Social Policy and the Euro Crisis

Quo Vadis Social Europe

Edited by

Amandine Crespy

Georg Menz

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Preface

When British Prime Minister Margaret Thatcher complained that she had not rolled back the state successfully in Britain only to see it reinstated through the European backdoor, she unwittingly touched upon what many on the right in Britain feared and many on the centre-left in continental Europe fervently advocated: the genesis of a re-regulatory and redistributing apparatus at the level of the European Union taking shape over the course of the 1980s. But this never happened.

This book probes what happened to the notion that EU integration should result in building a *social* market economy at the supranational level, and analyses the reasons for the pathways chosen since. In the aftermath of the fiercest economic crisis in modern economic history, the potential for any Social Europe with real bite to emerge appears fairly limited. In fact, the responses to the crisis of the single currency suggest a final farewell to any notion of a classic social democratic European Union.

Most of the contributions in this volume were first presented at a workshop the two editors organized at the Institute for European Studies of the Université Libre de Bruxelles (ULB) on 6–7 December 2012. We gratefully acknowledge financial support from the Belgian Fonds de la Recherche Scientifique (FRS-FNRS), the Fondation Wiener-Anspach, the Faculté des sciences sociales et politiques at ULB, and the British University Association for Contemporary European Studies (UACES) in organizing this workshop. The workshop was an incredibly stimulating opportunity to exchange ideas and was the start of a long journey towards a common endeavour to elucidate how the recent financial and debt crisis has further affected the already elusive pursuit of Social Europe. We warmly thank all the participants in the workshop as well as the colleagues who joined the project at a later stage.

In addition, Georg Menz would like to acknowledge the financial support of the Central European University's Institute for Advanced Studies, which permitted much-needed time and space to edit and revise the chapters. Budapest also provided a fantastic respite from London's New Cross. The final editing was carried out during a stint as visiting professor at the University of Pittsburgh's Political Science Department, where a light teaching load and a comforting aerial distance from Goldsmiths

in excess of 6,000 miles rendered the final leg of the genesis of this book possible.

In times such as these, where the economic and social strategy of the EU has rarely been so controversial in the face of its dramatic consequences, the purpose of this volume is to make a contribution to a shared diagnosis of what has caused the failure of Social Europe as a prerequisite for looking ahead. In our view, a common understanding of such failure prior to and after the euro crisis has not formed yet. The very critical tone of the book does not imply that the EU is *bound* to be an exclusively market-centred enterprise. But if we consider today how supranational policymaking could bring an added value for and garner the support of those who, across the continent, are hoping for fairer societies, the task ahead is certainly immense.

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1
Introduction: The Pursuit of Social Europe in the Face of Crisis

Amandine Crespy and Georg Menz

1. Introduction

Whatever happened to Social Europe? Does the concept still exist? And, if so, what does it entail? Though the 1957 Treaty of Rome establishing the European Economic Community was a document to a remarkable extent infused by economic liberalism, the market-building exercises in the early decades of the Community's existence were to some extent balanced by the concomitant elaboration of market-correcting instruments, such as the European Social Fund and later the Common Agricultural Policy and its associated guidance funds. Generalizing broadly, the early years of European integration were thus characterized by the paradigm of 'embedded liberalism', combining the pursuit of gradual liberalization of trade with protective and redistributive measures associated with the more organized, coordinated, and thus 'embedded' model of Western European capitalism.

However, over the course of the past 15 years, dramatic change has occurred. Not only has the goal of market correction, especially through what Scharpf has labelled 'positive integration', been either neglected or re-interpreted to guide policy that is barely recognizable as intended to tame market processes, but at the member state level also the reconfiguration of social and labour market policy has meant a dramatic change to the phenotype of European varieties of capitalism. Notwithstanding the catastrophic fall-out of excessive economic liberalization, especially in regard to the regulation of the financial service sector apparent in the crisis culminating in the near meltdown of the global financial system in 2008, no major paradigmatic shift back towards a more regulated social market economy is discernible.

So, has the sun set on Social Europe once and for all? This all seems somewhat surprising, given the credentials and the actions of the architect of the renaissance of European integration Jacques Delors. A centrist French socialist by background, Delors attempted to couple wide-ranging liberalization, privatization, and marketization measures explicitly or implicitly entailed in the Treaty of Maastricht with stepped-up redistributive and re-regulatory measures. The relaunched Single Market of Maastricht was meant to reflect the post-war consensus of organized capitalism, rather than merely provide a deregulatory Thatcherite impetus to mimic the concurrent developments in the UK and the US.

The reigniting of European integration in the mid-1980s was associated by many with the expectation that the deregulatory and liberal nature of the Single Market would to some extent be balanced by a harmonization of social and welfare policy with the explicit goal of avoiding a race to the bottom and social dumping. Such aspirations were nourished by Jacques Delors' pronouncements at the time. The largely symbolic Social Protocol, politically highly contested at the time, meant to construct a basis upon which to mount legislative measures in this vein. The sheer variety of welfare states and not least their diverse sources of funding were clearly discernible as a serious impediment to any attempt at harmonization. Funding constraints and a lack of popular support imposed clear limits to any grand visions of European Union-level redistributive measures. Thus, only some and arguably fairly modest (re-)regulatory policy was pursued. The 1990s have been seen as the golden era of Social Europe with the introduction of the European social dialogue and a number of directives regulating working conditions in the Single Market. When regulation has stalled in the late 1990s, soft forms of coordination and new instruments of governance, such as the open method of coordination (OMC), have been introduced in order to foster policy convergence. This trend has intensified with the launch of the Lisbon Strategy in 2000. During that decade, an ideological change occurred and social policy was subsumed under the overarching priority of enhancing competitiveness, whilst 'social exclusion' was meant to be addressed primarily by raising labour market participation rates. Clearly, following three rounds of (South)Eastern enlargement in 2004, 2007, and 2013, the overall context has changed considerably, and the socioeconomic diversity of welfare state systems, models of industrial relations, and patterns of labour market regulation has increased even more and quite dramatically so. At the same time, the legacy of the two Barroso Commission *colleges*, the response to the crisis of the single currency and its long-term fall-out, and the by now seemingly exhausted flurry of social policy directives spawned by the Social Protocol provide ample empirical material that cries out for systematic analysis, rather than mere stock-taking. It is striking how the prospects of Social Europe and the analysis of the fundamental challenges affecting such a project appear to have attracted very scant scholarly attention in recent years. This contrasts with the literature dedicated to social policy and EU integration which has flourished throughout the late 1990s and early 2000s.

This book seeks to address precisely this lacuna. It adopts a broad understanding of Social Europe and brings together contributions from specialists of the various facets of socioeconomic policy, be that social policy and welfare state reform, political economy, sociology and industrial relations, or EU governance and policymaking. By analysing the developments in socioeconomic policy (and the politics thereof) before and after the financial and sovereign debt crisis affecting the EU since 2008, the authors provide empirically grounded arguments about the prospects of Social Europe. Overall, the research gathered in this volume argues that, whilst the pursuit of Social Europe has long proved elusive, the new constellation of policy and politics emerging from the euro crisis suggests a fundamental departure from Social Europe understood as a political project pursuing the building of a supranational social market economy. This introductory chapter first explains what we understand by Social Europe and how its developments throughout the history of European integration reflect intrinsic and persisting contradictions. Drawing on a brief overview of the scholarly debates pertaining to Social Europe, we then present the approach and the research questions raised in this volume. Finally, we present the content of the constituent chapters.

2. Social Europe: A story of grand aspirations unfulfilled?

The very concept of Social Europe is often associated with the Delors era during which the French socialist held the Presidency of the European Commission from 1985 to 1994. As the secondary literature does not provide a satisfactory definition, we define the term as follows: the provision at the European level of substantial re-regulatory and redistributive measures that aim to ameliorate the material condition of Europe's citizens and limit the negative consequences of the operation of market capitalism, inspired ideologically by northern European tenets of social democratic ideology. The underpinning principle of the

1957 Treaty of Rome was one of economic integration via market opening and creation via the four freedoms (the free movement of capital, goods, services, and labour). However, during the 1960s, the idea that economic liberalization should be flanked by measures accompanying workers mobility gained grounds and was translated into the 1974 Social Action Programme. The creation of the European Social Fund and later the Common Agricultural Policy and its associated guidance funds were redistributive and decidedly non-liberal measures. From the mid-1970s to the late 1990s, the Community, later the EU, developed considerable legislative activity, though limited to the fields of health and safety at work and working conditions. However, important directives were also created regarding gender equality and non-discrimination, whilst equal pay for both sexes is enshrined in the Treaty of Rome. The aim was to achieve, if not full harmonization, the establishment of minimum standards in these areas, whilst protecting the rights of intra-European labour migrants.

Two important landmarks must be highlighted during this period. First, the Social Protocol included in the 1992 Treaty of Maastricht confirmed the will of the member states existing *acquis communautaire* and the principles enshrined in the 1989 Charter of the Fundamental Social Rights of Workers. In addition, it contained a provision promoting social dialogue between labour and management by giving the possibility to translate negotiated agreements into EU legislation. The legal recognition of what was then branded the 'European social dialogue' can be seen as an attempt to extend to the supranational level typical neocorporatist practices in industrial relations. The outcomes of the Treaty of Amsterdam adopted in 1997 can be seen as the climax of the movement towards a Social Europe. The new treaty included a new chapter on social policy and working conditions. Most importantly, Amsterdam moved the decision-making mode from unanimity to qualified majority voting among the representatives in the Council. The treaty also included a new chapter on employment entailing the coordination of national policies via the OMC. Finally, it is worth mentioning that these developments were accepted by the British government under its post-Thatcherite prime minister Blair who then accepted the implementation of social provisions previously opted out from at Maastricht.

These developments cannot be separated from the political dimension of this era. The Delorsian vision for Europe was one of a social market economy, an obvious oxymoron modelled on an amalgam of statist France and neo-corporatist Germany with a dash of Social Democracy and an ample infusion with liberalism, yet somehow re-regulated at the supranational level. After stressing market liberalization with the Single Market programme, Delors and others around him anticipated that closer economic integration would lead to closer political and social integration as a result of functional spill-over. Delors played a key role in advancing integration by securing the agreement of Margaret Thatcher to the extension of qualified majority voting, convincing left-wing decision makers that political and social Europe could be reconciled, and ushering in a monetary union with the Treaty of Maastricht. The political vision then was clearly that of a federation in the making. The climax of the modest achievements of Social Europe in the 1990s reflects an era when most European countries were governed by centre-left parties or coalitions like Tony Blair's Britain, Gerhard Schröder's Germany, or Lionel Jospin's France.

From a policymaking standpoint, the activities related to Social Europe fall into four categories of policies: distribution, regulation, coordination, and liberalization (Falkner, 2010). Although not negligible, the distributive dimension of social policy at the EU level has never resulted and can never result in a fully-fledged supranational welfare state. The European Social Fund, established with the Treaty of Rome in 1957, has historically served to promote labour mobility. More recently, the fund is used to tackle issues related to unemployment, especially for the most vulnerable categories of workers (women, young people, jobseekers).

The regulatory dimension is more developed. According to Falkner, the EU had issued no less than 80 regulations in the field of social policy in 2009. Although limited to certain areas, these directives have had a direct impact especially in the countries where social policy was not well developed at the time of their accession to the EU. Falkner (2010, p. 299) distinguishes between four forms of social policy: *regulation* (namely labour law, health and safety at work, and equality between the two sexes), *spending* (mainly on the European Social Fund, the regional aid policies, and the structural aid components of the Common Agricultural Policy), *coordination* to stimulate voluntary harmonization (largely on employment policy, pensions, social assistance, and education), and finally the *liberalization* of public utilities. This includes employment services, energy, transport, postal services, and part of the healthcare services. To an extent, the logic of the Single Market collides with the European welfare states because the public sector often acted as employer of last resort, including being used to soak up unemployment.

Where conflicts between EU provisions or between national and social regulation arose, though, it is the European Court of Justice (ECJ) which had to adjudicate. The development of Social Europe was therefore strongly driven by judicial politics and case law as accounted for by more than a thousand decisions delivered by the Court since the 1960s (Leibfried, 2005, pp. 265–267). The main focus here has been on free movement of workers and social security issues in the context of mobility. In addition to regulation, as mentioned above, the coordination of national social policies through the OMC has been used in the absence of political will to transfer further competencies to the EU institutions. First initiated for the European Employment strategy in 1997, the OMC has then been extended to social protection and social inclusion as well as to pension reform in 2001 and later to healthcare and long-term care in 2005.

The fourth area affecting the Social Europe project is liberalization. This is often neglected because it belongs more to the realm of market making rather than market correcting, as social policy would traditionally be understood. However, the idea that a substantial part of what used to be provided by the state at the national level should be left to the market rather than transferred to the EU level explains why EU social policy has remained weak. The EU has neither replicated the *service public* provided at national level, nor has it been kind to the function of the public sector as employer of last resort. The Maastricht criteria ushered in substantial cuts to the staff rolls of European public services. In the field of public utilities, full liberalization has been consistently pursued since the late 1980s. But this has also increasingly affected sectors which were seen as belonging to the core of the welfare state such as health policy, help to jobseekers, or to vulnerable people, social housing, and so on. In this respect, liberalization policies pertaining to the internal market and globally under the auspices of the World Trade Organization have been mutually reinforcing (Crespy, 2014a, 2014b). In turn, the involvement of the EU in welfare and social policy therefore mainly occurred through (limited) regulation, judicial politics, and market making. It was this state of affairs that prompted the conclusion by Leibfried and Pierson that social policy of the EU was mainly 'left to courts and markets' (2000).

In fact, the incremental changes served mainly to hide the persisting profound disagreements on the form and content of Social Europe, not least among the Social Democrats themselves. In the early days, national leaders believed that social policy should or could remain the prerogative of the member states while EU policies would concentrate on market making. Thus, social policy measures at the European level were from the outset conceived as market flanking, rather than market correcting. The Delorsian project of a European social market economy was rooted in the social democratic compromise. But this vision always entailed deep contradictions if not political misunderstandings. Only the market – as norm, as a space, and as a constraint – could serve as a common language to drive integration forward (Jabko, 2006). As the convergence towards the European Monetary Union (EMU) has implied economic adjustment, trade unions' positions and strategies have been ambiguous. On the one hand, the powerful unions in Germany and elsewhere have sought to preserve national models of industrial relations by adopting competitive corporatism (characterized by wage moderation); on the other hand, there have been attempts to engage with transnational mobilization, collective agreements, or wage coordination, but these have encountered major obstacles (Dufresne, 2002, 2012; Bieler, 2006). The 1980s and 1990s should therefore not be romanticized in an apologetic association with the political heritage of Jacques Delors. This era should be seen less as the golden age of Social Europe than as the foundational period where the basic contradictions pertaining to this political strategy were set, not least the idea that market liberalization at the EU level and social regulation at the national level could develop in isolation from each other, or that social policy at the EU level could be depoliticized at the EU level. Neither is feasible.

The euro crisis has dramatically changed the parameters of what Social Europe might entail. The crisis has been addressed by reinforcing the Maastricht convergence criteria and their enforcement through tougher and anticipatory surveillance as well as tighter coordination of macroeconomic and fiscal policy, thus bringing the EU closer to a mode of governance which can be qualified as executive federalism (Crum, 2013). By contrast, any embrace of neo-Keynesianism proved short-lived. Notably, economically weaker countries are extolled to carry out neoliberal structural adjustment policies in order to enhance competitiveness. None of this bodes well for re-regulatory or progressive social policymaking. The euro crisis had its precursor in the disastrous losses US and less so European banks incurred through irresponsible issuance of home loans and the purchase of derivatives based on these 'subprime' loans. When the US repo market 'froze up', US banks withdrew capital from Europe, certain European banks were facing substantial losses, but perhaps most importantly, financial markets were waking up to the realization that bonds of many European banks and indeed governments looked like decidedly shaky investment decisions. Add to this the pragmatic, if possibly quite badly flawed decision to 'bail out' collapsing banks with public funds and the financial sustainability of certain governments began to look questionable. The sovereign debt crisis was exacerbated in parts of Europe, as bank losses mounted due to collapsing real estate markets in countries such as Spain and Ireland. Financial anxiety led to more exacting scrutiny of governments in southern Europe which had availed themselves of long-term interest rates on government bonds converging on German levels to engage in generous spending and lackadaisical tax collection, notably in Greece and Italy. With contagion emerging as a real possibility, urgent questions were being asked about the future of the single currency itself. At the top of the EU multilevel polity, the debt crisis brutally unveiled the fragility and internal contradictions of the EMU which had so far been seen as the main achievement of EU integration. The European Central Bank granted itself the power to purchase government bonds, albeit indirectly, and enormous financial obligations were incurred by Germany and other prosperous northern European governments with the creation of the European Financial Stability Facility. At the same time, serious questions about the extent to which weaker southern European governments would ever be able to pay off (or even service) their debt. This triggered broader debates about the political foundations of the European project, the conditions for ensuring financial solidarity, and the democratic legitimacy of new governance arrangements. Meanwhile, at the national level, the crisis led to rapidly rising levels of unemployment as a result of economic recession and hence rising levels of social assistance. But austerity policies are very obviously exacerbating and prolonging the economic downturn. Through the new stringent EU framework for macroeconomic governance – the European Semester – or, in the case of states under financial assistance, through direct intervention by the Troika of IMF, European Commission, and European Central Bank, the EU institutions are pushing for lower levels of social assistance and employment protection, enhancing competitiveness primarily through reducing the unit production cost via reducing or freezing wages. Many academic as well as political observers have raised concerns as to both the economic efficacy and the social consequences of maintaining the EU in a prolonged era of austerity. What seems to emerge as a 'lost generation' among young Europeans also entails political costs, as the last European election in 2014 has shown. Yet, austerity seems to be difficult to contest politically.

3. The state of the art and our contribution

The 1990s and early 2000s witnessed a flurry of scholarly treatises that speculated, in some cases very presciently so, about the future prospects of Social Europe (Streeck and Schmitter, 1991; Leibfried and Pierson, 1995; Falkner, 1998; Scharpf, 1999; Geyer, 2000; Kleinman, 2002). There were a number of possible limitations already discernible back then. The market-correcting capacity of the newly created European Union seemed feeble when compared to the awesome powers to deregulate and enhance market processes. With two rounds of Mediterranean enlargement having swelled the membership base and eastern enlargement on the long-term horizon, the socioeconomic homogeneity that characterized the old EEC had been compromised, with attendant challenges for devising a suitable social policy for very divergent systems of welfare states, industrial relations, and redistributive policy. Thus, the EU experienced a 'clash of capitalisms' (Copeland, 2014). In blunt terms, the German aspiration, to an extent shared in France, of levelling Europe as a whole up to northern European standards of social protection and labour market regulation might seem touchingly naïve with the benefit of hindsight, but at the time it did not appear illusionary to pursue economic liberalization combined with modest social re-regulation. The most vociferous opposition to such course, emanating from Thatcher's Britain, could eventually be accommodated by accepting the British opt-out of the Social Protocol.

To be sure, there was much interest in the so-called European social model earlier. In a ground-breaking article, Pierson (1996) has demonstrated how European instruments had created their own path-dependent logic. Some scholars have seen ostensibly innovative modes of governance with much enthusiasm, as the OMC permitted to foster integration in a policy field where the legitimacy of the EU was still too weak for top-down policy enforcement (Zeitlin and Pochet, 2005). The merits of new modes of soft governance reside in the capacity to foster ideational and cognitive convergence (Guillen and Alvarez, 2004). However, with regard to its political implications, some authors have been critical as to the capacity of the OMC to be effectively open to social partners and civil society and therefore more democratic and legitimate than the Community method and regulatory policy (de la Porte and Nanz, 2004). Meanwhile, eastward enlargement has increased the diversity of welfare states, systems of social protection, and structural sources of funding even further, including a widening of the wage gap among members (Menz, 2005). Economic recession has further exacerbated the strain on the commonly rudimentary and loosely knitted southern welfare states. At the same time, although the EU, mainly through market integration, has contributed to shift the boundaries of welfare, reforms have been initiated by the member states in response to perceived economic adjustment required by increased international competition.

A decade later, there is somewhat of a lack of scholarly attention to EU-level social policy developments while comparative policy analyses of welfare state reforms have become more prominent (Obinger et al., 2010; Palier, 2010; Graziano, 2011; Emmenegger et al., 2012). Indeed, it would be simplistic to depict the EU as a *deux ex machina* attacking the national welfare states. In the realm of welfare state reform as well as regarding public utilities liberalization, the EU institutions have followed trends often initiated in some member states. Palier and his colleagues (Palier, 2010; Graziano et al., 2011) have provided evidence that, though slow in the making, Bismarckian continental welfare states display a common reform trajectory since the late 1970s. Beyond national specificities, governments have enforced often divisive reforms anchored in a supply-side approach and aiming at a shift from an income perspective to an activation perspective. This went hand-in-hand with the recommodification of a number of public services, and reforms of the pension system which established several pillars in order to encourage private insurance (Palier, 2010, p. 353). Almost everywhere, these reforms resulted in the dualization of welfare between basic safety nets provided by the state, on the one hand, and private insurances for those who could afford it, on the other, as well as a dualization of labour markets (Emmenegger et al., 2012; Palier and Thelen, 2012).

