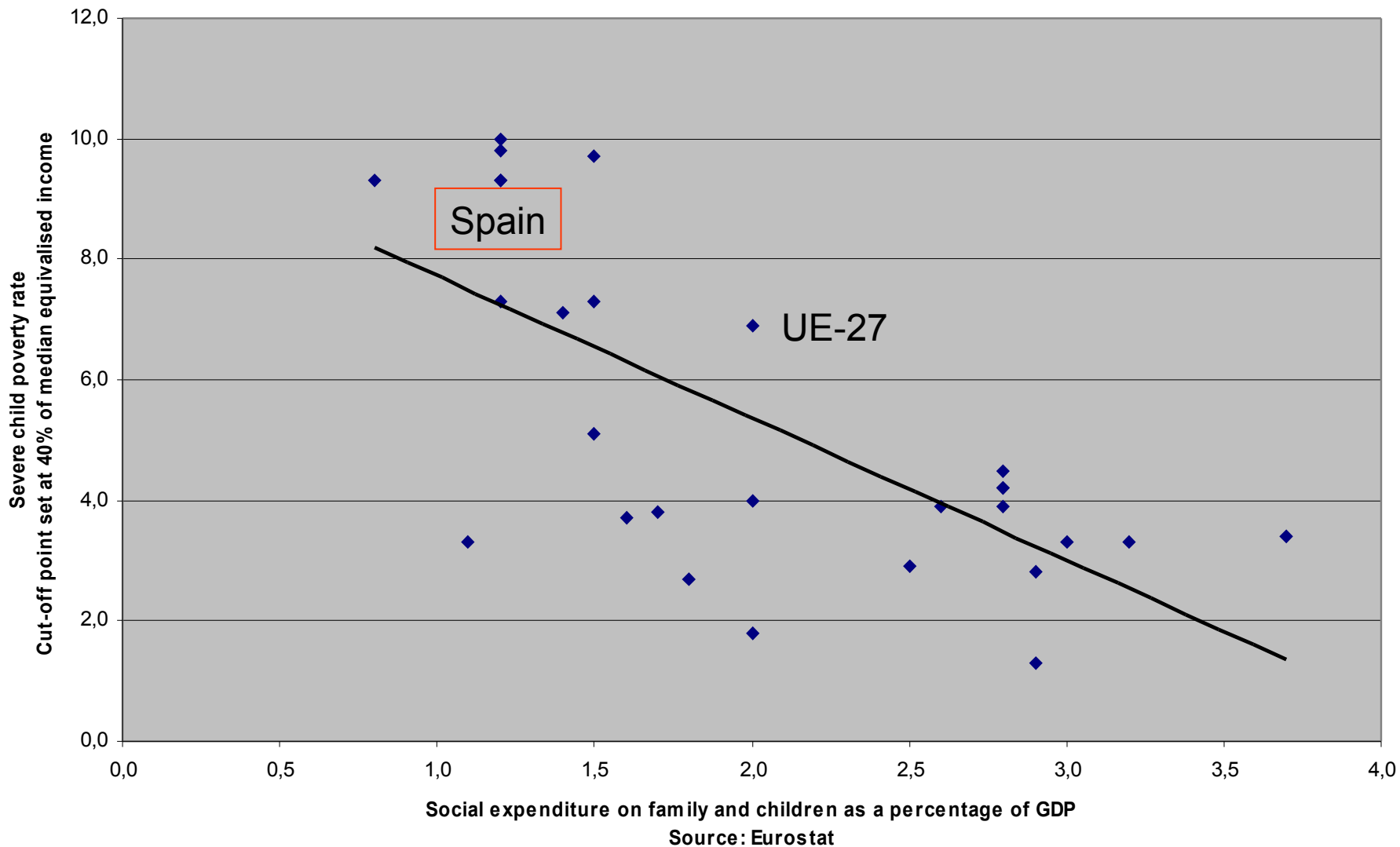
Child allowances

- In a comparative, perspective the Spanish spending on both child benefits and family services is quite low.
- Despite the implementation of previously commented-upon innovative measures, Spain is lagging behind the European mainstream in other fields of family policy such as child allowances and paid parental leaves.
- Contributory and non-contributory child benefits are means-tested and only meant for very poor families. However, middle-class families with dependent children get much better fiscal advantages in the form of income tax credits, involving higher benefit levels and more generous conditions of eligibility. The lump sum of 2,500€ for birth or adoption (*baby cheque*) established in 2007 has recently been discontinued because of budget restrictions.

Reconciliation between work and family

- Measures of reconciliation between work and family have developed late and are poorly articulated.
- Compulsory schooling in Spain starts at 6. Attendance to early education and care services is very variable according to age. While there is nearly full coverage for children 3-6 years, the enrolment in daycare for the under 3s is much lower and shows larger regional variations.
- Maternity leave is paid for 16 weeks at 100% of previous earnings.
- From 2009 on a new scheme is providing fathers with a two-weeks paternity leave for birth, adoption and foster care (20 days in case of large families), paid at full earnings, that can be used during or after the maternity leave. The government was meaning to extend the leave period up to one month next year, but this plan has been postponed until 1012 on account of budget restrictions.
- There also exists an unpaid parental leave for parents of children under 3 with a very limited employment protection.