Only very recently, the new governance framework for economic policy seems to have somewhat revived academic interest for the broader project of Social Europe, although in a fairly fragmented way. Since the first cycle of the European Semester in 2010, the Commission has sought to increasingly tie together the monitoring of social policy indicators to economic objectives, thus including social policy issues in its recommendations to the member states. There have been contrasted assessments as to the implications of this trend. Whereas some authors have pointed to a dilution of Social Europe in the overarching direction set by fiscal austerity (Armstrong, 2012; Copeland and Daly, 2014; Graziano and Hartlapp, 2014), others see the new framework as an opportunity to make social policy goals more constraining for the member states (Bekker and Klosse, 2014) and have detected a 'socialization of the European Semester' (Zeitlin and Vanhercke, 2014). In this emerging literature, the links between the changes brought by the crisis and the pre-existing dynamics are often neglected and, as the focus lies on specific policy instruments, the broader picture is missing. It seems unlikely for Social Europe to emerge and questions pertaining to a 'Social

Union' – involving the desirability of social convergence or the necessity of more financial solidarity (see Vandenbroucke and Vanhercke, 2014) – remain unanswered.

Against this backdrop, the ambition of this book is to analyse and assess recent developments pertaining to Social Europe not least with regard to the euro crisis which has been challenging the EU since 2009 and shows no real signs of abating. The original contributions gathered here all speak to the common theme of assessing the patterns and the prospects of Social Europe. While not overlooking agency, they tend to emphasize the role of structural trends and explanations both at the national and at the EU level. Identified variables for the elusive pursuit of Social Europe relate to the restructuring of the global economy, the fragmentation and asymmetry of EU governance, the ideational and institutional resilience of the neoliberal paradigm, all exacerbated by the policy enforced to tackle the debt crisis.

Eventually, the arguments put forward also allow for more normative reflections. All contributions deal with social policy and the social dimension of integration in connection with the broader political economy at the European and global scale. The common assumption is that Social Europe should not be understood in a narrow sense confined to social policy. Social Europe has historically embodied the project of a distinctive European regulated capitalism as opposed to neoliberal, exclusively market-based integration. Authors therefore do not deal with either policies or politics in isolation from each other; rather, they consider how policies and politics interact with each other, hence overcoming some of the established lines that contribute to the compartmentalization of research. Second, as a consequence, Social Europe can be best analysed in an interdisciplinary perspective. This has been the main endeavour of the project underlying this publication[1] by combining comparative EU policy analysis, comparative politics, and political economy. Third, the book combines two kinds of comparative analysis that, once again, remain too often separated in the literature: on the one hand, comparison between national policies and polities, that is, what we classically understand by comparative policy analysis or comparative politics; on the other hand, comparison between member states' actors and organizations embedded in EU policymaking and institution-building – typically associated with European studies.

The chapters address the following three questions. *Firstly*, has the tendency towards *path dependency* in European social policy, identified by Pierson (1996), been punctured or indeed reinforced? Pierson (1996) famously questioned the validity of a purely intergovernmental approach to explaining European integration, highlighting the powerful constraints on decision-makers, sunk costs, their limited time horizons, unanticipated consequences, institutional barriers to reform; all leading to lock-in and reinforcing past decisions.

The inherent difficulties of pursuing an 'ever closer union' defined in terms of a convergence of levels of social and labour market policy are plain to see. With redistribution subject to obvious budgetary limits that are for political reasons impossible to renegotiate and the diversity of welfare and labour market regimes having reached unprecedented levels, the challenge remains formidable. Given the changing broader macro-political context and the reinvigorated Maastricht criteria, we find the claim about path dependency of limited utility. Drawing on an analysis of 20 years of social and labour market policy output, not all of which suggests a coherent and streamlined ideological leaning, as one might expect given the unusually partisan politics of the right-wing Barroso Commissions (Mailand, 2013), the significant *change* in terms of policy instruments, political ideology, and ultimately policy output is striking. The Lisbon Strategy, superseded by the Europe 2020 strategy, continued to pay lip service to social cohesion and a vaguely defined 'European social model'. Yet the overall impression of the 2000s appeared quite different: firstly, there was a change in mode of governance and policy tool away from top-down directives as in the 1990s and towards the much murkier and often ineffective OMC. Secondly, the highly contested Services Directive (Crespy, 2010, 2012; Menz, 2010), the affirmations contained in the Lisbon Treaty, and the ideological colouring of the response to the crisis of the single currency easily provide evidence accusing the Commission of abandoning all pretence of political neutrality and embracing a particularly corrosive variety of neoliberal doctrine (see, e.g., Barbier, 2012). In pursuing this theme, we are re-visiting the question to what extent 'positive' re-regulatory policy can be pursued at all and to what extent such policy will have real bite, in the way the late 1990s directives did. Much of the available evidence suggests the pursuit of negative integration being preferred, whether in the form of the Troika recipes for structural reform foisted upon southern European governments (see Ladi and Tsahouras, 2014) or in the shape of the Services Directive. In exploring the bulk of the policy output since Maastricht, we are also struck by the activist role of the ECJ, which continues its market-building role of old, but in recent years does so in fairly aggressive and intrusive ways, meddling with the national regulation of labour markets and wage levels that are unprecedented and far-reaching in range. Thus, the argument advanced does not support the claim regarding path dependency *per se*, but suggests the ongoing structural constraints implied by institutional patterns, divergent models of political economy, and to a certain extent ideology.

Secondly, we aim to ascertain whether Social Europe is still 'left to courts and markets' (Leibfried and Pierson, 2000) or whether the era of austerity opened in 2008 has re-opened political space for a more explicitly political, rather than technocratic approach to social policy both at the national and at the EU level. As just mentioned, the role of the ECJ and the dynamics of market creation continue to be of major significance. However, with the Commission assuming an active role in the context of the European Semester, the 'Troika' active in bail-out countries and elsewhere, and the elaboration of the Europe 2020 strategy, it seems fair to conclude that more explicitly political measures are being taken at the EU level, a finding partially applicable to member states as well. Clearly, Europeanization is a two-way process, entailing both top-down and bottom-up dynamics. With traditional social democratic positions of taming the market, redistributing income and wealth, and protecting weaker citizens all significantly watered down in the wake of an ideological infatuation with the odd lure of Third Way-style ideology, it is safe to say that a re-orientation of the very content of the label 'Social Europe' is in large part due to the changing politics of member state governments and political parties, especially those on the political centre-left. Whilst in the 1980s the received wisdom of the age identified the British government correctly as playing an obstructive role, the politics of the 2010s are much more complex. Besides the reluctantly accepted role of Germany as the regional economic and political hegemon, a liberal camp of member state governments has emerged with attendant voting behaviour in the Council of Ministers, seemingly independent of the political colour of the government of the day. This camp frequently comprises the Netherlands and somewhat less than obvious candidates such as Sweden, but crucially, its ranks have swollen by the newcomer states of the 2000s, who perceive their structural competitive advantage in retaining lower wages, lower standards of social and labour market protection and yet full access by their citizens to labour markets and systems of social protection in the rest of Europe. In this respect, the various authors have pursued a common endeavour by systematically bringing policy and politics together. All chapters pinpoint the very political factors explaining the demise of Social Europe. This has implied, beyond structural factors mentioned above, a close analysis of agency and actors' coalitions in the context of multi-level policymaking.

Thirdly, the question emerges what role, if any, the national governments play in elaborating and initiating European social policy. Has the change in governance tools in the 2000s and beyond led to a re-empowerment of national governments? To what extent are member states shirking, pre-empting, and exploiting top-down Europeanization?

This raises a broader question, namely what, if any, might the prospect of a Social Europe be today, defined in terms of the German notion of a *soziale Marktwirtschaft* (social market economy). This question arises despite the obvious fact that the German model of capitalism – and indeed other coordinated market economies in northern Europe as well – has undergone dramatic changes, rendering them leaner and meaner. Because of its paradigmatic role, it is crucial to understand how the Scandinavian model of flexicurity has shaped labour market policies across Europe throughout the 2000s. Since 2008, Germany has clearly been the focus and embodied the possibility of a coordinated yet competitive economy. The role of Germany is therefore worth singling out for attention. To the extent that the Troika admonishes southern European governments to 'become more like Germany', they are referring to the post-Hartz deregulated German labour market, not the social democratic *Modell Deutschland* of the 1970s. The obvious flaw in this line of reasoning is that labour market deregulation alone will not create competitive export-oriented businesses and it is logically impossible for all EU member states to derive surpluses from their intra-EU trade. Defying popular stereotypes, however, the percentage of employees on short-term contracts in Germany exceeds that of the UK and the share of the unionized workforce is likewise lower in Germany than in Britain. Notwithstanding the conceptual point of departure thus having undergone transformational change itself, is there still reason to place faith in a coordinated and regulated 'European social model' to emerge at the EU level? The country has clearly become a *primus inter pares* because of the political power associated with its paymaster role, as became apparent during the negotiations surrounding the attempts at salvaging the euro. However, more relevant for our purposes is the long-term impact that the deregulation of the German labour market, its welfare state, and the corrosion of its system of industrial relations have had for Europe. These developments, some enhanced by the so-called Hartz reforms of the Schröder government, some the result of less consensus-oriented employers, have important radiant effects because they have enhanced German competitiveness, yet this has to some extent come at the expense of its neighbours. Thus, German wage signals, in the heady days of the 1990s often regarded as an ambitious benchmark with some of Germany's neighbours attempting to undercut these wage agreements, are nowadays significantly lower. Real wage stagnation in Germany since the mid-1990s points to the competitiveness of the export-oriented businesses in particular having been restored at the expense of employees. This creates obvious problems for domestic purchasing power as well. The change in the nature of substantial policy output can therefore in no meaningful way be understood by focusing solely on the Commission, the ECJ, and other EU-level institutions. For that reason, the different chapters of the book consistently combine the study of social policy at the supranational level with an analysis of the political and social developments in the member states. This helps to identify the downloading and uploading strategies that may brighten or obscure the future prospects of Social Europe.

4. Outline of the book

Chapters 2 and 3 provide an assessment of the prospects for Social Europe in light of its recent past since the mid-1990s by pointing at structural self-reinforcing economic and political-ideological impeding the coming of age of a supranational social market economy.

Andreas Bieler provides an analysis of social policy in the European Union inspired by a historical materialist perspective. He assesses the social dimension of the European Union from its inception in 1993 as part of the Treaty of Maastricht. Deviating from the submission in this introduction according to which social policy was an element added to the more liberal agenda of the post-war decades, it is being argued here that Social Europe has never been a counter-development to protect European citizens against the dangers and pressures of neoliberal economic restructuring. Rather, it has been a market-creating policy from the beginning. In order to explain this development, in a first step, it will be discussed why it was possible to set up welfare states in post-war Europe. The underlying balance of class power between capital and labour at the national level and non-tripartite institutions is being identified as being crucial. Hence, when analysing the reasons for the failure of the social dimension, the underlying balance of power between capital and labour at the European level will be discussed in a second step. Finally, the chapter will conclude with an assessment of the responses to the current crisis and the implications for Social Europe against the background of this underlying configuration of social class forces in Europe.

Georg Menz explores the prospects of a renaissance of a Delorsian social Europe agenda. Notwithstanding encouraging policy developments in the 1990s, references to poverty alleviation in the Europe 2020 Agenda and provisions for specific action in the Lisbon Treaty, these prospects are found to be rather dim for three reasons. In ideational terms, the policy agenda of the Commission and member states since the late 1990s is dominated by a supply-side approach that perceives poverty as a pathology that can be addressed primarily through inclusion in the labour market. By contrast, proactive re-regulatory social policy is conceived of as an obstruction and is largely discouraged. In addition to this, the ECJ has emerged as an active agent of furthering a market agenda by openly and at times aggressively intervening into domains hithertofore considered to remain within the regulatory purview of the member states, namely labour law and industrial relations. The ECJ is now very aggressively and liberally defining instances of national labour market regulation as being in violation of European law and obstructive to the Single Market. Finally, eastern enlargement has contributed to an ever increasing degree of diversity. This diversity manifests itself not only in a substantial wage and income differentials, which may diminish over time, but rather there are ingrained and structural differences in the systems of political economy discernible which suggest that social policy which may be perceived as imposing onerous transaction costs is unlikely to receive approval.

Chapters 4, 5, and 6 combine the analysis of main policy areas with the role of key member states. With regard to labour market policy, the way the Scandinavian model of flexicurity was translated at the EU level helps understanding the complex uploading and downloading mechanisms in the debate over Social Europe. While it has attracted less attention, the European coordination of wage policy has remained the elephant in the room with regard to Social Europe. Here, the German actors and policy model have played a significant role over the past two decades. Even less studied is the failed initiative for protecting public services from market competition through EU regulation. The political interactions between German and French political actors are crucial to understand why the European Commission did not find sufficient support to provide a European impulse in this area.

Mikkel Mailand explores the interactive relationship between national levels of governance and the EU level, focusing on Denmark and Sweden. The Commission was strongly inspired by the Danish so-called ‘flexicurity’ model, yet the process of bottom-up policy transfer transpired to be fraught with difficulty in practice. It is perhaps for this reason that the infatuation with flexicurity appears to have faded away more recently. In terms of the top-down impact of Europeanization, Mailand reports limited effects, largely due to concerted efforts on the part of national governments in both countries to cushion their respective models from what is widely perceived, and not without reason, as a deregulatory impact.

Anne Dufresne's contribution focuses on the strategies of European trade unions. At the national level, wage bargaining has historically been central to union identity. However, at European Union level, the European Trade Union Congress avoided the topic of pay for many years, accepting the convergence on wage restraint that emerged in the 1980s. Dufresne analyses how European unions are currently seeking to (re)construct the Europeanization of wage bargaining via initiatives to coordinate national collective bargaining in various sectors, and more recently by staking new claims for a European minimum wage. The chapter examines critically the role of German unions in past attempts for wage coordination as well as the focus on competitiveness. Whether in the era of the 'fiscal compact' – and the enforcement of austerity policy at European level – the unions will be able to garner sufficient legitimacy in order to stage a meaningful intervention regarding wages remains an open question. In this respect, however, their capacity to use transnational coordination and mobilization remains crucial.

In her chapter, Amandine Crespy endeavours to explain why Social Europe often failed to materialize into concrete public policy measures at the European level. In order to do so, it examines the causal factors and mechanisms that impeded positive integration in the field of public services, that is, the adoption of a European framework directive re-regulating services of general interest (SGI) at the European level. In many respects, this issue epitomizes the inability of decision-makers to deal with the dilemmas of Social Europe. While focusing on France and Germany, the main actors in the debate at European level and each with contrasted institutional traditions, the chapter highlights three explanatory factors. First was the will of national decision makers to preserve national arrangements. Second, established policy arrangements at the EU level since the late 1980s had a strong impact on the debate on SGI between 2000 and 2007. In particular, sectoral liberalization and the strong sectorization of preference formation impeded the formation of a powerful coalition for promoting regulation of the SGI which is an inter-sectoral policy issue. Third, ideological discrepancies and, more importantly, the absence of a consistent framing among the Social Democrats prevented them from promoting SGI regulation.

The chapter then explains how path dependencies established before the crisis (namely the weakness of policy instruments pertaining to SGI and inconsistent discourses about their nature) have been only reinforced in the institutional and ideational context which characterizes EU policymaking since 2008.

Finally, chapters 7 and 8 look at the very recent developments and future prospects of European governance in relation to social policy. If the achievement of common policy goals – such as the struggle against poverty – seems to be even more elusive due to the lack of sufficient resources, efficient instruments, and genuine political will – we may have to abandon the conception of Social Europe as a pan-European welfare state and start to (re)define the fundamental principles underlying the imbrication of national social policies.

By focusing on the struggle against poverty, Paul Copeland and Mary Daly analyse the impact of changing EU governance on social policy. The chapter explains how the new architecture for macroeconomic governance after the crisis, namely the European Semester and the new stringent instruments for surveillance by the Commission, has absorbed and impeded the policy goals which had been formulated in the framework of Europe 2020, the successor to the Lisbon Strategy for growth and competitiveness. They argue that the social component has been degraded to constitute a mere add-on and an afterthought, which constitutes yet another climb-down even when compared to the Lisbon Strategy. Social policy components are thus only of secondary importance, as both the language and the content of Europe reflect in great candour. Their assessment of the prospects of Social Europe is thus fairly pessimistic and highlights the long downward spiral of social policy themes as a policy priority at the European level.

Ben Crum moves the debate into a slightly different direction. The aspiration of Social Europe has suffered from being miscast as a pan-European welfare state writ large, he argues. He suggests recasting the debate on Social Europe in multi-layered terms. Such a perspective not only recognizes the EU to have a social vocation, but also insists that it operates complementary to national welfare states, which retain much of their autonomy and diversity. The EU level thus emerges as an additional layer that, on the one hand, helps to protect and stabilize the national welfare states and, on the other hand, redresses arbitrary inequalities as they operate in transnational interactions and provides some inroads into the transnational sharing of the common wealth in Europe. The concrete implications of this view for the EU are illustrated by the identification of three concrete transnational duties that it imposes on the peoples of Europe. Firstly, there is economic non-discrimination: the 'positive' duty to provide each other with full and equal access to each other's (national) economic domain and the opportunities it offers, including the duty to forego any form of nationality-based discrimination. Secondly, there is institutional stabilization: the 'positive' duty to support each other in the sustenance of a stable and democratic political order and a free and effective market economy. Thirdly, there is social policy tolerance: the 'negative' duty to respect each other's political autonomy in defining one's social policy objectives nationally.

Finally, Amandine Crespy and Georg Menz in their concluding chapter argue that the path dependency argument put forward by Pierson in the mid-1990s must be qualified. Beyond the path dependency created by social policy instruments at the European level, the volume shows that other types of structural constraints, notably the asymmetry between market making and market correction and the attendant structural weakness of social policy, have prevailed since the 2000s. They have impeded progress towards Social Europe. Notwithstanding the importance of 'courts and markets' (read market regulation and judicial politics), the political dimension lying with the member states and the European Commission has been crucial, and has become perhaps even more so since the establishment of the new governance framework for economic policy, the European Semester. In this regard, the chapters gathered here open new avenues for research along the following lines: what are the underlying conceptions of European welfare underpinning new policy initiatives such as the European youth guarantee or a European minimum wage? Assuming that we are to witness a further politicization of social policy, how will debates unfold on sensitive issues such as autonomy and compliance with EU recommendations for socioeconomic policy or coping with the fall-out of labour mobility and the receipt of welfare benefits outside of national borders?

5. Conclusion

In sum, the contributions to this collection of essays chart and explore the promise and the limitations of social policy in the European Union. It is difficult to avoid the conclusion that the momentum of the Maastricht Social Protocol has dissipated. The OMC has been a feeble affair, suggestive of an abandonment of ambitious hard law. This is not to suggest a wholesale embrace of undiluted neoliberalism, either, however. The robust backlash the

Commission experienced when floating the Bolkestein directive, with the negative referenda on the Constitutional Treaty in two founding member states of the European Union directly causally linked, might have served to rein in additional liberal experiments of this ilk. Closer to the truth is thus a diagnosis that highlights a diluted version of neoliberalism, whose contours and content are very much subject to political contestation. With the Maastricht criteria providing a clear monetarist corset, global tax competition limiting the revenue side, and a self-imposed lack of willingness to consider more generous redistributive spending, the outcome is a muddled policy mix that overall remains wedded to pursuing economic growth above all, with social equity achieved principally by endeavouring to pursue higher rates of labour market participation, especially amongst groups with low rates, such as women, the elderly, and immigrants and their descendants. By contrast, Europe 2020 has next to nothing to offer in terms of either re-regulation of labour markets or a truly innovative alternative worthy of the term. Meanwhile, there is ample room for concern regarding the deregulatory impact of intra-EU migration and the downward pressure this implies in the receiving countries coupled with attendant brain drain problems in the sending countries of central and increasingly southern Europe.

The various contributions in this volume assess the patterns and the prospects of what was once branded Social Europe. They tend to emphasize the role of structural trends and explanations both at the national and at the EU level, such as the restructuring of the global economy, the fragmentation and asymmetry in EU governance, the ideational and institutional resilience of the neoliberal paradigm, all exacerbated by the policies enforced to tackle the debt crisis. The developments of social policy both at the national and at the EU level, we argue, should not be disconnected from political debates. Given today's great weakness of Social Democracy (from both an ideological and electoral point of view), the idea of Social Europe as a political project was arguably dead long before the outbreak of the 2008 financial crisis. As the responses to the crisis have not contradicted but rather reinforced neoliberal 'recipes', a new social economic order is emerging in which social policy objectives are entirely subordinated to budgetary austerity and fiscal consolidation.

Note

1. The papers were submitted for a workshop which took place in December 2012 at the ULB where discussions and interdisciplinary exchanges were particularly rich.

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2

Social Europe and the Eurozone Crisis: The Importance of the Balance of Class Power in Society[1]

Andreas Bieler

1. Introduction

The European Union (EU) is often favourably contrasted with the United States when assessments of social justice and distribution of wealth are made. In contrast to the vast inequality and widespread social deprivation in US society, European countries are characterized by expansive welfare systems. There are differences, of course, with Nordic countries having more developed systems. Nonetheless even in countries such as the UK, considered to have a similar neoliberal, market-oriented political economy as the US, there is still the guarantee of basic social rights including universal access to free health care. This European tradition has also affected European integration. When Economic and Monetary Union (EMU) was initiated in the Treaty of Maastricht in 1991, a social dimension was added to the treaty, first as an attached protocol, then as part of the treaty itself, when Britain under its first New Labour government signed up to it in 1997. The purpose of this paper is to assess the social dimension of the EU since 1991 as part of the Treaty of Maastricht. It will be investigated whether and to what extent the social dimension has been successful in providing a counterweight to the free market embodied within the and EMU. Particular emphasis will be placed on the current eurozone crisis and the way the EU as well as individual governments have responded to it.

When defining the European welfare state – in addition to certain rights such as parental leave arrangements, unemployment benefits, and access to healthcare and education – the role of trade unions in economic and social decision-making, be it in tripartite relationships with employers and the state or in bipartite negotiations with employers, is considered to be a cornerstone. Unsurprisingly perhaps, the very bipartite and tripartite institutions are then also considered to be the actual cause of the establishment of the welfare state in the first place. As Asbjørn Wahl critically remarks, 'according to the social partnership ideology, as it was developed by the leading echelons within the trade union and labour movements, the social progress of the welfare state was not the result of the preceding struggles but of class cooperation and tripartite negotiations in themselves' (Wahl, 2011, p. 35). By contrast, the analysis in this chapter is based on the understanding that the extent and purpose of the welfare state is ultimately dependent on the balance of power in society and the related class struggle between capital and labour over the distribution of economic gains. Tripartite negotiations, that is, the willingness of employers and state managers to take working-class demands seriously, were themselves the result of trade unions' structural power in society. Against the background of system competition with the Soviet Union and support for socialism amongst workers, and in view of the increasing organizational power of trade unions built through successful struggles in society and social democratic parties' prominent role in many national governments, employers were forced to accept social progress during the 1950s and 1960s. 'It was precisely because the capitalists in Western Europe feared an increase in support for socialism that they gave in to so many of the demands made by the labour movement' (Wahl, 2011, p. 32). Rather than the institutions themselves, 'it was the social confrontations of the preceding period, along with the continued organizational strength of the movement that made it possible for the trade union leaders to achieve what they did via peaceful negotiations and tripartite cooperation' (Wahl, 2011, p. 35). In short, successful class struggle by labour forced employers into making concessions and ensured the class compromise around the welfare state.

The next section assesses the revival of European integration since the mid-1980s including the further development of the social dimension. The latter is investigated by drawing on the underlying balance of power between capital and labour in Europe in order to explain its possibilities, but also limits. The final section will extend this analysis to the current sovereign debt crisis of the eurozone and evaluate the impact on the balance of class power as well as the concrete policies adopted at the European and national levels. In the conclusion, some speculative remarks about the future of Social Europe will be offered together with reflections about resistance to neoliberal restructuring and a more socially just way forward.

2. The revival of European integration around neoliberal restructuring

2.1. The internal market programme and economic and monetary union

After unsuccessful attempts by European states to cope on their own with world-wide recession during the 1970s, European integration was revived from the mid-1980s onwards around the internal market programme. In 1985, the Commission published its famous white paper 'Completing the Internal Market', which proposed 300 (later reduced to 279) measures designed to facilitate progress towards the completion of the internal market by 1992 through the abolition of non-tariff barriers. The Single European Act (SEA) of 1987, which institutionalized the internal market programme, spelled out the goals of the four freedoms: the freedom of goods, services, capital, and people. While tariff barriers had been abolished by the end of the 1960s, there had been many non-tariff barriers, which had impeded free trade. This was now to be remedied. The rationale underlying the internal market programme was clearly of a neoliberal nature (Grahl and Teague, 1989). A bigger market was supposed to lead to tougher competition resulting in higher efficiency, greater profits and eventually through a trickle-down effect in more general wealth and more jobs. National markets should be deregulated and liberalized, state-owned companies were to be privatized. An emerging common competition policy was to secure that the market was no longer distorted through state intervention or ownership including in areas such as telecommunications, public procurement, and energy.

Neoliberal restructuring in line with globalization was continued through EMU, part of the Treaty of Maastricht in 1991. It included a single currency to be administered by a supranational and independent European Central Bank (ECB). In January 1999, 11 member states carried out this step, when they irrevocably fixed their exchange rates against each other's currencies. The significance of EMU does not so much lie with the single currency and the related abolition of national currencies. What is crucial again is the underlying rationale of EMU and this is best embodied in the statutory role of the ECB and the convergence criteria. As for the former, a common monetary policy is now dealt with by the ECB. The primary target of the ECB and its interest-rate policy, as spelled out in the Treaty of Maastricht, is the maintenance of price stability and low inflation. Economic growth and employment are only secondary objectives, subordinated to price stability. In relation to the institutional set-up of the ECB, we experience, what Stephen Gill calls a 'new constitutionalism', which 'seeks to separate economic policies from broad political accountability in order to make governments more responsive to the discipline of market forces' (Gill, 2001, p. 47). The ECB has to report to the European Council and the European Parliament, but neither states nor supranational institutions are in a position to force any kind of policy upon the ECB. As for the convergence criteria, most importantly, the criteria obliged member states to have a government budget deficit of no more than 3 percent of GDP and government debt of no more than 60 percent of GDP (Grauwe, 1992, p. 131). They do not include a criterion on unemployment. This is of secondary importance and thought to be solved through the trickle-down effect. The EMU member countries, in order to meet the criteria, had to implement tough austerity budgets in the run-up to EMU. Within EMU, continuation of neoliberal budget policies is ensured through the Stability and Growth Pact, adopted at the Amsterdam European Council summit in June 1997. It firstly includes the so-called excessive deficit procedure, providing the possibility of automatic fines for those countries, which violate the 3 percent budget deficit and the 60 percent government debt criteria. Perhaps even more important, however, it also includes the commitment to a balanced budget and the related multilateral surveillance procedure with the task to ensure that governments adhere to this commitment (Jones, 2002, pp. 37–40). The commitment to a balanced budget implies that member states have to cut back public expenditure to an even greater extent than demanded by the convergence criteria. It makes public investment to stimulate demand in times of recession extremely difficult, if not impossible. As elsewhere in the world, European governments have recently invested heavily in order to save the banking system. This, however, does not imply a departure from neoliberal policies as such. In a way, it implies shoring up the system so that it can continue unchanged.[2]

2.2. The EU's social dimension

There have been important common social policies already back in the 1970s, adopted by all member states in unanimity. For example, after first waves of transnational corporation merger and acquisition cases and transnational union protests, the collective dismissals directive was adopted in 1975 (Erne, 2008, pp. 134, 211–212). Equally, tripartite social dialogue had already taken place in the second half of the 1970s, when the European Trade Union Confederation (ETUC) participated in several tripartite conferences with employer, government, and European Commission representatives to discuss ways out of the economic crisis (Erne, 2008, p. 83). Margaret Thatcher's election in the UK in 1979 put a stop to further common social policies and tripartite dialogue. Social policy was brought back on the EU agenda in the Treaty of Maastricht in 1991.

Three developments are worthwhile mentioning under the heading of social dimension. First, the Treaty of Maastricht, in addition to EMU, added also the Social Chapter to the EU and, thus, re-introduced social dialogue into EU policymaking. On the initiation by the Commission, the European-level social partners, namely, ETUC on behalf of trade unions and the Union of Industrial and Employers' Confederations of Europe (UNICE), now called BUSINESSEUROPE, for the employers' associations as the most important organizations, can directly negotiate work-related issues. Agreements are transferred into binding EU law via directives passed by the Council of Ministers without further discussions. First directives have been passed along this road. Collective negotiations of the directive on parental leave, for example, were concluded in November 1995 and accepted by the Council in June 1996 (Falkner, 1998, pp. 99–155). A further innovation by the Treaty of Maastricht in the area of social policy was the introduction of qualified majority voting (QMV).[3] In June 2001, the Directive on Worker Information and Consultation in national enterprises passed in the first Council reading against British reservations mainly thanks to the possibility of QMV (Eironline, 2001). Second, due to pressure by the new French government of Lionel Jospin at the Amsterdam summit in 1997, an employment chapter was added to the EU and a special job summit convened in Luxembourg later in the same year. As a result, member states have to present an annual national action plan on employment policy taking into account Council guidelines. The Commission has the right to make a non-binding recommendation, should a member state fail to observe these guidelines (Barnard and Deakin, 1999, pp. 356–357). In short, employment has been firmly put on the European agenda. Third, the June 1999 Cologne European Council summit established the so-called macro-economic dialogue. It provided for two meetings a year, during which representatives of the European peak-level organizations of unions and employers meet the members of Ecofin and the Council for Employment, Social Policy, Health and Consumer Affairs, the Commission, and the ECB to exchange views on macro-economic policy in the EU (Koll, 2005, pp. 175–187). This provides trade unions with a direct contact to the ECB and the possibility to voice their concerns about the lack of a common economic policy with the goal of creating employment.

Overall, however, while these developments are not insignificant, they should not be overstated either. The fact that there is an EU social policy is not significant in itself. The real question concerns the actual contents of a common social policy. The collectively negotiated directives constitute only framework agreements with an emphasis on minimum standards (Falkner, 1998, p. 152). For Germany, France, and Scandinavian EU members, for example, they have had no practical impact. Moreover, the employment guidelines by the European Council must be compatible with the broad economic guidelines of EMU in the first place. Employment policies within the individual EU members consequently focus on supply-side measures such as improved vocational training. The possibility of active employment programmes, be it at the national or European level in the form of, for example, European-wide infrastructure projects, has been removed from the political agenda. The question of how more employment can be created without more demand is left unanswered. The European Council summit in Lisbon 2000 moved beyond the Amsterdam employment chapter by adopting the so-called Lisbon Strategy with the goal to transform the EU into the most competitive and dynamic knowledge-based economy in the world by 2010. Part of this strategy was for the first time the goal of full employment, mentioned under Point I.6 of the Presidency Conclusions (European Council 2000, http://ue.eu.int/en/Info/eurocouncil/index.htm; accessed 19 February 2003). Nevertheless, a focus on price stability is still the dominating goal in the monetary, economic, and social policy-mix. More employment is mainly to be created via restructuring through the deregulation and liberalization of goods and services as well as capital and labour markets (AK, 2001, p. 83). Hence, the full employment policy as envisaged by the Lisbon strategy, including its revisions in 2005, is in full accordance with neoliberal restructuring and has not changed the overall dominant focus on competitiveness (Hager, 2009).

The macro-economic dialogue is not likely to change this either.

> Not only was the priority of stability-oriented objectives confirmed and fixed in the conclusions of the European Council, but the independence of the actors concerned and their policy autonomy were also strictly observed. Truly new was therefore only the inclusion of trade unions and employers in the European discussion forum, and the attention to wage policy.
>
> (Tidow, 2003, p. 94)

Overall, the EU social dimension policies can be regarded as part of the market building process, not as a countermeasure against the free market (Leibfried, 2005, pp. 257, 262).

2.3. The social dimension and the underlying balance of class power in Europe

When explaining the poor record of the social dimension, it is important to relate it to changes in the underlying European balance of power between capital and labour at the European level in line with Wahl's assessment of the emergence of the welfare state (see above). Partly driving the move towards the internal market programme in 1985, but especially also in response to it, European production and finance have become increasingly transnationalized. While the annual average of inward FDI flows into the EU between 1989 and 1994 was $76,634 million (UN, 2001, p. 291), inward foreign direct investment (FDI) in 2007 as a pre-crisis peak year was $842,311 million (UN, 2009, p. 247). The corresponding figures for outward FDI were $105,194 million as annual average between 1989 and 1994 (UN, 2001, p. 296), and $1,192,141 million in 2007 (UN, 2009, p. 247). Overall, there were 43,492 parent corporations and 335,577 foreign affiliates located in the EU in 2007 (UN, 2009, p. 222). Cross-border mergers have been the driving force behind the transnationalization process.

> The 1997 record of US$ 384 billion spent in European mergers – an increase of almost 50 per cent in one year – was topped by even higher levels and an unprecedented number of crossborder mergers in 1998. These mergers are instigated by Single Market competition, which grows increasingly fiercer as the remaining barriers to trade are dismantled one by one.
>
> (Balanyá et al., 2000, p. 9)

As for the EU financial system, legislation led to the creation of a European financial area based on the free flow of capital including the free circulation of 'securitized' financial instruments not quoted on stock markets (e.g. bonds, long-term credit). Banks and non-bank investment firms were provided with a single passport allowing them to set up business across the EU member states. As Underhill points out, by obliging banks to have their securities dealings supervised in the same way as non-bank financial institutions, the whole system is biased towards a securities-market-based financial system with banks re-orienting themselves away from intermediated bank-based lending towards increased capital market activities. Overall, 'the European Union has moved decisively in the direction of a more transnationalized, marketized, and desegmented financial system based on a single legislative framework' (Underhill, 1997, p. 118). These European developments have been part and parcel of global changes since the early 1970s. The transnationalization of production and an increasing focus on finance were a response by capital to the declining rate of profits and the deep economic recessions of the 1970s. As part of general policies of neoliberal restructuring, it was a strategy to restore capitalist class power over labour (Harvey, 2006, p. 29).

In relation to structural power, both the transnationalization of production and the transnationalization of finance have strongly shifted the balance of power towards capital, in individual member states as well as at the European level as a whole. This allowed capital to renounce national class compromises in industrialized countries, on which welfare states had been established. Trade unions' most fundamental task is to ensure that wages are not part of the competition between employers, that workers in their search for work do not underbid each other. Historically, they have been very successful in this at the national level after 1945. Nevertheless, with production organized across borders as a result of the transnationalization of production, employers have new options and are in a position to play out different national labour movements against each other. Trade unions, to date, have not been able to counter this strategy through the formation of adequate co-operation between different national labour movements at the international level. Moreover, the transnationalization of finance has implied that finance capital has gained dominance over productive capital. From a trade union point of view, as the owners of companies are increasingly financial institutions, workers are further away from the location of power (Bieler et al., 2010, pp. 249–251).

Transnational capital is well organized at the European level. Here, it may suffice to point to the European Round Table of Industrialists (ERT). The ERT was formed in 1983 by 17 leading CEOs of transnational European corporations and the two Commissioners Davignon and Ortoli. Membership is in personal capacity and on invitation only. Currently, there are about 45 captains of industry from European transnational corporations as members. They 'come from huge corporations with a combined turnover of 800 billion euro and more than 4 million employees worldwide' (Balanyá et al., 2000, p. 26; see also van Apeldoorn, 2002, pp. 83–114). The ERT only maintains a small office in Brussels to co-ordinate its activities. The main strategy is the direct lobbying of the Commission and individual governments by the CEOs themselves. Its main focus is on increasing competitiveness via benchmarking of best (neoliberal) practice, further deregulation, flexible labour markets, and transport infrastructure investment. And it has made its influence based on increasing levels of structural power work. The ERT was the main driving force behind the internal market programme. In January 1985, the ERT chairman Wisse Dekker (Philips) published the report 'Europe 1990: An Agenda for Action'. Three days later, the new President of the Commission Jacques Delors gave a speech to the European Parliament with very similar contents. In fact, the Commission White Paper on Completing the Internal Market, published in June 1985, resembles very much Dekker's report. The only real difference is the postponement of the deadline from 1990 to 1992 (Balanyá et al., 2000, p. 21). Transnational capital was not unchallenged and did not have it all its way. Some concessions had to be made in order to bring on board other social forces. Hence, what emerged at the European level was a compromise of 'embedded neoliberalism' which included some concessions to trade unions and social democratic parties in the form of the social dimension (van Apeldoorn, 2002). Overall, however, these concessions were clearly subordinated to neoliberal restructuring reflecting the dominant position of transnational capital at the European level.

Hence, despite the social dimension, the internal market programme and EMU can be regarded as an attack on the welfare state. Deregulation and liberalization themselves undermine the role of the state in the economy and, thus, threaten the key provision of services. The Bolkestein Directive on the deregulation of public service provision is a case in point. Although trade unions and social movements managed to prevent the adoption of the initial directive, a watered-down directive is nonetheless pushing privatization of public service provision (Bieler, 2009, p. 242). These dynamics of liberalization have been further accelerated by a whole range of European Court of Justice decisions privileging, as many argue, the free market in service provision over the right of workers to take collective action (Lindstrom, 2010). The contents of these Court decisions reflect in many ways the underlying change in the balance of power towards capital at the expense of labour. In short, when taking into account the underlying changes in the social relations of production in Europe since the mid-1980s and the related impact on the balance of power between capital and labour, it is no surprise that the social dimension is rather toothless in relation to protecting individuals against the disruptive impact of the free market. The revival of European integration was around liberalization and deregulation and the social dimension was part and parcel of this market-building dynamic.

In the next section, the impact of the current sovereign debt crisis of the eurozone on the balance of power between capital and labour will be analysed in order to facilitate some speculative remarks about the future of Social Europe.

3. The eurozone crisis and the fate of the social dimension

There is a widespread, popular assumption that the sovereign debt crisis would be mainly a fault of the affected countries having lived above their means. It was, consequently, only right that they would now have to tighten their belts in order to get national debt levels under control. This section will argue that such a simplistic assessment overlooks the fundamental dynamics of uneven and combined development, which holds the various European political economies together. In particular, it overlooks the crucial role Germany has played in the crisis. Moreover, it will be argued that many causes of the crisis were already present in the original neoliberal design of EMU. Finally, the discussion will be linked to the assessment of changing class forces in the structural balance of power between capital and labour and what this may imply for the future of the social dimension.

The causes of the eurozone crisis go right back to the global financial crisis. When the major investment bank Lehman Brothers declared bankruptcy on 15 September 2008, it had become clear that the financial crisis had exceeded the worst expectations. What initially had started as a subprime mortgage crisis in the USA quickly spread through the global financial markets around the world. At great costs, states in industrialized countries including EU members shored up the private banking systems and injected money into the economy more generally to stem off recession. ‘The sudden rise of public debt across the eurozone in the last couple of years has been purely the result of the crisis of 2007–9’ (Lapavitsas et al., 2012, p. 40). In turn, however, with liquid finance becoming scarce on the global financial markets, peripheral eurozone countries especially have found it increasingly difficult to re-finance their debts. Ever higher interest rates had to be offered to the financial markets in order to sell the necessary state bonds. While countries had been quick at bailing out ailing banks, they were reluctant to assist other countries.

The global financial crisis, however, only triggered the sovereign debt crisis in Europe. The real cause of the crisis is the underlying imbalance in the European political economy between the core around Germany and the peripheral countries. Sixty percent of German exports go to eurozone members, 85 percent to EU members, resulting in large trade account surpluses. ‘The net trade in goods between Germany and [Portugal, Ireland, Italy, Greece and Spain] amounted to some 2.24 per cent of GDP in 2007, accounting for 27.5 per cent of Germany’s trade account surplus’ (Laskos and Tsakalotos, 2013, p. 86). These profits, of course, needed new points of investment to generate more profits and the EU’s periphery seemed to be ideal in this respect. Thus, ‘Germany has been recycling its current account surpluses as FDI and bank lending abroad’ (Lapavitsas et al., 2012, p. 31). Peripheral countries, on the other hand, have been unable to compete with German productivity levels and ended up as countries with large account deficits.

> Confronted with the stagnant and export-oriented performance of the dominant country of the eurozone, peripheral countries have adopted a variety of approaches. Thus, Spain and Ireland have had investment booms that were based heavily on real estate speculation and bubbles. Greece and Portugal, meanwhile, have relied on high consumption, driven by household debt.
>
> (Lapavitsas et al., 2012, p. 21)

In the long run, such strategies based on capital inflows were unsustainable. In short, German export success and peripheral countries’ inability to compete with Germany are at the heart of the problem. ‘The coexistence of credit-led and export-led models of growth in Europe ultimately led to creditors gaining the upper hand against divided debtors, imposing deflationary policies that increase unemployment, the probability of defaults, and the possibility of ever greater political tensions’ (Rodrigues and Reis, 2012, p. 191). It is this reality, which was brought to the fore by the global financial market crisis.