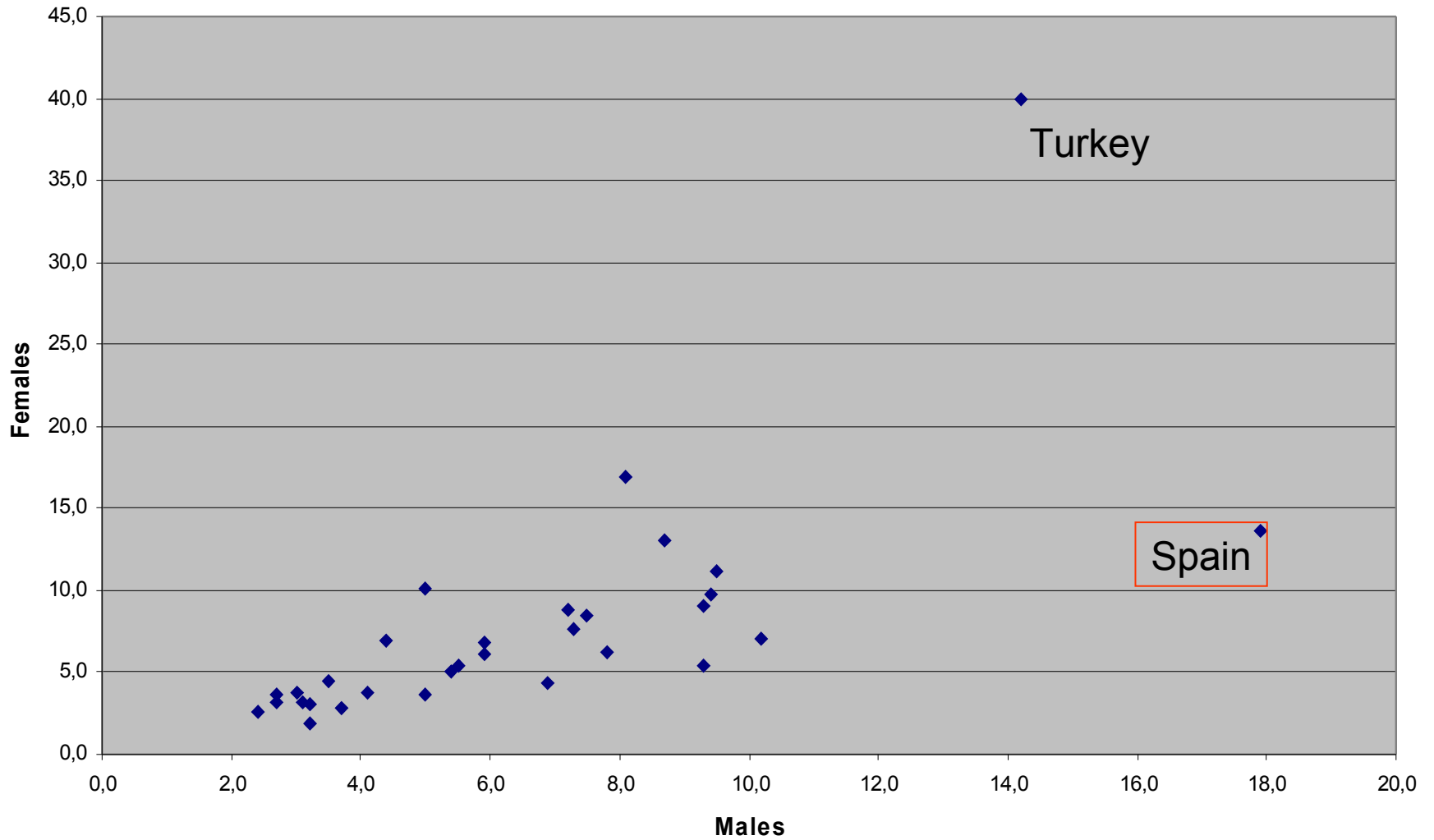
Severe child poverty rate by social expenditure on family and children as a percentage of GDP EU-27 except Bulgaria and Romania + Iceland and Norway, 2007



Assessment of Spanish family policy

- One of the ways in which family policy can be evaluated is by assessing its outcomes in terms of child well-being. Two indicators of child well-being will be used: severe child poverty rates and early school leaving rates.
- A high correlation appears between spending on family and children and child poverty. Although the Spain's position has improved in the last few years, it is still one of the least spenders on family policy in the EU and accordingly it shows high severe child poverty rates.
- Spain also exhibits an unfavourable record on non employed early leaving from education and training (young people neither studying nor working). Females are much better placed than males.

Non employed early leavers from education and training by sex
EU-27 + other selected European countries, 2009



Source: Eurostat

Factors underlying the prominence and the impact of family policy

- Interplay between the production and the welfare regimes, on the one hand, and the cultural family models, on the other, in which family policies are embedded.
- Family policy is one of social policy areas with greater disparities among European countries. In fact, if we try to gauge the impact of family policies by the share of social spending in family and children, we find out that certain EU countries spend four times more than others in this respect. This happens because the strength (or the weakness) of family policies mostly depend on the prominence of the family as an institution to provide for the welfare of their members and this is often associated with the cultural values held by citizens in different countries. On the other hand, the development and the outcomes of family policies in terms of both gender equity and child wellbeing are not so much the result of the welfare system per se, but especially of the features of the production regime in the sense that job creation and protection, disparities in the labour market, legislation on minimum wages and access to housing are more critical factors than any specific family measures.

Conclusion

- Liberalization without protection in divorce: There is a clear-cut contradiction between a most liberal system of divorce, currently producing very high divorce rates, on the one hand, and a rudimentary family policy, especially underdeveloped in the area of child allowances and the enforcement of maintenance payments, on the other.
- A limited efficacy of family policies has more to do with the virtues and shortcomings of the prevalent socioeconomic and family solidarity models than with the action of family measures and provisions per se.
- A better coordination and harmonisation is needed between:
 - Family law and social as well as family policy
 - Fiscal and social policies
- A convergence towards similar family policies in EU countries will only be possible in the future if there is a greater cultural affinity in family values and a closer similarity in production systems.