Eventually, eurozone members were provided with bailout packages by the EU. In May 2010 and March 2012, Greece received financial help, Ireland was bailed out in November 2010, and in May 2011 it was Portugal’s turn. Spain and Italy have also been heavily affected. Spanish banks require strong support by their government to stay afloat and Italy has found it increasingly difficult and expensive to secure new loans on international financial markets. However, the bailout packages came at a high price. First, the EU’s peripheral countries were obliged to drastically cut back fiscal spending. For example, ‘the fiscal cuts imposed on Greece amount to 10.5 per cent of GDP for 2010 and 2011, and another 9.9 per cent until 2014. The consequence of this austerity is a drop in real GDP in Greece of more than 4 per cent in 2009 and 2010' (Altvater, 2011, p. 277). But imposed austerity went also beyond direct cuts. 'At the same time [Greece] has been forced to introduce new legislation in labor markets and to engage in ambitious privatisation' (Lapavitsas et al., 2012, p. 120). Labour market deregulation and making wage-setting 'more efficient' are clearly directed against trade unions' involvement in social and economic decision-making at the national level (Erne, 2012, p. 232). As part of the bailout package for Portugal, the government agreed to stop extending collective agreements automatically to the whole industrial sector in 2011. Unsurprisingly collective bargaining coverage has fallen drastically. 'In 2010 a total of 116 industry level agreements . . . were extended by government to cover all employees in the industry concerned. However, in 2011 this fell to 17 and in 2012 to 12' (ETUI, http://www.worker-participation.eu/National-Industrial-Relations/Countries/Portugal/Collective-Bargaining; accessed 22 November 2013). Hence, while in 2010 1,309,300 employees were covered by collective industry-level agreements, in 2012 it was only 291,100 employees. In short, the crisis has been used by capital to undermine the power of trade unions through cutting back their involvement in collective bargaining and industrial relations more generally.

Additional pressure was put on peripheral countries to privatize key national assets in order to improve the balance sheets. This pressure often bypassed democratic procedures. In August 2011, Jean-Claude Trichet, the then President of the ECB, and Mario Draghi, who succeeded him in November 2011, urged "the full liberalisation of local public services . . . through large scale privatisations", ignoring the fact that 95.5 per cent of Italian voters had rejected the privatization of local water services in a valid national referendum less than eight weeks earlier (Erne, 2012, p. 229). Again, the crisis has been used by capital to roll back the state and extend the marketization of essential public services. The power of capital vis-à-vis labour is strengthened as a result.

In 2012, the ECB indicated its aim to cut the borrowing costs of debt-burdened eurozone members through buying their bonds, while insisting at the same time that peripheral countries continue with their austerity budgets and labour market reforms (BBC, 6 September 2012). The consequences of this policy are clear. As Henk Overbeek summarizes:

> The implications of this line of action, for as long as it may last, would be the further deepening of the European neoliberal project, prioritising the interests of financial capital over those of production and the working population, and continued austerity in Northern Europe aimed at strengthening the German-led mercantilist strategy. This global competitiveness project is pursued at the expense of the European periphery (inside and outside the EU). It will impose continued internal deflation in Southern Europe, with rapidly rising social inequality, political risks, rising authoritarianism.
>
> (Overbeek, 2012, p. 42)

In other words, ‘these deflationary programmes, focused on minimising the risk of losses for financial capital, are the price these countries are paying for official loans’ (Rodrigues and Reis, 2012, p. 200). The results for the populations in peripheral countries are dramatic. In the case of Greece, for example, ‘the economic results were abysmal, leading to year after year of recession, rising unemployment and a vicious cycle of austerity-recession-more austerity’ (Laskos and Tsakalotos, 2013, p. 104). The resulting human costs are high. As the *Guardian* reported in June 2011 for Greece,

> a year of wage and pension cuts, benefit losses and tax increases has taken its toll: almost a quarter of the population now live below the poverty line, unemployment is at a record 16% and, as the economy contracts for a third year, economists estimate that about 100,000 businesses have closed.
>
> (*The Guardian*; 19 June 2011)

The situation has not improved since. If at all, it has become worse.

Importantly, austerity in the form of wage cuts in the public sector, cuts in services, pensions, and social benefits has not only been imposed on countries struggling with sovereign debt, but across the whole EU (Erne, 2012, p. 227). These national policies were re-enforced at the European level by the so-called ‘Six Pack’ on economic governance in the EU.

> According to these six new EU laws that came into force after their publication in the EU’s *Official Journal* on 23 November 2011, Eurozone countries that do not comply with the revised EU Stability and Growth Pact or find themselves in a so-called macroeconomic

> excessive imbalance position, can be sanctioned by a yearly fine equalling 0.2 per cent or 0.1 per cent of GDP respectively.
>
> (Erne, 2012, p. 228)

The related surveillance procedures are organized in four, ever more intrusive stages: (1) the assessment of countries according to a scoreboard (see MIP scoreboard, http://ec.europa.eu/economy_finance/economic_governance/macroeconomic_imbalance_procedure/mip_scoreboard/; accessed 22 November 2013); (2) in-depth reviews; (3) corrective actions plans; and (4) surveillance visits (Erne, 2012, p. 231). The new powers of the Commission became visible on 15 November 2013, when the Commission announced its verdict on the planned budget of 16 EU member states, that is, stage 2 in-depth reviews. While no country was asked to revise its budget and thus enter stage 3, it established several cases of substantial criticism, including Germany for its current account surplus. Italy and Spain were identified amongst others at risk of breaking the Stability and Growth Pact rules (Independent.ie, http://www.independent.ie/business/irish/italy-spain-criticised-among-countries-at-risk-of-breaking-eu-budget-rules-29758927.html, accessed 22 November 2013).

We are asked to believe that financial support packages for Greece and other peripheral countries are to help the country to avoid bankruptcies. In the end, however, it is not the Greek health service or the Greek education system; it is foreign banks heavily exposed to peripheral debt, which are rescued. French and German banks, having recycled super profits from export success, are in especially in danger should peripheral countries default on their obligations. As Lapavitsas et al. assert 'although the rhetoric of European leaders was about saving the European Monetary Union by rescuing peripheral countries, the underlying aim was to deal with the parlous state of the banks of the core' (Lapavitsas et al., 2012, p. 108). As a result, there has been a further shift in the balance of power between capital and labour due to the way the EU and EU members responded to the crisis, continuing the tendencies that had started back in the 1970s. 'These policies have aimed at protecting the interests of banks and bondholders by preventing default as well as protecting the interests of industrial capital by changing the balance of power against labour' (Lapavitsas et al., 2012, p. 181). In many respects,

> increasing social dumping reflects precisely the fundamental changes in power relations that the neoliberal offensive has managed to

> implement over the past decades. More market, less democratic control, increased competition and more power to employers lead to attacks on pay and working conditions. Social dumping, then, is not something that accidentally happens now; it is the result of a shift in the balance of power in society.
>
> (Wahl, 2011, p. 144)

Reflecting on the importance of labour having been able to balance the power of capital when setting up the welfare state, the implications of this recent shift in power are clear. Further cuts to the welfare state are to be expected. The EU social dimension will be increasingly hollowed out, as will national welfare regimes. A further sign of the Commission's increased involvement in this respect was its announcement on 2 October 2013 not to provide a legal basis for the social partner agreement between trade unions and employers in the hairdressing sector (Eironline, 2013). Even the minimal social dialogue provisions of the social dimension are being hollowed out. Capital no longer needs to make the concessions of the Maastricht Treaty. There is clearly a vicious circle at play here: a change in the balance of power in favour of capital facilitates further cuts in the welfare state. This, in turn, leads then to a further shift of power towards capital, facilitating cuts yet again.

Ultimately, these developments continue a policy already laid out in the Treaty of Maastricht and the institutional set-up of EMU in the first place. With exchange rates between countries fixed as a result of the common currency and national fiscal policy severely restricted within the Stability and Growth Pact, the only way to increase competitiveness has been downward pressure on wages and work-related conditions (Bieler, 2006, pp. 5–7). From the very beginning, the institutional bias of

> the eurozone has directed the pressures of economic adjustment to the labor market: competitiveness in the internal market would depend on productivity growth and labor costs in each country, while labour mobility would be in practice relatively limited. As a result, a 'race to the bottom' for wages and conditions has emerged in the eurozone benefiting large industrial capital.
>
> (Lapavitsas et al., 2012, p. 158)

A certain degree of path dependency was built into the revival of European integration from the mid-1980s. When the crisis struck, capital has used the 'opportunity' to assert its power over labour further.

4. Quo vadis, Social Europe? Suggestions for an alternative

The emergence of welfare states in Europe depended on labour's ability to balance the structural power of capital. The legacy of national welfare states can be seen within the European social dimension. Nevertheless, as discussed, the social dimension does not stand up to closer scrutiny. Rather than protecting people against the disruptive impact of the markets, it is actually market-building. The current crisis in the eurozone has further undermined the EU's social dimension, as capital has abused the situation to entrench further austerity and thereby change the balance of power in its favour. Nevertheless, social and economic developments are the result of (class) struggle. There is nothing inevitable in the success of capital over labour. In the conclusion, I will provide some indications of what kind of strategy could result in a progressive way out of the crisis towards a Social Europe.

In their book, Lapavitsas and his colleagues contrast creditor-led default with a debtor-led default within the eurozone. While the former would include further austerity and a focus on the interests of capital, the latter, so they argue, could provide a progressive way out for Greece including also an exit from the eurozone. They are clear that such a strategy is highly complex and bears great risks. Nevertheless, they are confident that 'if debtor-led default and exit were accompanied by an appropriate programme, they could deliver better growth outcomes with greater equality, while also strengthening the position of labour in society' (Lapavitsas et al., 2012, p. 223). Key policies of such a programme would include: (1) a unilateral suspension of payments; (2) a public audit of debt following suspension of payments to identify which part of national debt is actually legitimate; (3) a deep 'haircut' for lenders (Lapavitsas et al., 2012, pp. 130–131); and (4) an expansion of the tax base to include the rich and capital more generally (Lapavitsas et al., 2012, p. 135). To avoid an immediate crisis of the financial system,

> there would have to be extensive and decisive government intervention. In Greece this would certainly mean extending public ownership and control over banks, thus protecting the banks from collapse and preventing depositor runs. Under public ownership, the banks could act as levers for root and branch transformation of the economy in favour of labour.
>
> (Lapavitsas et al., 2012, p. 132)

Thus, the authors recognize correctly that a change in the capitalist social relations of production is necessary. Exploitation is rooted in the way capitalist production is organized around wage labour and the private ownership of the means of production. Nationalization programmes would at least partly challenge this dynamic. Moreover, such a programme of nationalization would help to shift the balance of power in society away from capital and towards labour. Again, changing this balance in favour of labour is ultimately essential for further social policies.

The strategy of leaving the euro is contested within left-wing circles. According to Jan Toporowski, 'there exists no "optimal" exchange rate that would satisfy both the needs of trade *and* the maintenance of stable balance sheets' (Toporowski, 2013, p. 582). A depreciating new currency of a country, having left the eurozone, may facilitate trade, but it would also result in unmanageable, euro-denominated debt levels. Michel Husson, in turn, argues that 'to suggest that the manipulation of exchange rates may be sufficient to ensure competitiveness is an illusion, and, by the way, a central postulate of the "Pact for the Euro"' (Husson, 2011, p. 302). Instead, the focus should be on a re-foundation of Europe, which is based on a rupture with the neoliberal EU. In other words, rather than looking for dramatic change at the national level, the EU as a whole should be reconfigured. In this respect, Husson identifies 'three essential ingredients for a radical left response to the crisis: (1) a radical change in the distribution of income; (2) a massive reduction of working time; and (3) a rupture with the capitalist world order, starting with "really existing" Europe' (Husson, 2011, p. 306). His suggestions include many measures put forward by Lapavitsas et al. including resistance against austerity and cuts, support for a radically progressive redistributive tax system and capital controls, the nationalization and democratic control of banks, as well as a debt audit under democratic control followed by default. The key difference is, however, the level at which to achieve this change. While Lapavitsas et al. argue that Greece cannot wait for Europe as a whole to act, Husson maintains that radical change is only possible at the European level.

Whichever way forward is sought, there is no doubt in the minds of Lapavitsas and his collaborators that class struggle is the decisive factor in the eurozone crisis. 'The choice belongs to society and, as always, depends on struggle' (Lapavitsas et al., 2012, p. 73). Importantly, while the mainstream media regularly portray the crisis as a conflict between Germany and peripheral countries, the sovereign debt crisis is a class conflict between capital and labour. 'The exposure to international competition imposed significant restructuring to the benefit of capital in all member states' (Laskos and Tsakalotos, 2013, p. 137). In contrast to general assumptions, German workers have not benefitted from the current situation. German productivity increases have not been the result of new technology and innovative working practices. Rather, they resulted from significant downward pressure on wages and working-related conditions in line with the institutional bias of EMU.

> Germany has been unrelenting in squeezing its own workers throughout this period. During the last two decades, the most powerful economy of the eurozone has produced the lowest increases in nominal labor costs, while its workers have systematically lost share of output. EMU has been an ordeal for German workers.
>
> (Lapavitsas et al., 2012, p. 4)

The Agenda 2010 and here especially the so-called Hartz IV reform of 2003 constitutes the largest cut in, and restructuring of, the German welfare system since the end of World War II (Bruff, 2010, pp. 414–416). In other words, Germany was more successful than other eurozone countries in cutting back labour costs. 'The euro is a "beggar-thy-neighbour" policy for Germany, on condition that it beggars its own workers first' (Lapavitsas et al., 2012, p. 30). German workers, equally oppressed by the current system, could become allies of workers in peripheral countries. In sum, 'the path of the adjustment would therefore depend on social and political struggle that would involve both Greece and the EU' (Lapavitsas et al., 2012, p. 224). A victorious outcome of this struggle ultimately depends on a change in the balance of power in society. Welfare states and fairer societies were based on the capacity of labour to balance the class power of capital. As Lapavitsas noted elsewhere, 'a radical left strategy should offer a resolution of the crisis that alters the balance of social forces in favour of labour and pushes Europe in a socialist direction. This would be impossible without challenging the class and imperial relations at the heart of the eurozone...' (Lapavitsas, 2011, p. 294). To conclude, there may be disagreement over the level of action, but there is consensus that 'Another (Social) Europe Is Necessary'.

Notes

1. I am grateful for comments on earlier drafts by Roland Erne, Sabina Stan, the editors of this volume, as well as the participants of the workshop 'Quo vadis,

Social Europe? The Internal Market and socio-economic issues in the context of the European crisis'; Brussels, 6 and 7 December 2012.
2. Internal neoliberal restructuring, in turn, was replicated in the EU's external policies. Be it in successive enlargement rounds during the 1990s and 2000s, be it in the EU's free-trade policy, countries have been pressured into restructuring in exchange for accession or trade agreements (see Bieler, 2012, pp. 200–205).
3. QMV is a voting procedure in which each member state is allocated a particular number of votes weighted according to the size of the country. In practice, it implies that individual countries can be outvoted and have to implement policies, upon which they have not agreed.

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3

Whatever Happened to Social Europe? The Three-Pronged Attack on European Social Policy

Georg Menz

1. Whatever happened to Social Europe?

Jacques Delors famously declared that 'you cannot fall in love with a market', but his successors in office seem to disagree. In the late 1980s, the paradigmatic changes foisted upon the governance of European markets and societies in the shape of the renaissance and enhancement of the single market project that the Maastricht Treaty entailed were meant to be complemented with a social protocol that would pave the way for the construction of a social-policy agenda. Given the involvement of a former senior French Socialist in this political stewardship, this aspiration did not appear to be too far-fetched. It also seemed hard to disagree with his assertion: 'The European social dimension is what allows competition to flourish between undertakings and individuals on a reasonable and fair basis ... Any attempt to give new depth to the Common Market which neglected this social dimension would be doomed to failure.' (Delors, 1985 quoted in Hantrais, 2000). With the exception of Margaret Thatcher's Britain, there was also no strong political disagreement regarding its political desirability even amongst the centre-right. It is also worth stressing that a Social Europe agenda appeared practically feasible, inasmuch as socio-economic divergences between member states were seen as problematic and yet a challenge deemed worthy of addressing. Also, notwithstanding the obvious gaps apparent in particular between socio-economic standards in the pre-1980s membership base and amongst the three Mediterranean newcomers, these newcomers did not perceive themselves or act as an impediment to higher standards of social protection. Indeed, the 1995 round of enlargement added to the fold three new member states with relatively high standards of social protection and above average levels of wealth and income.

So whatever happened to Social Europe? Prima facie, the drive to complement economic liberalization with countervailing ambitions to raise standards of social protection – at the heart of an admittedly cursory understanding of continental Europe's social market economy model – has not come to a grinding halt. Consider that the 2009 Lisbon Treaty affirms in Article 3(3) the goal to construct a 'highly competitive social market economy, aiming at full employment and social progress'. Similarly, the European Commission's revamped 2020 policy agenda endeavours to create a 'European platform against poverty' that addresses 'social exclusion and poverty' (European Commission, 2012a, p. 4) and stresses the creation of jobs as a policy priority throughout this document. On a very superficial level, it might thus appear as though the preconditions for a single market accompanied and balanced by social policy provisions might be present after all.

This superficial impression is misleading. Following a brief flurry of legislative activity in the 1990s, whatever impetus might have existed then has fizzled away since. The 2000s witnessed a subordination of social policy goals beneath the growth and competition orientation implicit in the priorities of the 2000 Lisbon Agenda. That same decade witnessed the introduction of the open method of coordination (OMC) to address and overcome political stalemate and sclerosis on social policy matters, yet has provided disappointingly little by way of concrete and binding outcome. With an ideological shift to active labour market policy in evidence across Europe, supply-side policies were heavily emphasized, while demand side measures both attracted little political support and were subject to the obvious limitations implicit in the so-called Stability and Growth Pact. If we are to read this OMC as a pragmatic attempt to enable real and substantive policy output, we might question the level of added value provided. To critics on the left, the very term 'highly competitive social market economy' might seem like an oxymoron, but even if we interpret this very pragmatically as a slightly flawed attempt to upload the Nordic or Germanic model of industrial relations and welfare state provisions to the European level, we cannot help but acknowledge the defeat of this enterprise.

This chapter explores the political dynamics underlying European Union (EU) social policy in the 2010s. Its main submission is that new institutional, ideational, and interest-based constellations conspire to render the creation of a Delorsian Social Europe impossible. Thus, social policy will continue to be marginalized and remain embedded within an ideologically tainted prism that sees social policy issues as both secondary and ultimately possibly even obstructive to the overarching goal of sustaining economic growth and ensuring the ill-defined precept of 'competitiveness'.

The rest of the paper develops the chief argument by putting forward and elaborating three key claims, following a brief review of the literature. Firstly, there is considerable policy entrepreneurship on the part of the Commission, but ideologically this is tainted by a strong market-enhancing stance. To the extent that social policymaking is indeed best defined by being the prerogative of courts and markets, such commitment has ramifications, especially via the insistence on unhampered labour mobility and scant interest in proactive social re-regulation. Notwithstanding the significant implications of the recession gripping Europe since 2008, the right-wing and neoliberal ideological stance of the European Commission under José Barroso shows no sign of fundamental alteration. If anything, measures installed to salvage the single currency and monitor adherence to the Stability and Growth Act render its fundamentally monetarist character more extreme and more consequential. The conditionality imposed on Southern European states will entail neoliberal restructuring of the state and the economy in these countries. The contours of the state and the 'soft edge' of the welfare state manifest in an extensively staffed public sector will have to be recast. By contrast, policy entrepreneurship that might spawn positive (re-)regulation is minimal and the introduction of the OMC is in many ways indicative of this shortfall.

Secondly, turning from the 'market' to courts, recent aggressive and intrusive rulings by the European Court of Justice (ECJ) have promoted the liberalization of services at the expense of the national regulatory capacity of labour markets, wages, and working conditions. In truth, the ECJ has always pursued closer integration, even at the expense of pursuing 'negative integration' above all else. However, what does appear to be a genuinely novel phenomenon is the degree of intrusiveness into national mechanisms of industrial relations and labour market policy-setting. This liberal slant implies deregulatory pressure on national welfare and labour market arrangements – broadly conceived – without offering any compensatory re-regulation. In this vein, it is worth briefly examining the proposed revision of the Posted Workers Directive.

Thirdly, institutionally, the political prospects for progressive re-regulation at the European level remain dire because many of the 2004 and 2007 newcomers are wedded to an ideological stance that perceives low wages and relatively undemanding regulations governing working conditions as constituting a competitive advantage. As the newcomers are gradually abandoning whatever docility might have compelled them in the run-up to Eastern enlargement, the ramifications for voting behaviour and outcomes in the Council of Ministers are severe. To the extent that the Commission pre-empts concerns it is likely to encounter in the Council, there are also indirect effects regarding the future of European regulation. Thus, the political prospects of reaffirming a Social Europe by ways of binding and exacting progressive social policy directives remain extremely limited.

Earlier efforts regarding EU social policy emphasize the role of unintended consequences (Pierson, 1996), gradual encroachment by an activist EU Commission, and strategic advantages accruing to the Commission due to informational and know-how advantages as well as possessing a longer time horizon. The general consensus in the literature stresses the practical and conceptual limitations to anything resembling a welfare state at the European level because of the small size of the EU budget, institutional heterogeneity amongst member states, member state concerns over sovereignty, and, at least historically, a blocking minority until the extension of qualified majority voting under the social protocol rules (Geyer, 2000; Hantrais, 2000; Kleinman, 2002). Leibfried and Pierson (1995) also highlight the absence of power resource and institutionalized actors with strong social policy agendas, given weakening trade unions, the absence of any meaningful Euro-corporatists institutional structure, and also highlight the heterogeneity of welfare states and spending levels. This heterogeneity has, of course, since grown to levels that make further progress extremely unlikely due to the long-term impact of EU eastward enlargement and the pervasive perception in Central and Eastern Europe of social policy constituting an impediment to competitiveness. Rather than refuting earlier claims, this chapter thus seeks to build upon existing accounts, arguing that today additional elements are at play that render progressive social policymaking even *less* likely than earlier scholarly accounts presupposed.

2. Ideology, policy entrepreneurship (and the lack thereof), and the fate of Social Europe

In the 1990s, there were high hopes politically that the social protocol, first presented as an amendment to the Treaty on European Union (TEU) and then incorporated into the 1997 Treaty of Amsterdam, would serve as a rallying point and symbolic base for those interested in complementing the increasingly liberal nature of the single market project with social re-regulatory provisions in the spirit of what Fritz Scharpf (2008) called 'positive regulation'. Scholarly account highlighted the institutional difficulties of transferring Northern European style neocorporatist decision-making bodies and their attendant regulatory philosophy to Brussels (Falkner, 1998) and this turned out to be accurate. Indeed, it seemed plausible at this juncture to posit a shift towards voluntarist industrial relations (Streeck and Schmitter, 1991), and by implication perhaps social policy as well, given the wide divergence between systems of social policy and welfare (Esping-Andersen, 1990). In any event, over the course of the following decade, a number of important social policy directives were created, including directives concerning employment contract information, pregnant workers, parental leave, posted workers, young workers, part-time workers, and working time (Geyer, 2000; Kleinman, 2002; Falkner et al., 2005; Menz, 2005a). In broader terms, directives on the European work councils, European company statute and the takeover directive deserve mention as well. These new social policy directives created a ratchet effect and prevented downward adjustment. Thus, they are perhaps not quite fairly characterized as 'lowest common denominator', requiring upward adjustment of existing levels of social protection in Southern and later Eastern Europe. However, there were significant problems in compliance and timely implementation (Falkner et al., 2005; Hartlapp and Leiber, 2010).

Yet this momentum was not maintained. There were important political clashes regarding the coverage and ambition of social policy provisions. Liberal market economies such as the UK and Ireland as well as the Mediterranean countries with the exception of Italy only begrudgingly accepted anything that appeared to induce progressive re-regulation of the labour market and thus an alleged loss in terms of flexibility in employment relations and conditions. Whilst the 1995 round of enlargement brought countries with progressive labour market legislation into the fold of membership, this did not create a lasting impetus for progressive re-regulation. The resistance by the UK in particular, which was circumvented during a brief window of opportunity in the first half of the 1990s during the opt-out of the UK government from the provisions of the social protocol, already point to the difficulties that arise from embedded structural differences between different models of capitalism in Europe that will be revisited in the third section.

At this juncture, two points need to be emphasized: firstly, the role of ideology and ideas of problem-solving (cf. Berman, 1998; Hall, 1989; Blyth, 2003; Parsons, 2003) and, subsequently, the role of policy entrepreneurship and its acute absence in the 2000s. At the member state level, social democratic parties were abandoning traditional redistributive and re-regulatory policy priorities (Blyth et al., 2010; Callaghan, 2000) and embraced supply-side politics, especially regarding labour market and social policy. With previous ideological commitment to progressive regulation and active redistribution falling victim to the 'pink wave' of the late 1990s and reformed Third Way-style social democratic governments, economic governance was redefined as optimizing the level of preparation of the domestic workforce regarding the exigencies of highly internationally mobile capital. In that sense, active labour market policy that retrained, upskilled, and enticed employees into the labour market was preferred to redistributive and protective social policy with attendant consequences for policy developments at the EU level. Similarly, 'social exclusion' is hitherto predominantly employed to refer to exclusion from the labour market. Emblematic of this ideological turn is the 1999 Schröder-Blair paper. Consider the postulate that it is incumbent upon the state to 'transform the safety net of entitlements into a springboard to personal responsibility'. Throughout the paper, emphasis is placed on a lean and minimalist state in the social policy sphere. Despite the institutional preconditions being present in the late 1990s to affect meaningful and profound political change, the ideological mutation that social democratic parties were undergoing implied that the window of opportunity that existed before Eastern enlargement in 2004 and in the presence of 12 out of 15 member state governments being dominated by social democrats in the late 1990s was not exploited in a progressive way, but only paved the way towards supply-side labour-market-policy tinkering.

This ideological approach was to colour the direction of EU level social policy. The European Employment Strategy of the early 2000s was clearly focusing on raising employment levels, retraining workers and inducing employees back into the labour market (de la Porte, 2011). It was ostensibly modelled on the Danish so-called flexicurity paradigm of abolishing protection against dismissal in exchange for improved training and upskilling (Daguerre, 2007, esp. pp. 130–148), though arguably it very much underplayed the second Scandinavian component and stressed the US-inspired elements of workfarism too strongly. The OMC marked an attempt to move beyond top-down policymaking and proceed through the creation of soft law and moral pressure on individual member states to adopt 'best practices' from others. It produced very modest results. The new ideological direction is also reflected in the 2000 Lisbon Agenda, in which an attempt is made to 'modernize the European social model', which was to entail supply-side policies to raise levels of employability and address the neologism of 'social exclusion'. It was always less than clearly articulated just how governments were expected to carry out this mission (Copeland and Daly, 2012), especially given the restraints to public spending implicit in the Maastricht criteria.

It is also worth noting that in key member states, increased polarization of income and wealth, dualization of the labour market, and more-or-less biting labour market reforms were being introduced in the mid-2000s. Palier and Thelen (2012) emphasize that both France and Germany ware witnessing a turn towards dualization in their respective labour market. The so-called Agenda 2010 in Germany introduced elements of workfarism and abolished a secondary tier of unemployment assistance altogether, while liberalizing worker protection regulations (Menz, 2005b). In France, labour market deregulation continued more cautiously during the Chirac era, but also entailed a modest shift towards workfarism and deregulation of working time.

The next consideration concerns the role of the European Commission as a policy entrepreneur – and indeed its failings in this matter. Mintrom and Norman (2009) emphasize four key characteristics that successful policy entrepreneurs must possess: *displaying social acuity*, *defining problems*, *building teams*, and *leading by example*. But in the 2000s, the most striking development in social policy was the relative lack of such leadership, with only the criterion of defining problems being in evidence. High unemployment was identified as a social pathology.

The institutional response to the political difficulties encountered in bringing about new legislative initiatives in social policy consisted of attempting to forego harmonization in favour of mutual learning, a soft law approach to policy transfer in the form of OMC (Zeitlin, 2008) and marrying social policy objectives with an overall agenda of global competitiveness and economic growth, thus addressing concerns over unemployment. The Lisbon Agenda (Smith, 2011) was dedicated to rendering Europe the most competitive knowledge-based economy by 2010, with social policy seen as secondary in importance and ultimately relegated to supply-side measures. With major European economies such as the UK, France, and Germany all being governed by Third Way-style social democratic governments and later centre-right coalitions and a Commission managed by an explicitly political and neoliberal

President (Hodson, 2013), this policy approach can ultimately be easily accounted for. In the follow-up Europe 2020 agenda, social policy constitutes one of the seven 'flagship initiatives'. The European platform against poverty is aimed at ensuring 'social and territorial cohesions such that the benefits of growth and jobs are widely shared and people experiencing poverty and social exclusion are enabled to live in dignity and take an active part in society' (European Commission, 2012a, p. 4). A quantitative target is set to reduce the number of people at risk of poverty by 20 million. However, this goal, along with general upskilling, and enhanced investment in education at all levels and research and development, is ultimately expected to be met simply as a result of economic growth. Similarly, higher employment levels are deemed desirable, as expressed in a target of raising from 69 to 75 percent the proportion of members of the general population between the ages of 20 and 64 in employment. There is no specific guidance as to how precisely these targets are to be met, other than a reference to 'national targets and trajectories to reflect the current situation of each Member State' (European Commission, 2012a, p. 9). Neither is there reflection on the obvious fact that the austerity agenda of various national governments will clearly interfere with raising employment levels and reducing poverty. Throughout the Europe 2020 agenda, there is not a single reference to active re-regulatory social policy. In letter and in spirit, the document merely rehashes the key goals of the Lisbon Agenda with marginal amendments reflecting climate-change policy.

The ideological continuity between the Lisbon Agenda and Europe 2020 as well as the failure to reflect critically on the obvious flaws of both in light of the 2008 recession appear startling. The rescue attempts geared at salvaging the single currency by imposing tougher and more intrusive Commission surveillance of national budget-making effectively render the so-called Maastricht criteria more stringent and binding, but clearly do not entail any critical reflection regarding their suitability in truly promoting 'stability and growth' (Scharpf, 2009; Höpner and Rödl, 2012). This obviously further cements the end of Keynesian-style demand stimuli throughout the eurozone. The measures imposed on Southern European countries by the Troika of European Commission, the International Monetary Fund and the European Central Bank to reduce public debt bear all trademarks of Washington Consensus-style structural adjustment programmes geared at privatization, deregulation of labour and product markets and the retreat of the state from public and social provisions. The measures entailed in the European Semester, the 'six pack' and the 'two pack' and the Treaty on Stability, Coordination, and Governance (often referred to as the 'fiscal compact') all point to a reinforcement of the five Maastricht criteria, with sweeping powers for the Commission to examine the national budget making process. However pressing the debt levels in parts of Europe might be, the solutions proffered by the Commission are exclusively supply-side oriented and emphasize a deregulation of labour markets to address unemployment and sluggish economic growth (European Commission, 2012b). Member states can, of course, attempt to filibuster to delay implementation of unpopular reforms, but it remains unclear where any significant departure from an ideologically fairly one-sided approach should come from.

It is difficult to see how the reinforced mechanisms of surveillance of the Maastricht criteria and the imposed neoliberalization of Southern European economies can lead to anything resembling a more 'social' Europe from below because the room for manoeuvre for redistributive and proactive welfare-state policy at the level of the member states is being constrained. Thus, public spending will remain limited and tough and binding limits on public deficits provide powerful structural impediments to either counter-cyclical spending or the historical practice using an often extensive public sector as a soft outer rim of the welfare state to soak up unemployment (Leibfried, 2010).

The argument in this section has emphasized the ideational shift away from classic protective and redistributive social policies that characterized traditional social democracy. The literature on ideas in policymaking recognizes the contingency and instability of a given ideational equilibrium (Blyth, 2003). It might thus be argued that a major ideational shift might radically transform the landscape and reinvigorate active positive integration. In the following two sections, institutional factors will be explored that largely preclude such an outcome in the future.

3. Intrusive, not incisive: The ECJ and its meddling

The apposite sections in the Lisbon Treaty on social policy would appear to promise an agenda for progressive regulation of the labour market and working conditions. Art. 153 mentions an array of issues on which action might be taken, including health and safety provisions, working conditions, social security, protection of workers from dismissal, information and consultation of workers, and the integration of individuals excluded from the labour market. There are also carefully delineated areas in which no EU action will be taken, including pay, the right of association, the right to strike or the right to impose lock-outs (Art. 153. 5). In more general terms, member states retain the right to 'define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof' (Art. 153.4). Article 154 enshrines a pseudo-corporatist principle of consulting peak associations of labour and business prior to submitting social policy proposals.

Notwithstanding this agenda for action and the combat against so-called 'social exclusion' constituting one of the five leading principles of Europe 2020, there are serious questions to be asked regarding the thrust of recent EU activity in this policy domain. In this section we will briefly reflect on recent developments regarding the transnational posting of employees as a case study of applied social policymaking. This is a field that Scharpf (2009) aptly referred to as being characterized by 'judicial deregulation'. In recent work, Höpner and Schäfer (2012a, p. 20, 2012b) pinpoint the change in regulatory philosophy in the ECJ's endeavours to the *Cassis de Dijon* and *Dassonville* decisions, in which the principle of non-discrimination was replaced by the principle of non-restriction. Problematically, this has encouraged the Court to construe a wide array of national regulation pertaining to corporate governance, taxation, and more recently even labour law as constituting a restriction to the single market. The problem with such generous leeway for interpretation appears clear: Even politically sensitive areas and those traditionally within the purview of the member states are subjected to judicial deregulation. Politically, it is extremely difficult to mount a collective resistance strategy to court rulings, as such attempts would require overcoming collective action problems, arduously assembling coalitions of countries that feel adversely affected, and overcoming an institutional asymmetry that bestows significant strategic advantages upon the Court (Höpner and Schäfer, 2012a, pp. 24–25; Stone Sweet and Brunell, 2012).

Principal amongst these developments are four key ECJ decisions (Barnard, 2007–2008), namely Viking (C-438/05 International Transport Workers' Federation and Finnish Seamen's Union v Viking Line ABP and OÜ Viking Line Eesti), Laval (C-341/05 Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avdelning 1, Byggettan and Svenska Elektrikerförbundet), Luxembourg (Commission v Luxembourg C-319/06), and Rüffert (C-346/06 Dirk Rüffert – Land Niedersachsen). In all of these cases, the fundamental question concerned the right of states to re-regulate the transnational posting of workers, more specifically regarding the right to take industrial action, legislate pay, and find national definitions of public policy. However, the Court rulings are without exception ideologically liberal, placing the single market agenda above considerations of social cohesion. Politically, they also clearly constrain the margins of manoeuvre for member states in crucial aspects of labour market policy, including the right to industrial action. This would appear to run counter to the spirit of Article 135.5. In the Viking case, the crucial question concerned the issue of pay for employees de facto discharging their duties in Finland, but being employees by a ferry company registered in Estonia. The ruling specified that the practice of offering inferior Estonian wages and working conditions was legal and in compliance of European law. It also curtailed the right to take strike action unless all other channels were fully exhausted and applicable EU law was not violated. This latter part of the decision created considerable anxiety about just what sort of conditions had to be met in order for a strike to be considered legal. Laval revolved around the Swedish sectoral construction trade union imposing a blockade to protest wages to posted Latvian workers being above Latvian, yet below locally applicable wage levels. The Court effectively curtailed the right to take industrial action, arguing that such action was excessive and inappropriate, not least because the ordinarily applicable local wage level was difficult to ascertain for a foreign company. It is also worth pointing out that the 1996 Posted Workers Directive had indicated areas in its Article 3 (1) that were meant to constitute minimum standards for posted workers. Member states were not barred from offering even more extensive provisions regarding pay, working time, and holiday regulation to posted workers. In the Laval ruling, this list is now regarded as the maximum level of protection that may be proffered (Höpner and Schäfer, 2012a, p. 22). In the Luxembourg case, the Court considered the definition of statutory public policy provisions (*lois publics*) that Luxembourg law applied to posted workers as excessively broad, including as it did the requirement of a written employment contract or a written document, automatic indexation of remuneration to the cost of living, the regulation of part-time work and fixed-term work and respect of collective agreements (ETUC, 2008). The significance of this ruling reverberates beyond the country involved, as the Belgian and especially French national response strategy and implementation of the Posted Workers Directive similarly applied a comprehensive regime of laws to posted workers (Menz, 2005a), based on the argument that they constituted *lois publics*. Finally, the Rüffert ruling is remarkable because it found a regional *land* law stipulating mandatory adherence to regionally binding wages for all subcontractors active in this region unlawful (*Tariftreueerklärung*). With its bout of activity, the Court rulings thus suggest that national and regional re-regulatory attempts of transnational posting will not only be carefully monitored, but effectively reigned in very radically. There are obvious concerns over mission creep and the European institutions violating the spirit of the principle of subsidiarity. The ECJ appears to meddle with domestic labour law and issues of labour market regulation that appear clearly outside of its purview.

Whilst these cases seem to indicate an ideological preference for economic concerns and transnational service provision over social rights, a recently proposed legislative initiative would appear to move into a slightly different direction. The draft 'enforcement directive' attempts to revise the original 1996 Posted Workers Directive. The directive seeks to clarify the exact definition of temporary posting, clearly establish uniform standards for the information that foreign service providers need to make available to authorities in the receiving countries (Art. 5), establish closer administrative cooperation between sending and receiving countries (Art. 6–7), and establish transparent complaint mechanisms. Perhaps most innovatively, the directive will also establish joint and several liability in cases of subcontracting, including in the notorious chains of subcontractors typically found in the construction sector. However, this rather innovative element is somewhat weakened by limiting it to direct subcontractor situations and absolving companies that have carried out due diligence from legal liability. Nevertheless, and notwithstanding considerable political uncertainty surrounding the eventual fate of this legislative package, this would appear to indicate somewhat of a modification of the spirit of the ECJ rulings. It is worth mentioning in passing that the so-called Monti II regulation (draft 'on the exercise of the right to take collective action within the context of the freedom to establishment and the freedom to provide services' (COM (2012) 130 final)) did not receive sufficient support from inside the Council of Ministers. This directive was meant to (re-)establish the right to industrial action in instances involving transnational posting unambiguously (Art. 2).

In sum, in one area of applied social policy, namely the regulation of workers posted under the auspices of the liberalization of service provision, the ECJ decisions limit and jeopardize the original national response strategies to the posted workers phenomenon articulated elsewhere (Menz, 2005a). In Sweden, the 'Scandinavian gentlemen's agreement' effectively was undermined, as the silent threat of industrial action in case of non-compliance with locally applicable wage agreements has now been reined in considerably. In Luxembourg, the statist and legalistic Francophone response was questioned and had to be curtailed. Finally, in Germany, regional response strategies that attempted to create an extra safeguard against social dumping by rendering adherence to regionally applicable wages mandatory for contractors bidding for public jobs were called into question. These *land*-level initiatives seemed sensible in light of the absence of national minimum wage legislation and often minimal sectoral wages in a variety of sectors particularly affected by the use of posted workers, particularly construction. Whilst recent EU-level initiatives point to attempts to reduce legal uncertainty over industrial action, address abuse of posted workers and indirectly rein in some of the more zealous implications of the *quattro infernale*, these developments need to clear the institutional hurdles of the Council of Ministers and will be subject to fierce political contestation. It is to this issue-area that we turn next.

4. The contours of political conflict in Brussels

Whilst the difficulties inherent in reining in the ECJ have become apparent, the institutional status quo renders positive integration of a Delorsian hue in EU social policy extremely difficult. The political landscape has changed considerably following the two rounds of EU eastward enlargement in 2004 and 2007. Already existent North-South wage gaps are dwarfed by the current gaps in wages (and working conditions) between the EU-15 and the A-8 accession states. Table 3.1 points to the highly pronounced wage gaps across the EU-27. But aside from this obvious difference, recent advances in comparative political economy move beyond the depiction of Central and Eastern Europe as emerging market economies (Hancké et al., 2007) and suggest many of the new member states also conceive of lower wages and less stringent working conditions as *constituting a competitive advantage* they are loathe to surrender easily. Thus, Nölke and Vliegenthart (2009) argue that the structural dependence on foreign direct investment has engendered a firm commitment to a low-cost and low-wage political economy, characterized as dependent market economies. The legacy effects of the 1990s structural reforms and often very radical economic liberalization in central Europe have arguably led to embedded neoliberalism there and neoliberalism in the Baltic region (Drahokoupil, 2009). This renders radical path-breaking change rather difficult, as the comparative political economy literature considers change that defies the mould of

Table 3.1 GDP per capita and average hourly wage in manufacturing in the EU-27 in 2013

Country	GDP per capita	Hourly wage
Belgium	32, 200	32.6
Germany	30, 400	27.8
France	30, 400	31.1
Italy	26, 300	
Luxembourg	80, 500	33
Netherlands	36, 200	
Denmark	42, 400	34.7
Great Britain	29, 600	26.4
Ireland	40, 900	.
Greece	21, 300	.
Portugal	15, 700	11.3
Spain	23, 900	16.4
Austria	33, 800	26.3
Finland	34, 800	27.9
Sweden	35, 400	33.3
Czech Republic	14, 200	7.9
Cyprus	21, 700	12.5
Estonia	12, 000	6.6
Latvia	10, 200	4.4
Lithuania	9, 600	5.1
Hungary	10, 500	7.1
Malta	13, 800	8.2
Poland	9, 500	6.8
Slovenia	18, 400	12.1
Slovakia	12, 000	6.4
Bulgaria	4, 500	1.9
Romania	6, 500	3.4

Source: Höpner and Schäfer, 2012a, based on OECD data.

existing varieties of capitalism (Streeck and Thelen, 2005) extremely difficult. The divergence between the EU-17 and the EU-10 also extends to taxation, the structure and generosity of social and welfare spending, union and employer density, and collective bargaining coverage (see Table 3.1). Given both the magnitude of the gap, itself conceivably subject to some change in years to come and, more importantly, the political commitment to securing competitiveness by abstaining from costly redistribution, it appears that this bloc of countries will not support re-regulatory social policy.

Institutionally, the post-Lisbon voting system affords the A-8 member states with a blocking majority in the Council of Ministers with 101 out of 345 votes and 255 votes being required for a successful resolution. Given the consensus-oriented culture that prevails in this institution, policy proposals that are unlikely to secure consent or risk alienating not just one, but a considerable group of countries, it appears unlikely that stringent re-regulatory policy stands a realistic chance of being successfully introduced and implemented. There are a number of compounding factors that further sustain the claim that Central and Eastern European states are unlikely to support positive integration. In the case of the politically contested Services Directive – as well as the Working Time Directive – Eastern member states aligned precisely in the liberal fashion one would deduct from their status as dependent market economies (Copeland, 2012). The opinions proffered on the Laval and Viking cases (Lindstrom, 2010) also reflected this cleavage. In general, the region also demonstrates a poor enforcement record in social policy or a 'world of dead letter' (Falkner and Treib, 2008; Toshkov, 2008). This is true just a few years after the effects of conditionality on obsequiousness and docility seem to have worn off.

With institutional voting arrangements precluding progressive social policy that does not secure assent of all EU-10 newcomer states and given entrenched interests in maintaining a liberal investor-friendly regulatory regime largely unaltered, it seems very hard to envision how more demanding re-regulatory social policy could possibly circumvent this institutional obstacle. These institutional barriers thus radically limit any re-regulatory impetus.

5. Conclusion

This paper explores the prospects of a renaissance of a Delorsian Social Europe agenda. Notwithstanding encouraging policy developments in the 1990s, references to poverty alleviation in the Europe 2020 Agenda and provisions for specific action in the Lisbon Treaty, these prospects are found to be rather dim for three reasons. In ideational terms, the policy agenda of the Commission and member states since the late 1990s is dominated by a supply-side approach that perceives poverty as a pathology that can be addressed primarily through inclusion in the labour market. By contrast, proactive re-regulatory social policy is conceived of as an obstruction and is largely discouraged. The modest track record of the European Employment Strategy and the output of the OMC are indicative of this ideological turn, whilst their procedural approach shies away from imposing more stringent directives from the top-down. In addition to this, the ECJ has emerged as an active agent of furthering a market agenda by openly and at times aggressively intervening into domains hitherto considered to remain within the regulatory purview of the member states, namely labour law and industrial relations. The ECJ is now very aggressively and liberally defining instances of national labour market regulation as being in violation of European law and obstructive to the single market. Finally, due to the new topography in the Council of Ministers and the distribution of votes, it is extremely difficult to build successful progressive coalitions. Eastern enlargement has contributed to an ever increasing degree of diversity. This diversity manifests itself not only in a substantial wage and income differentials, which may diminish over time, but rather, there are ingrained and structural differences in the systems of political economy discernible which suggest that social policy which may be perceived as imposing onerous transaction costs is unlikely to receive approval. There is preliminary evidence to sustain this claim with regards to a more liberal position of the new member states regarding social policy.

Notwithstanding the obvious failings of the predominant neoliberal paradigm evident in the unfolding economic crisis since 2008, it would appear as though the prospects of traditional market-complementing policy remain starkly limited.

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4

Social Europe and Scandinavia – Impacts on and Impacts from Work and Employment Regulation

Mikkel Mailand

1. Introduction[1]

'The best pupils in the class' is a phrase that has been used to describe the roles and status of the Scandinavian countries in Social Europe (Jacobsson, 2005). The combination of long periods of stable growth, high wages, high taxes, a high level of social benefits, and strong social dialogue institutions has for decades attracted attention from other EU member states. Whereas Sweden was given much attention in the 1980s and 1990s, the focus shifted to Denmark and peaked in the mid-2000s with the development of the flexicurity concept, which described Denmark as having a mobile and flexible labour market where social security and active labour market policy would help those that had lost their job. The high status of the Scandinavian countries has given their arguments and models weight in European policy formulation. However, the above-average impact *on* Social Europe has in general not been mirrored by strong impact *from* Social Europe on work and employment regulation in these countries. The aim of this article is to analyse, firstly, the role that Sweden and Denmark have played in developing EU-level regulation in the work and employment area and, secondly, the impact this regulation and other European developments have had in the two countries. Only some areas of impact will be included in relation to the latter aim. The first is the direct impact from European labour law directives on the two member states' labour law and collective agreements. The second area is the coordination of European employment policies and the direct impact of this on the two EU member states' employment policies. The indirect impact also will be analysed in the form of a discussion of the role of labour migration from the newer East and Central European member states in relation to the labour market regulation in the two countries.

It will be argued that although Denmark and Sweden are still countries of European reference in many regards, the most recent EU love affair with Denmark has cooled off somewhat since the outbreak of the crisis, as Danish labour market performance has been in decline. Consequently, attention has partly shifted to other member states. Regarding the impact from EU-level regulation, this is something the Danish and Swedish main actors have long attempted to minimize. This attempt to shield their models from external pressure is found in both countries. In the Danish case, it has been based on a widespread consensus among the main actors on preserving the self-governing collective bargaining model, whereas this is not the case in Sweden, where the employers' organizations are less convinced than their Danish sister organizations about the value of social dialogue institutions. It is moreover argued that a high degree of pre-existing compliance with EU-level work and employment regulation has supported the aim of minimizing the impacts from European regulation. The impact on the employment policy has been very limited. Some impact from the European directives can be found, especially regarding nonstandard employment and by the introduction of more legislation in the collective-bargaining-dominated labour market models. Impact from labour migration as pressure on wages and working conditions can be seen, but so far it seems limited in scope and depth as well. The strongest effect from labour migration might be the indirect effect mediated through the so-called *Laval* ruling, which called into question the right to take industrial action. Finally, it is argued that the new European economic governance in the future could have consequences for wage and labour market regulation in Scandinavia.

The next section of the article will present the general characteristics of the Nordic labour-market model, describe similarities and differences between the Danish and Swedish version, and discuss how these models have developed in recent years. Sections three and four analyse the role of the two countries' actors on the European scene as well as the impacts in three selected areas, which are labour law, employment policy, and labour migration. In Section 4, the conclusions are drawn, similarities and differences are summarized, and perspectives on the role of the new European economic governance in the Scandinavian countries are discussed.

2. The Nordic labour-market model

At least since Esping-Andersen's (1990) celebrated work *The Three Worlds of Welfare Capitalism*, it has been more or less taken for granted that a Nordic or Scandinavian welfare-state model (with high and universalistic levels of social benefits) exists. However, some scholars have pointed to the similarities with other European societies and differences between the various Nordic countries, and have therefore questioned whether it is appropriate to talk about a unified Nordic model (Mjøset, 1992).

Studies of welfare-state models inspired industrial relations researchers to similar exercises, but most of the early studies on labour-market models (e.g. Crouch, 1993; Visser, 1996) did not include a Nordic model. The Nordic countries were included in the neo-corporatist/continental model in these studies. In more recent studies, there has been a tendency to place the Nordic countries into an independent model. Referring to several studies from national experts, Dølvik (2007) summarized these, and other, key characteristics of the Nordic system of industrial relations:

- A relatively stable balance of power between capital and labour
- Mutual recognition of employers' prerogative to manage and trade unions' rights to organize and negotiate
- Self-governance through collective agreements and, previously at least, solidaristic wage policies
- Centralization (of organizations) and decentralization (of collective bargaining)
- 'Pattern bargaining' according to which export industries are the prime agents and trendsetters in collective bargaining
- No competing ideological lines of unionism (with Finland as an exception)
- Collectivistic thrust of labour, which implies that the trade unions, not the individual employees, are the legal subjects in disputes
- The role of collective bargaining on wages and conditions has been complemented with statutory regulation regarding health and safety, work environment, employment conditions etc.
- The state acts as an important third party, which includes mediation and (with Sweden as an exception) the possibility to intervene in industrial conflicts

This overall description of the Nordic model will be the point of reference below.

3. Europeanization and the Danish model for labour market regulation

The description above given by Dølvik characterizes the basic features of the Danish model of labour-market regulation, although solidaristic wage policies have not played a role for some years now. However, process-related understandings of the Danish model of labour-market regulation à la Dølvik became from the mid-2000s increasingly accompanied by a content-related approach, the so-called flexicurity model. The concept of flexicurity describes a type of labour-market regulation that combines a high degree of both flexibility and social security, and therefore enables positive development in growth and employment. The Danish flexicurity model has often been described as a 'golden triangle' (e.g. Madsen, 2006) combining flexible redundancy rules, high unemployment benefits (income security), and an active labour-market policy – the latter designed to help those who lose their jobs back into employment.

No matter the real importance of flexicurity for labour market regulation in Denmark, the first decade of the new millennium saw a weakening of the model as it attracted attention from Europe and Brussels (see below). The weakening had to do especially with the income security part of the triangle: The replacement rate (unemployment benefits relative to previous earnings) continued to decline; the Liberal-Conservative government challenged the trade union – administered unemployment benefit funds in different ways, resulting in declining membership; and the maximum benefit period was reduced in 2010 from four to two years. Moreover, savings were made in the (still) well-funded active labour-market policy that during the decade increasingly included elements of make-work-pay policies and the work-first approach (Larsen and Mailand, 2007).

Returning to Dølvik's description, although these general characteristics are still present in the model, important developments have nevertheless taken place in recent decades within the Danish model of labour-market regulation. Collective bargaining has been decentralized, so that the inter-sectorial level no longer plays such an important role as previously. Since the early 1990s, the backbone of bargaining has been sector-level agreements which establish a dense framework for company/firm-level bargaining. This development means that sector organizations (federations) have gained power at the expense of inter-sectoral confederations. The decentralization also means that solidaristic wages have been replaced with a more decentralized wage formation, including the introduction of performance- and qualification-based elements. Still, wage dispersion is modest compared to most other European countries. Although the unions since the mid-1990s have faced declining membership, both employers' organizations and trade unions remain relatively strong (Due and Madsen, 2000; Due et al., 1994).

Another important development is the inclusion in the collective agreements of a large number of new rights and social responsibilities, such as further training, occupational pensions and pay during maternity/paternity leave, just to name some of the most important. Since these issues also are regulated by legislation in one way or another, this increased 'double regulation' (Due and Madsen, 2006) has led to a blurring of the division of labour between the states and the social partners. This occasionally leads to conflicts in the Danish model (Mailand, 2008a), which has often been praised for its strong element of consensus.

A third development which has led to changes in the Danish model is Europeanization, as described below.

3.1. Labour law, collective agreements, and the directives

The social partners in Denmark have traditionally aimed to protect their near monopoly on labour-market regulation. This has included an attempt to shield Denmark from the impact of European labour law, at least to some extent. There has been a general consensus among the social partners and the succeeding governments on this strategy, although consensus has weakened a bit during the years, and trade unions and the governments in particular have gradually accepted European labour law (Jensen, 1995). It is, however, important to note that the shielding strategy has not led to noncompliance with EU regulation on a large scale. Among Falkner et al.'s 'three worlds of compliance', Denmark is part of the 'world of observance', where noncompliance is rare and the directives usually are transposed in time and in a correct manner (Falkner et al., 2004, 2007). Hence, the strategy has unfolded in mainly EU-conforming ways, as described below.

It can be said that the impact from European labour law directives has been relatively modest in Denmark. This has to do not only with the relatively successful shielding strategy. Two other factors are involved. First, Denmark in most cases has been above the minimum levels laid down in the minimum directives (Jensen, 1995). Second, although the labour law directive has moved from being related mostly to nonstandard work to including also 'standard' employees, most core collective bargaining issues are still excluded. This is the case with, for instance, wage levels, pay systems, normal working hours, dismissal regulation, and social benefits such as occupational pensions in the collective agreements (Kristiansen, 2013). That said, an impact from the directives can be pointed out in a number of areas such as gender equality/equal pay and social benefits for part-time workers. The impact of the Working Time Directive, on the other hand, is said to be limited (Bendixen, 2007).

The attempts to shield Danish collective agreements are clearest when the focus is on processes. The implementation of a number of EU labour law directives from the 1970s onwards turned out to be a challenge for the Danish labour-market model. Article 239 of the treaty stipulated that the EU institutions would not dictate how the member states implemented the labour-law directives, as long as they did so timely and sufficiently. Although some of the early directives were implemented through legislation,[2] the social partners and the various governments have preferred implementation through collective agreements, which have been seen as respecting and protecting the Danish labour market model best. Though a letter from the then Commissioner Pádraig Flynn from 1993 to the Danish social partners confirmed that such practice was possible (Jensen, 1995), the Danish government still struggled during the 1990s to convince the Commission that the coverage of the collective agreements – which was close to 85 percent when including both the private and the public sector – was so high that no legislation was needed. However, the Danish model did not include any extension mechanism that could extend the collective agreements to cover uncovered groups. Hence, the problem with the uncovered groups led to a situation where the Commission formally questioned implementation purely by collective agreements in Denmark. At the same time, support for implementation purely by collective agreements started to weaken. The trade unions – with many EU-sceptical members – feared losing a case at the European Court of Justice. Following a formal open letter from the Commission, the solution to the problem became a continuation of the implementation by collective agreement, but in a form where it was followed up with additional legislation to secure implementation with regard to the groups not covered by collective agreements. The Part-time Work Directive became the first directive to be implemented by this dual method. To steer the process, the so-called Implementation Committee was set up in the Ministry of Labour (Andersen, 2003). The Committee has been a hub for discussions and decisions about this so-called follow-up legislation ever since.

Although there has been widespread consensus among the Danish social partners on the implementation process in general, agreement on the issue has sometimes soured. One example is the implementation of the Temporary Agency Work Directive. In the manufacturing industry, a protocol linked to this sector's collective agreement has regulated temporary agency work since the 1990s. In 2010, the social partners implemented the directive by simply stating in the collective agreement that article 17 of the protocol on temporary agency workers 'over-implemented' (provided better rights and conditions) the directive. However, the directive was until very recently not implemented in other sectors' collective agreements – or by legislation – although the deadline for implementation was 5 December 2011. The social partners in most sectors waited for forthcoming legislation before implementing the directive. The legislation was prepared in the Implementation Committee in 2011, during a process which has been described by some of the participants as unusually politicized. The opportunity for exemptions was among the most controversial issues. The employers' organizations saw in this an opportunity to limit the consequences of the directive, which the trade unions naturally tried to prevent. Moreover, the trade unions feared that exemptions could be used by foreign temporary work agencies as a tool for not respecting Danish collective agreements, leading to social dumping (Mailand and Larsen, 2011).

In May 2013, the legislation on the directive was finally passed in the parliament. To avoid social dumping, exemption from the non-discrimination principle is possible only through collective agreements between the most representative social partner organizations in Denmark, so non-Danish temporary work agencies (TWA) cannot use collective agreements as a basis for exemption (Beskæftigelsesministeriet, 2013). Whereas the usual order has been implementation by collective agreement first and then follow-up legislation, the implementation of the Temporary Agency Work Directive in Denmark was reversed. This was so because the social partners in industry found that there were too many uncertainties. Therefore, the social partners in manufacturing awaited the law before they dared to write anything into the collective agreements.

3.2. European employment policy[3]

There are only very few cases of direct impact of the European Employment Strategy (EES) in Denmark (see also Jacobsson, 2005; Mailand, 2008b). One of the reasons for this is the high level of compliance predating the EES. In Denmark, activation policies – the backbone of the EES for many years – were introduced in the 1970s. From at least the early 1990s, the employment policy was largely in line with what later became the EES, and spending on active measures has been among the highest in the EU. Nevertheless, Denmark, like all other member states, has received EU recommendations on its employment policies from 2000 onwards. Up to 2005, there was one recurring recommendation – to reduce the taxation of labour – whereas a recommendation on mainstreaming/gender segregation disappeared in 2003, and a new recommendation on encouraging more people, especially immigrant workers, to take up employment has been repeated in different versions since 2002. In 2003, a recommendation regarding active ageing was added, and in 2004 yet another on 'monitoring trends in vocational training in the light of recent increases in training fees'. The most controversial recommendation has been the one on active ageing, which directly asked the Danish government to remove the Voluntary Early Retirement Benefit Scheme. Because this scheme has previously proved to be very politically sensitive and because the government was of the opinion that the Commission had no legal basis to interfere in specific national policy programmes, the Liberal-Conservative government in 2004 asked the Commission to remove the part of the recommendation that directly referred to the scheme. The Commission complied with this request in the final version of the recommendations, yet the cat was already out of the bag. This indicates that even though the direct impact from the EES is very limited, the Danish government is eager to ensure that no inconsistencies exist between what the government agrees upon with the other governments at the EU level and the political statements it makes at the national level.

Political action has been taken in areas related to other recommendations. However, it has been hard to establish any connection between these actions and the recommendations. Looking beyond the recommendations to the input-output indicators in relation to activation, it is nevertheless possible to find an area where the EES has had a direct influence on the content of Danish employment policy. During the first years of the EES, there was a fundamental discrepancy between the Danish activation policy, which tended to focus on activating the long-term unemployed, and the EES, which tended to prioritize initiatives to prevent the unemployed from becoming long-term unemployed by means of guidelines demanding activation after six months (young people) or 12 months (adults) of unemployment. Denmark did not reach these targets, even though it had been one of the countries pushing for quantitative targets in connection with the strategy. On this point, Denmark has not received official recommendations, but has been asked (in discussions in the Employment Committee and at meetings of the European Council) to give higher priority to the prevention of – rather than the treatment of – long-term unemployment and to respond to the demand for activation after six or 12 months without work.

Focusing on the years after the revision of the Lisbon process (which the EES was part of) in 2005, when the economic and the employment guidelines and recommendations were reduced in number and put into the same documents, does not change the picture of weak impact much. The follow-up process of the Lisbon strategy, Europe 2020 with the European Semester, has seen the introduction of sensitive recommendations such as increasing the flexibility of wage systems and increasing the sustainability of pensions systems (which of course means higher retirement age, lower pensions or indexation of pensions) (Kristiansen, 2013). However, Denmark was not among the countries that had to face these kinds of recommendations. The labour-market-related recommendations that Denmark received in the years 2011–2013 focused on improving the labour-market situation of those further away from the labour market (including migrants), the shortage of companies offering apprenticeships (in July 2014, 12,000 apprenticeship students at vocational schools were unsuccessfully searching for practical training in companies in connection to their apprenticeship (AE, 2013)), the high dropout rates from high schools and vocational education, the need to reform disability pensions and the 'flex-job system',[4] implementing a reform of the voluntary early retirement pension scheme and in general increasing the labour supply (European Commission, various years). Although addressing serious challenges, these recommendations have not really challenged the basic institutions of the Danish labour market and in many cases just asked the Danish actors to continue working on the track they were already on.

Whereas the Europeanization of Danish employment policy has been limited, Danish employment policy was an even larger source of inspiration for EU policy after 2005, when the Danish flexicurity model inspired the development of the European flexicurity initiative, the result of which was the adoption in 2008 of the common European flexicurity principles that were later made part of the overall European employment policy coordination. The Commission did not push other countries to introduce the Danish version of the flexicurity model, but was clearly inspired by the so-called Danish golden triangle, including numerical flexibility, generous welfare schemes, and active labour-market policy. In the initial phase of this process, Danish civil servants (and researchers) played important roles in designing the initiative and the Danish social partner organizations' headquarters and the Ministry of Employment became important destinations for numerous study tours (Mailand, 2010). Moreover, in a large number of member states – Estonia, France, Italy, and Spain, to name a few – new labour-market reforms have referred to the Danish flexicurity model.

Although attention is still paid to the model, and at least the Commission is still using the term 'flexicurity', the relatively hard impact of the crisis in Denmark, with a near tripling of unemployment figures, means that European attention has shifted to other countries, including Germany with its short-time work arrangement and strong employment performance during the crisis. Also, a shift in focus from labour market to economic measures in connection with the development of the new European economic governance (see the last section of this article) has contributed to this development.

3.3. Labour migration

The EU enlargements in 2004 and 2007 caused an inflow of labour migrants from the new member states, driven primarily by Western European employers' demand for labour during the economic boom and differences in wage levels. In the first years after accession, Denmark was not one of the prime targets for this migration (Dølvik and Eldring, 2006), but during the boom years leading up to the financial crisis, it also became the target of large numbers of East European workers. With the financial crisis came a significant rise in unemployment, but despite this development, the number of Eastern European workers in the Danish labour market has continued to rise (Andersen and Felbo-Kolding, 2013). Denmark has received more migrants from Central and Eastern Europe than Sweden, but not as many as Norway. In 2011, around 23 percent of the labour migrants in the Nordic countries were hosted by Denmark. That year, Denmark had a gross migration rate (total inflow from Central and East European countries in a given year/the population in the country the same year multiplied by 1,000) from the new member states of 2.3 percent, which is situated in between the 3.4 percent in Norway and the 1.1 percent in Sweden. With regard to Denmark, most of these migrants came from Poland, followed by Lithuania (Friberg and Eldring, 2013).

It is foreseen that Eastern European workers will constitute an even greater percentage of the labour force and that this will lead to challenges for both regulation and conditions of the Danish labour market. The combination of open labour markets and neighbouring low-wage economies has the potential to squeeze salaries and create long-term societal changes. A survey published recently showed that 9 percent of private Danish companies with five or more employees did in fact employ Eastern European workers. The survey also showed that Eastern European workers are not in Denmark merely to solve short-term needs for Danish businesses but that they have become an integral part of the Danish labour market. Eight out of ten of the companies employing Eastern European workers state that they have become part of the 'ordinary operations' of the business and are no longer just a solution during peak times. This is emphasized by the fact that as much as 78 percent of the businesses expect to continue using Eastern European labour as part of their workforce (Andersen and Felbo-Kolding, 2013).

The new labour migration has already led to pressure on wages and working conditions in some sectors and branches, in that the pay and conditions for new migrants in general are lower than those for non-migrants. However, variations are found between sectors. Whereas labour migrants from new member states in jobs requiring low qualifications – such as cleaning, newspaper distribution and storage work – have wages and conditions similar to those of non-migrant workers, the differences are greater in construction work and other occupations with higher qualification demands (Arnholtz and Hansen, 2013). This pattern also indicates that the pressure on wages and working conditions is different from sector to sector and from occupation to occupation.

The new labour migration has fuelled a debate in the trade union movement about advantages and disadvantages of statutory minimum wage. The trade union movement has been very sceptical about statutory minimum wages, but the inflow of labour migrants has gradually changed this position, although among only a minority of the trade unions so far. However, introducing some kind of extension mechanism is a possible future initiative which will have greater support from the trade unions, but the employers' organizations remain very sceptical towards both a statutory minimum wage and an extension mechanism.

4. Europeanization and the Swedish model of labour market regulation

The Swedish model of labour-market regulation also fits Dølvik's description in general. An economic crisis and increased international competition in the country – which always was more open and more dependent on large multinational companies than its southern neighbour – facilitated a decentralization of collective bargaining in Sweden also. The decentralization process in Sweden went even further than in Denmark, although company-level bargaining in the Swedish case also takes place within a sector-wide framework. As in Denmark, there is no statutory minimum wage.

However, there are a number of other features that separate the Swedish labour-market model from the Danish when it comes to the development in the 1990s and onwards. Firstly, regarding the economic context, Swedish recovery from the economic crisis of the 1970s and 1980s came much later than in Denmark. Secondly, the widespread (although weakening) consensus between the social partners seen in Denmark has been lacking in Sweden. To illustrate, Swedish employers withdraw from all tripartite institutions in 1991. Thirdly, the trade union – unfriendly initiatives in the new millennium have been more serious in Sweden. This is illustrated by, for instance, the reductions in the unemployment benefits and the larger reform of the unemployment benefit system that took effect in January 2007. As a result, the membership fees became proportional to the costs of each unemployment insurance fund at the same time as the funds' total contribution increased from 10 percent to approximately 30 percent of total unemployment insurance costs. In addition, membership fees were no longer deductible from income taxation (Anxo and Ericson, 2011).

Other changes have resulted from Europeanization. As in Denmark, the Swedish labour-market actors have been focused on how they can protect their labour-market model from EU integration. When entering the EU, the Swedish government made sure that the right to implement directives through collective agreements was part of the formal accession agreement. And the expectation from the government when Sweden entered the EU in 1995 was that the accession would lead only to marginal changes in Swedish labour-market regulation (Ahlberg, 2005).

The government and the Swedish trade unions have been keen to protect the Swedish model from European influence, and employers also have backed this stance, although for different reasons. The employers had the same aim, but this does not mean that they suddenly embraced bi- and tripartite institutions. The employers' confederation Svenskt Näringsliv has made it clear that it does not support these institutions either at home or at the EU level, but that by participating in non-binding framework agreements at the EU level, it might prevent harder and – by the Swedish employers – unwanted regulation (Rönngren and Rudeberg, 2005).

Like Denmark, Sweden has also been a role model for Social Europe for periods of history. For years, Sweden shared with Denmark the combination of high wages (as well as high taxes), developed welfare services, strong social dialogue institutions, and active labour policies, which Sweden pioneered and became famous for as part of the so-called Rehn-Meidner model.[5] However, roughly speaking, Sweden earned its role-model status, and partly lost it, earlier than Denmark, because Swedish growth and unemployment figures were in general more impressive than in Denmark until the 1990s, after which Denmark was in the lead until the economic crisis broke out. Moreover, Sweden's higher level of job security meant that no flexicurity model could be pointed to, which prevented Sweden from riding the wave of attention this buzzword caused in the first decade of the 2000s in the EU institutions. Since the crisis broke out, the pendulum has swung again, at least in the sense than European policymakers now look to Sweden (among other countries), which both fared better during the crisis and recovered earlier than Denmark.

4.1. Labour law, collective agreements, and the directives

The point of departure for the Swedish government and the social partners when it comes to labour-law directives has in general been the same as for the Danish actors: maximize influence on policy formulation and minimize impact through implementation. However, also in Sweden, this has been done in a way that has complied with EU regulation to a large extent. Sweden, like Denmark, belongs to the 'world of observance' (Falkner et al., 2004).

The shielding strategy in the Swedish case also has been supported by a general perception of being 'above Europe', in the sense that the levels and conditions covered by the labour law directives have been higher in Sweden than elsewhere in the EU and higher than asked for in the directives. Hence, when it comes to influencing EU directives and formulating framework agreements, the position of both Danish and Swedish employers and trade unions has been to minimize the depth and scope of these.

The fact that Sweden entered the EU only in 1995 – more than 20 years later than Denmark – meant that Sweden had to change a large amount of labour-related legislation during a short time period prior to and after accession. In that period, EU regulation dominated labour-law issues in Sweden, and 17 legal changes between accession and 2002 can be counted. However, to what extent EU regulation (prior to *Laval*) changed Swedish labour-market regulation is a matter of controversy.

Many observers find that this was not the case, whereas others see a fundamental change in labour market regulation after EU accession (Bruun and Malmberg, 2005). In any case, the effect in Sweden is reduced by the same three factors as in Denmark: the shielding strategy, higher standards than required in the minimum directives, and the exclusion of most core collective bargaining issues from the labour law directives.

Regarding implementation, tripartite discussions take place also in Sweden prior to the implementation of labour law directives. However, the attitude and stance of Swedish employers have differed from those of Danish employers and resulted in another type of implementation. The Swedish employers have not – as was expected prior to EU accession – been interested in implementing the directives through collective agreements and 'protecting' the Swedish model in this way. In relation to various directives, they have argued rather that the directive itself is enough and no implementation is needed, that there is no need for implementation as no discrimination takes place (in the case of the directive of anti-discrimination) or that collective agreements are simply not a suitable tool because they do not cover all employees. However, it is possible that employers also fear that implementation though collective agreements will add to the minimum levels and increase their obligations. As a result, only the Posting of Workers Directive has been implemented though collective agreements and this only partly so. The Swedish law of outplacement leaves it to the social partners to ensure that posted workers' wages and conditions are in accordance with the Swedish collective agreements. All other directives have been fully implemented by legislation (Ahlberg, 2003).

4.2. European employment policy

The relation between the European employment policy and the Swedish employment policy is, as in the Danish case, more a story about bottom-up than top-down impact, although the strongest Swedish influence took place earlier than the Danish equivalent. Sweden and Swedish actors played a strong role in the development of the EES in the early and mid-1990s. They did so because the government of this new member state was keen to influence EU policymaking to convince its partly EU-sceptic population that membership in the EU would not lead to major changes. Therefore, the government made a great effort to model the EES on the already famous Swedish active labour-market policy, and Swedes played an important role in the advocacy coalition for the strategy (van der Riel and van der Meer, 2002).

Johansson (1999) has uncovered the transnational coalition promoting an employment title in the Amsterdam Treaty. Central in this coalition was the Swedish social democrat Allan Larson, who initially played a role as the chairman of the Party of European Socialists' (PES) working group on employment policy and later as director-general for employment. PES started its lobbying activities after the Copenhagen European Council in 1993 by circulating a message that employment should be given top priority. The Commission was asked to draft a report that later would become the Delors white paper on growth, competitiveness, and employment. The PES working group on employment worked very actively from Essen in 1994 to Amsterdam in 1997 on influencing the inter-governmental conferences to make sure the agenda also included employment policy. The working group contained socialist MEPs as well as representatives from the European Trade Union Confederation (ETUC). Hence, in 1995, when Allan Larson became director-general for employment and social affairs, close links with the trade union movement were already established. Van der Riel and van der Meer (2002) have furthermore emphasized the role of the Swedish government in keeping the issue on the agenda up to launch of the fully fledged EES in 1997.

The early years of the EES did not show a strong impact from the EES on Swedish employment policy. Swedish employment policy prior to the introduction of the EES was very much in line with this in relation to all four pillars of the original strategy, which were employability, equal opportunity, adaptability, and entrepreneurship, and in some cases, the Swedish government had more ambitious goals than the EU. This high level of pre-existing compliance reduced the impact from the European initiatives. This was the case especially with the activation policy and with the overall employment target. Nevertheless, in these years Sweden received recommendations regarding reducing the taxation on labour and was asked to revise the taxation system to increase job incentives. There might have been an impact from this recommendation in that actions were taken in this area. In the cases of EU recommendations to reduce gender segregation and long-term employment of ethnic minority groups, the government also took some actions which can be linked to the recommendations, but also to other drivers (Jacobsson, 2005).

The years of weak impact seem to have continued in more recent times under Europe 2020 and the European Semester. Like Denmark, Sweden has avoided the most sensitive recommendations, at least the final versions. Sweden labour market – related recommendations have from 2011 to 2013 focused especially on improving the labour market position of vulnerable groups (including young people and migrants), but also vocational education and training for restaurants and catering (which have been in decline). The Commission acknowledges that the Swedish government has taken action to address the position of vulnerable groups but finds this inadequate and has asked for more targeted measures, focusing on, inter alia, the transition from school to work (European Commission, various years). However, an important detail here is that the Commission's initial proposal for recommendations in 2012 included some very controversial elements. The third recommendation stated that Sweden should be 'encouraging increased wage flexibility, notably at the lower end of the wage scale, and reviewing selected aspects of employment protection legislation like trial periods to ease the transition to permanent employment' (European Commission, 2012). This was seen as the Commission getting into the no-go zone of wage development, structure of wages, and employment dismissals, and the Swedish government managed to convince the Commission to remove these elements from the final version of the recommendations. But the intention of the Commission was clear.

4.3. Labour migration

As one of very few EU member states to do so, Sweden opened up its borders unconditionally for labour migrants from the new Central and Eastern European (CEE) member states in 2004 and did not introduce any transitional barriers. This open attitude initially had support from all the main actors, although the Social-Democratic government changed its initial perception and attempted to introduce transitional barriers, but was prevented from doing so because of lack of support from its supporting parties in the parliament (Lundborg, 2009).

Before 2004, when migration from CEE countries was low, Denmark and Sweden were the two countries in Scandinavia receiving the most CEE migrants. After 2004, labour migration to Norway started to increase, and by 2006 Norway had become the top receiving Nordic country, reflecting Norway's very low unemployment figures and high labour demand. Almost half of all migrants from CEE countries who came to the Nordic region in 2011 went to Norway – Sweden received around 18 percent, which is less than Denmark, although Sweden had nearly double the number of inhabitants. As in Denmark, Poles are the largest group of new labour migrants in Sweden, followed by Romanians (Friberg and Eldring, 2013).

As for whether labour migration from newer member states has increased pressure on the Swedish model, observers tend not to see a great influence here, at least not when it comes to the overall general pressure on wages. This is so because the wages of CEE migrants actually exceed the wages of average Swedish citizens. However, one explanation for the similar wages might be that CEE migrants work longer hours than native Swedes. Moreover, these low general differences do not rule out the possibility that the differences are higher in certain sectors (Arvidsson, 2009).

Where impact from migration on the Swedish labour-market model is more clearly seen is in the *Laval* case. The *Laval* case concerned a dispute between a small Latvian company, Laval, that started posting its workers to a Swedish construction site in the summer of 2004, and the Swedish construction union, Byggnads, who wanted these posted workers to be covered by a collective agreement. When Laval refused to sign an agreement, Byggnads initiated a blockade, as had been usual in Sweden. The dispute was taken to the Swedish Labour Court, which ended up asking the European Court of Justice a few preliminary questions. The ruling came in December 2007 and stated that industrial action could not be allowed under EU law when it aimed to impose a collective agreement with content that went beyond the minimum requirements outlined in the Posting of Workers Directive. The greatest challenge for the Swedish system was that this outlawed trade unions insistence on local wage bargaining, which usually raises wages substantially above the minimum wage of the collective agreement. The minimum standards of the collective agreements had always been intended to be supplemented by local bargaining, but after Laval trade unions are not allowed to insist on this vis-à-vis foreign service providers. The preliminary ruling left no 'margin of appreciation' for the Swedish Labour Court, but simply declared the industrial action unlawful.

The ruling has been the centre of heated debate regarding the tension between economic freedoms and fundamental rights all over Europe. However, legislative change as a consequence of the ruling has occurred only in Denmark and Sweden. Following the elaboration of a long and detailed governmental inquiry report presented in December 2008, a new Swedish law on the implementation of the Posting of Workers Directive took force in April 2010. It restricted the right of trade unions to take collective action against employers posting workers to Sweden. One of the conditions to be met before such collective action could be lawful was that only demands for minimum standards, such as minimum rate of pay, could be set (Rønnmar, 2010). This means that the decentralized wage-bargaining system no longer involves the basic threat of industrial action when it comes to posted workers, which again puts a more general pressure on local bargaining. In response, Swedish trade unions have aimed at substantially increasing the minimum rates in the collective agreements, thus reducing the flexibility of the wage-setting system.

5. Conclusions and perspectives

5.1. Conclusions – influencing and being influenced

This article has focused on the role of two Scandinavian countries in the development of Social Europe and the impacts Social Europe has had on them. It has been argued that although Denmark and Sweden are still countries of European reference in many regards and the Commission has not abandoned the flexicurity concept, the most recent EU love affair with Denmark has cooled off somewhat since the outbreak of the crisis. However, performance counts, and Denmark and Sweden are still among the good pupils in the class, which makes their arguments heard and their influence stronger than can be explained solely by the size of these two member states.

Impact from EU-level regulation is something the Danish and Swedish main actors – governments and social partners – have long attempted to minimize, although some of them in recent years have started to realize that impact from European regulation is unavoidable and that minor areas might be found where the conditions of the Scandinavian labour market are not always the best in Europe. The attempt to shield their models from external pressure is found in both countries. In the Danish case, it has been based on a widespread consensus among the main actors on preserving the self-governing model based on collective agreements, but this is not the case in Sweden, where the employers' organizations are less convinced about the value of social dialogue institutions. The different attitude of the employers' organizations in the two countries is not something new, but can be traced back to the establishment of the collective bargaining models in the two countries around the beginning of the 20th century. The development took place later in Sweden than in Denmark and at a time when the Social-Democratic party had been established as the dominant political power. Therefore, the employers felt more forced into the model than did their Danish sister organization (Due and Madsen, 2000).

It was moreover argued that a high degree of pre-existing compliance with EU-level work and employment regulation has supported the aim of minimizing the impacts from European regulation. Three areas for regulation were analysed. The impact on employment policy has been very limited. Some impact from the European directives can be found, especially in relation to nonstandard employment and in the form of more legislation. There is also impact on the directive implementation procedures, where most directives in Denmark are implemented through collective agreements, but with supplementary follow-up legislation to make sure that the directives reach those employees not covered by collective agreements. In Sweden, implementation by legislation only is the norm. The attitude of Swedish employers (which are sceptical towards implementation by collective agreements) has been a decisive factor in the difference between Sweden and Denmark.

Impact from labour migration from the CEE countries, such as pressure on wages and working conditions, can be seen, but here also the impact seems limited in scope and depth. The strongest effect from labour migration might be the indirect effect mediated through the *Laval* ruling, which called into question the right to take industrial action. But in the future, other migration-related developments too might be important for the Scandinavian labour-market models.

5.2. Perspectives – the Nordic model and the new European economic regime

The financial and economic crisis that took off in autumn 2008 has framed labour-market regulation in Denmark in that increasing unemployment, austerity policies and collective bargaining rounds with very modest wage increases and few increases in social benefits have been the order of the day for some years. However, unemployment is still below the EU average, the austerity policies have been relatively mild and although the collective bargaining rounds in both the private and public sectors have shown meagre results, real wages have in general declined only marginally, if at all. In Sweden, where the crisis has been less severe and shorter, the effects have been even less dramatic.

However, the crisis has spurred a series of EU-level initiatives that might also have an impact on the Scandinavian labour markets. The period since September 2010 has seen the development of what has been seen as a whole new governance regime of EU economic policies, with important consequences for the work- and employment-related policies areas as well. The Six Pack, the Euro-Plus Pact, the Financial Pact, and the Memorandums of Understanding signed by the most troubled euro countries imply 'intervention' of EU policies into issues formerly excluded from this, such as the wage issue and the structure of collective bargaining.

The question is to what extent this will also have an impact on the Scandinavian labour-market models. Although several of these initiatives and the sanctions connected to them apply directly only for the eurozone countries, some of the Swedish and Danish actors (primarily the trade unions) fear that there will be an indirect impact on wage setting and collective bargaining. The Swedish trade unions foresee, among other developments, that the new tighter economic framework might lead to greater government control over wage developments, especially, but not only, in the public sector (LO, 2011). Moreover, the already-mentioned 2012 recommendation that calls for increased wage flexibility has caused worries and has been addressed in a trade union letter to the Swedish government. Also, Danish trade unions have expressed worries that the increasing EU activities in the wage-related areas might also in turn influence wage setting in Denmark, and they have asked the prime minister to take action to protect the Danish labour-market model and make sure this will not happen (FTF, 2012).

It remains to be seen to what extent the new European economic governance regime will challenge the Scandinavian labour-market models. But pressure from this – as well as from labour migration – might in the long run be factors that will lead to greater changes than the coordination of the employment policies and the labour-law directives have resulted in so far.

Notes

1. Thanks to Jens Arnholtz, FAOS, Department of Sociology, University of Copenhagen, for comments on an earlier draft of this chapter and for contributing with a section on *Laval*.
2. This was the case with the directive on European Work Councils from 1994, whereas the directive on parental leave was implemented through a combination of legislation and collective agreement (Andersen, 2003).
3. *Where nothing else is stated, the source of this section is Mailand (2006).*
4. Flex-jobs are targeted at individuals with a permanently reduced working ability and intended as an alternative to disability pension. Flex-jobs are subsidized by a permanent wage subvention and may be in either the private or the public sector. Due to the reduced working ability of the target group, the number of hours and/or task assignments are reduced according to a specific agreement between the employer, the flex-jobber and the local municipality (the latter being responsible for administering the scheme) (Bredgaard et al., 2009).
5. The Rehn-Meidner model is a Swedish economic policy which was developed by two trade union economists shortly after the Second World War. The Rehn-Meidner model recommends the use of selective employment policy

measures, a tight macroeconomic policy, and a wage policy of solidarity to combine full employment and equity with price stability and economic growth (Erixon, 2008).

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5

Euro-Unionism and Wage Policy. The German Paradox: A Driving Force But Also a Brake?

Anne Dufresne

1. Introduction

The past 30 years have seen a massive redistribution of the income from wages towards capital.[1] This raises the question of what could be done to promote a more equitable redistribution of wealth. In other words, what kind of trade union strategies could be developed at both national and supranational levels that would be able to counter the policy of wage restraint enforced in Europe since the beginning of the 1980s?

This chapter will show how state opportunism and the absence of solidarity are the order of the day in the European Union (EU), and how German doctrine has progressively succeeded in imposing its model. The combination of the obsession with competitiveness and monetary and budgetary austerity – those fundamental principles of economic orthodoxy enshrined in the Treaty of Maastricht – has taken economic governance to such heights today that even the autonomy of national collective bargaining processes is being threatened. The possibility of an equitable sharing of wealth seems to be receding further and further away.

I will begin by examining the convergence towards wage restraint in Europe and the shift operated since the introduction of the European economic governance that has allowed the EU authorities to intervene in the field of wages to promote their 'flexibility'. Despite this difficult context, I will then trace the history of trade union initiatives: the wage co-ordination processes organized at EU level,[2] as well as the debate around the introduction of a European minimum wage. These two points of departure towards the Europeanization of wages have both been launched by German trade unions. It is important to illustrate what we called 'the German Paradox': simultaneously a driving force towards Europeanization but also a brake.

In fact, German unions prevent the possible development towards a united European wage policy, but simultaneously concentrate their force and resources exclusively on the *Standort Deutschland* and the preservation of their national collective bargaining institutions. That is why I will particularly focus in this article on German unions and domestic German politics to better understand the development of European wage policy.

In reviewing the various initiatives undertaken since the 1990s, my aim is to better understand, on the one hand, what instruments can be developed to limit the anti-cooperative wage strategies that contributed to the crisis sparked off in 2008 and, on the other hand, the ambiguous role of German trade unions in the construction of European wage policy.

2. The history of wage restraint

2.1. Non-cooperative strategies and the German model

In the 1980s, the countries in the European Monetary System (EMS) began using non-cooperative strategies to enhance their competitiveness. National governments seeking to improve their relative production costs either opted for 'competitive devaluation' (via exchange rates), or 'competitive disinflation' (via wages, taxation, and so on). But beyond these strategies, governments had little leeway to influence the major macroeconomic orientations. Since the EMS imposed the Deutsche mark as the nominal anchor currency, they were already subject to the monetary and budgetary orthodoxy dictated by the German monetary authorities. After the 1980s, these orientations would be reinforced by the process of Europeanization. Thus in 1991, the Treaty of Maastricht, through its structural adjustment criteria,[3] enshrined a liberal approach to the coordination of economic policies. The choices made were shaped by the balance of power existing between the major countries: France wanted the euro, which it saw as the means to guarantee the integration into Europe of a newly unified Germany; but Helmut Kohl succeeded in imposing his model of central banking.[4] And that is how, due to Germany's anti-inflationist focus, monetary stability was established as the primary goal of the European Central Bank (ECB) launched in January 1999.

The birth of the single currency – as the end goal of economic and monetary union (EMU) – corresponded to a fundamental turning point that modified the policy instruments in the hands of the state. Joining the eurozone 'club' meant definitively abandoning the use of 'competitive devaluation' to increase national competitiveness. Wage 'moderation'[5] thus became the last remaining option that governments could use to improve their relative production costs. As a result, wage levels became the only adjustment variable in the EMU system. Furthermore, the ECB has used the argument of monetary stability to impose wage restraint as a 'necessary' policy. This key premise of orthodox monetarism paved the way for the progressive implementation of the EU's macro-economic straightjacket.[6]

The linkage between wage and employment is another argument used to justify the 'necessity' of cost competitiveness. During the 1980s, wage bargaining in Europe underwent a fundamental turnaround, switching from productivity-oriented to competition-oriented bargaining. Under pressure from restructurings and the emergence of mass unemployment, many European trade unions followed the German example and lowered their claims. Bargaining under the threat of endangering national competitiveness, they switched their priority from wage increases to safeguarding jobs. Finally, within the framework of the EU, the dogmas of monetarism and competitiveness exerted a strong political pressure on the wage, affecting its very nature. How indeed can the wage – a quintessentially political topic – be reduced to a simple indicator of 'labour costs',[7] that is, to no more than a factor for reducing inflationist pressure or improving competitiveness?

2.2. European economic governance of wage policy: A process of following recommendations following EU economic actors

Following several decades of wage restraint, today's European economic governance will amplify this move to change the nature of the wage-setting process. Previously, the wage restraint apparently remained under national control. Now, however, pursuing the EMU framework and using the financial crisis as an excuse, European governments have, for the first time, decided to allow the EU authorities to intervene in the field of wage setting at national level. A competitiveness and convergence pact, called the 'Pact for the Euro', was signed by the 17 eurozone countries in March 2011, at the instigation of France and Germany. After six non-eurozone countries (Bulgaria, Denmark, Poland, Romania, Latvia, and Lithuania[8]) voluntarily signed the pact, it was renamed the 'Euro-Plus Pact'.

The pact speeds up the introduction of concomitant changes in national models of collective bargaining. In addition to the requirement that strict public debt and deficit rules be transposed into national legislation, it allows the EU to intervene in national-level bargaining processes and impose a 'method' for wage discipline. Thus, the Pact for the Euro stresses three key recommendations: (1) 'Review the degree of centralization in the bargaining process'. This simply formalizes at European level the decentralization of collective bargaining underway at national level since the 1980s. It will entail, for example, increasing the number of sectoral collective agreements with opening clauses (already a particularly widespread practice in Germany); (2) 'Ensure that wage settlements in the public sector support the competitiveness efforts in the private sector'. In other words, governments are required to compress public sector wages in order to establish a low standard for the private sector as well (see Glassner, 2010); and (3) 'Review the wage setting arrangements'. Combined with the first two points, this relatively general recommendation constitutes a particularly strong attack on the unions since it means intervening in their bargaining autonomy. The plan to cap the outcomes of national wage bargaining rounds will undermine union power, as bargaining is so central to their identity. These recommendations and the method of wage restraint are already partly applied in the 'peripheral' countries where a series of austerity programmes have been enforced.[9]

The purely political commitment of the governments who signed the Euro-Plus Pact contrasts sharply with the legally binding measures introduced six months later. The 'economic governance' package, called the Six Pack because it includes six European legislative measures, was adopted in November 2011 in a rushed process and as discretely as possible. For indeed, as Commission President José Manuel Barroso had declared the previous year, 'What is happening now is a silent revolution – a silent revolution, moving step by step towards stronger economic governance. The Member States have accepted – and I hope they have understood this – to grant the European institutions considerable supervisory powers'.[10]

This package is steered by the Directorate General for Economic and Financial Affairs, the Ministers of Economy and Finance, and the ECB.

This dominant position of economic actors in the decision-making process is indicative of an increasing loss of democratic sovereignty. The outbreak of the financial crisis in 2008 provided a dramatic context which has enabled the EU authorities to short-circuit Member State sovereignty. The Treaty on Stability, Coordination and Governance

(TSCG) adopted in March 2012 illustrates this particularly forcefully. It requires member states to introduce 'provisions of binding force and permanent character, preferably constitutional, or otherwise guaranteed to be fully respected and adhered to throughout the national budgetary processes'. Why devise such a complex institutional arrangement instead of opting for a mandatory inclusion in national constitutions? Because some countries require a referendum to amend their constitution, which was precisely what the movers behind the budgetary pact wanted to avoid. This choice of procedure was designed to limit public debate, and speed up the adoption and implementation of the treaty. The attack on the wage under way here is thus part of a broader plan instituting a radical, counter-democratic regime change (see Gobin, 2005).

To come back to the Six Pack, economic governance not only further strengthens budgetary orthodoxy,[11] it extends the European system of constraints to include social and wage policies.

One of the new key-monitoring tools is the *Excessive Imbalance Procedure*. The alert mechanism consists of three elements: scoreboard with indicators, thresholds, and in-depth analysis.

Thus, member states' national economies are monitored on the basis of a scoreboard that identifies countries 'guilty' of 'macro-economic imbalances' and/or 'gaps in competitiveness'. Each year, since 2011, the Commission monitors each country with 'a limited number of economic and financial indicators' with indicative thresholds to respect among others change of export market shares, three year backward moving average of unemployment rate, with a threshold of 10 percent. In particular, where wages are concerned, an indicator on percentage change in nominal unit labour cost (ULC) will be used as a measure of cost competitiveness. ULC measures the average cost of labour per unit of output. It is an indicator, which provides a direct link between costs and productivity. The indicator is calculated as the three year percentage change of the ratio of nominal compensation per employee to real GDP per person employed.[12] The three-year change controls for the cyclical behaviour of this indicator and keeps a record of the competitiveness losses building up more so than the year-on-year variation.

The threshold corresponding to the upper quartile of the statistical distribution over the sample of euro-area countries is 9 percent. For non-euro area countries, a threshold of 12 percent is obtained by adding three percent to the euro-area threshold. The Commission justified this differentiation by the fact that the majority of non-euro area countries have experienced a major trade liberalization in the period covered by the available data (since 1995), which entails a natural process of factor price equalization towards the levels of the trade partners (EC, 2011).

If the ULC indicator exceeds this given threshold, the Commission compares it with the eurozone average: *divergences in nominal ULCs developments among euro-area countries as measured by the effective ULC relative to the rest of euro-area countries will be considered*, as well as investigative procedures: This will identify member states to be subjected to an 'in-depth' analysis, involving 'enhanced surveillance missions' and additional reporting duties by the member state concerned. Economic judgment should ensure that all pieces of information, whether from the scoreboard or not, are put in perspective and become part of a comprehensive analysis. In this economic reading of the scoreboard, the Commission will look at developments over shorter (one year) and longer time periods (five or ten years).

At the end of this monitoring process, if the 'guilty' country then fails to comply with EU recommendations, it will have to pay a financial penalty amounting to 0.1 percent of GDP.

Governance of wages now becomes clearly asymmetrical. 'Relative' wage comparisons within the European market are dangerous. This is triggering a 'wage race to the bottom'. This amounts to organized wage dumping, and policy coordination aligned on countries with low-wage policies, setting Germany's wage depression (see Box 5.1) as an example for the rest of Europe to follow. Today's wage depression in one part of Europe has the potential to become tomorrow's wage depression in another part of Europe. The longer-term 'reforms' in the eurozone as have been formulated by the Commission threaten to turn the EU into a hegemonic structure in which economically weaker states would lose all political autonomy and be subjected to the permanent tutelage of the stronger states and of the EU institutions under their control.

Box 5.1 A decade of social collapse in Germany

Since 2003, Germany has experienced a considerable rise in poverty as a result of policies to deregulate the labour market (Hartz Laws). Temporary work has become a full-blown sector, earnings-related unemployment benefits have been abolished, and 'mini-jobs' (i.e. flexible employment paid 400 euros a month) have made their appearance. In 2011, 40 percent of German workers were hired on precarious contracts,[13] and 6.5 million were low-wage employees (earning under 10 euros/hour).

Box 5.1 (Continued)

Collective agreements have also been rendered particularly vulnerable. Germany experienced the slowest wage progression of all Organization for Economic Co-operation and Development (OECD) countries between 2000 and 2009: Real wages (taking inflation into account) dropped by 4.5 percent, whereas they rose by 8.6 percent in France, and by 22 percent in Finland during that same period.[14]

Economic governance has thus evolved from the non-cooperative national strategies of the past to today's wage dumping explicitly organized by the stronger states (to be specific: Germany) using the EU – a development that would have seemed unthinkable not that long ago. One reason for this is that, under the Treaty, there is no possibility of creating a legal framework at the EU level for European collective bargaining or an upward harmonization of wages.[15] This would seem to suggest that it is out of the question to imagine that claims for higher wages – the unions' prime tool for redistributing wealth – could be coordinated at European level.

Nonetheless, this is precisely what a number of unions have been striving to achieve over the last ten to 20 years. We will be returning to these two claims and explain the ambiguous strategy pursued by the German trade unions to create a possible transnational bargaining model: how they launched these options for a united European wage policy but at the same time limited them.

3. Wage policy at the heart of Euro-unionism: The German role

Historically, trade unions' *raison d'être* has always been the struggle for better pay, even if this obviously leads them to take action on many other issues (such as hiring, qualifications or working conditions). Their specific role, then, is to prevent real wages from falling while imposing limits on working hours.

At the EU level, however, the topic of wage claims has long remained a blind spot, Euro-unions being fully engaged in the consultation and negotiation procedures of European social dialogue, despite its limitations – which notably include not being able to raise the question of pay.

The 'new European wages norm' imposed by the Commission and the ECB, the ETUC has, however, faced a dilemma: 'either to Europeanize wage policy to avoid a downward spiral or to stick to article 153.5 and prevent the economic actors of the EU using the opportunity to drive a downwards European wage policy' (Janssen, 2013).

An important question is contained within the first part of the dilemma: After 30 years of wage restraint and more recently the EU attack on wages, could European trade unionists invent new strategies linking the national and Community levels in order to revive their traditional role of defending wages? Is it possible for them to free themselves from the battery of constraints imposed by the EU?

Firstly, I will be providing a historical perspective to examine the transnational construction of wage claims: from the coordination of collective bargaining to the European Minimum Wage. A second section demonstrates the limits of such coordination and focuses on the German unions grappling with intrusions on the principle of *Tarifautonomie* and the conflicting demands for some national unions of being tied to Germany that has pursued wage moderation for a good decade and a more idealistic orientation towards a pan-European effort to fight for wage increases.

3.1. The coordination of national-level collective bargaining

In the historical overview that follows, I will explain how the concept of coordinating collective bargaining took shape during the 1990s.[16] The starting point for wage coordination initiatives dates back to the launching of EMU in 1993, and the growth of international competition.

These initiatives all share an overall ideological function, with a short-term goal of fighting wage dumping, and a longer-term goal of building up sufficiently robust coordination between the unions in order to negotiate European collective agreements. However, their motivations have been diverse, depending on the level concerned (cross-border or EU-wide, sectoral or cross-sectoral), as well as the particular period during which they were launched.

Coordination initiatives operate at two distinct levels beyond the 'national' level: the cross-border level and the Community level. The cross-border level can be either transnational (involving a few neighbouring countries) or transregional (involving neighbouring regions). Four 'forms of Europeanization' can be identified with regard to the coordination of wage bargaining, as shown in Table 5.1. These processes are closely linked in terms of their members as well as their content.

Table 5.1 The different levels of collective bargaining coordination committees (CBCCs)

Bargaining level	**Cross-sectoral**	**Sectoral**
EU-level	CBCC European Trade Union Confederation (ETUC)	CBCC 8 European Industry Federations (EIFs) (Metals, Textiles, etc.)
Cross-border	Doorn Group	Inter-regional networks
National	Confederations	National federations

Whatever the bargaining level, coordination fosters a process of 'Europeanization' that can be defined as the development of a transnational nexus of union actors, structures and processes set up within the European space and interacting with national actors. The approach is bottom-up (from national to EU level), since it is based on the bargaining capacity of unions that already exist at national level. It is also an internal process of the union movement that takes place despite the absence of counterparts on the employer side.[17] The trail-blazers (indicated by the grey areas in Table 5.1) were the European Metalworkers' Federation (EMF) (followed by other EIFs) and the Doorn Group. I will present these two processes in some detail below, before examining their difficulties in progressing towards their respective goals, and the specific role of German unions in this process.

At the intersectoral level, the cross-border coordination of collective bargaining known as the 'Doorn regional initiative' was launched in 1998 and involved unions from four countries (Germany plus the three Benelux countries).[18] The impetus for the Doorn Group came from Belgium, where the unions were confronted with a national 'law on competitiveness' adopted in 1996, which provided for the systematic comparison of Belgian wage levels with pay trends in the country's three main trading partners (Germany, France, and the Netherlands). In 1997, the two major Belgian unions (the CSC and the FGTB[19]) took the initiative of calling a meeting between the German, Belgian, and Dutch confederations (soon to be joined by their Luxembourg counterparts) along with their main sectoral unions, with a view to setting up a group of experts to exchange information and make policy decisions on a regular basis. The involvement of France proved difficult (see Box 5.2).

Box 5.2 The French question

At the beginning of the Doorn initiative, the Germans chose to begin with four countries. They justified their decision to include Luxembourg but exclude France on the basis that it was more important to, '*deepen rather than enlarge*' and because they considered that, '*the French are rather complicated and don't even agree with each other*' (Kreimer-de Fries, 2002). On the insistence of the Belgians,[20] however, a letter was sent to the French confederations explaining that, '*they (the French unions) should reach an agreement among themselves before arranging a meeting with Doorn group experts*' (Ibid.). Only Force Ouvrière (FO) provided a reply, which effectively indicated the lack of an agreement between the French unions, albeit not a lack of interest from some of them in this regard. Although they remained open with regard to the future, Doorn members effectively put the 'French question' on the back burner. Representatives from three French unions: The Confederation Francaise Democratique du Travail (CFDT), Confederation Generale du Travail (CGT), and FO were invited for the first time to the 2001 meeting, as observers. At this meeting, they discussed their experience of reduced working hours in France but did not participate in any decisions. They became full members in 2002.

Sharp tensions were subsequently observed regarding the modes of negotiation between different group participants, as well as divergences about the content of negotiations, which is obviously related. Seeking to avoid any challenge to their wages policy from other countries, the Germans exclusively focused on the issue of wage increases. The French (together with the Dutch and Belgians), however, sought to focus on more qualitative aspects[21] of collective bargaining. Coordination, therefore, gradually extended from the question of wages to 'qualitative aspects' of collective negotiations (particularly working time and training).

The French unions joined in 2002 at a time of transformation in the process[22] and did not carry out any homogenous action in the cross-border group. The CFDT sought, above all, to add qualitative elements and did not propose anything on wages. The CGT, however, saw the Doorn group as an opportunity to appraise coordination of sectoral and company collective negotiations on wages. It is therefore more cooperative in this field. At the seminar in 2010 in France (according to the meeting rotation system), the CGT[23] was exclusively in charge of its organization.

It was thus in Doorn that unions from different EU countries first agreed on joint guidelines for wage claims. In their 1998 declaration, the unions from these four countries committed to a 'joint orientation formula' for national bargaining, in other words, a wage standard (taking account of inflation and productivity) (see below). This pragmatic and combative cross-border initiative stimulated union debates across the EU and played a leading role in clarifying and strengthening goals. It provided the impetus for the ETUC to set up the CBCC in November 1999 (see Table 5.1, Box 5.3).

At the sectoral level,[24] Europeanization of collective bargaining follows two routes: union initiatives can be either cross-border (such as the three- or four-country interregional union networks), or Community-level within the EIFs. The focus here will be on the latter. Since the beginning of the 1990s, and following on the pioneering initiative of the EMF, seven other federations[25] have stepped up their efforts to create collective bargaining coordination structures (Table 5.2).

The method of coordination used by these federations is based on a political process linking the national and EU levels in order to

Box 5.3 The eight European industry federations involved in coordination

EFFAT	European Federation of Food, Agriculture and Tourism Trade Unions
EMCEF	European Mine, Chemical and Energy Workers' Federation
EFJ	European Federation of Journalists
EMF	European Metalworkers' Federation
EFBWW	European Federation of Building and Woodworkers
EPSU	European Federation of Public Service Workers
ETUF-TCL	European Trade Union Federation – Textiles, Clothing and Leather
UNI-Europa	Union Network International – Services and Telecommunications

Note: The EFM, EMCEF, and ETUF-TCL merged to form industriALL on 16 May 2012.

implement common standards. It can be broken down into three phases as follows:

(a) Once a formal structure (coordination committee) has been set up, the first phase consists of an exchange of information with a view to comparing national collective bargaining systems (on wages and working time in particular), and establishing personal contacts between union staff from the different member states.

(b) Then, when a strategy has been developed, the second, difficult phase focuses on drawing up common criteria that will be formalized in policy documents (wage norms and/or minimum social standards). The EMF led the way by establishing the following wage norm:

Table 5.2 EMF proposal for a wage norm

Wage determinants	**Distribution margin**
Inflation	Pay increases (at least above the inflation rate, and as productivity-oriented as possible)
Productivity	
Redistribution of profits component*	Improving the qualitative aspects of work (training, reduction in working hours, gender equality)

Source: Author, based on EMF resolutions: (EMF, 1993, 1998).

The criteria for determining claims for pay increases and improving 'qualitative' aspects are inflation and productivity (the redistribution of profits component and the emphasis on the autonomy of collective bargaining at national level disappeared between the first and second drafts of the proposal, that is, between 1993 and 1998). It can be seen that the advocated wage policy is based on productivity and is neutral in terms of competition and costs, and thus in terms of redistribution. The policy explicitly refrains from acting on wage discrepancies between countries within the European space. Its primary goal is to avoid 'a wage policy oriented towards further redistribution of income in favour of capital gains' (EMF, 1998, p. 3). It thus clearly diverges from the standard proposed in the recent Pact for the Euro, which requires the signatory governments to adopt measures ensuring that increases in nominal wages be consistent with productivity gains: Here, inflation ceases to be a wage determinant, and this serves to encourage redistribution in favour of capital.

In addition to the wage norm, the EMF and other EIFs have also adopted a specific strategy on minimum social standards. First, the various unions draw up a common policy position on a minimum standard that they find appropriate for all the EU countries. The European Secretariat then decides on what would look like a European average, the idea being to combine a politically defined minimum with a longer-term goal. In the next stage, it is up to the national unions to work towards getting these standards included in their collective agreements. For most of the sectors, social standards have been defined in two key fields: working time (based on the EMF norm of an annual maximum of 1750 hours plus 100 hours overtime, and a 35-hour working week as the goal); and training.

(c) The third and final phase of the process, which connects the first two phases (comparison of national negotiations and creation of common criteria – wage norm or social standards), consists of an *ex post* assessment of the outcomes of national bargaining rounds on the basis of these common criteria. The wage norm is thus intended to be used as a tool for monitoring the actual results obtained at national level.

However, a detailed analysis of the process launched by the EMF reveals an interesting contradiction. Whereas some EIF-affiliated unions follow a bottom-up approach and work together to draft common declarations in their CBCCs, these declarations have no explicit effect on their respective national bargaining rounds. For the most part, the documents they produce appear to remain mere declarations of intent. Why are they not put to use? And why are the rules developed used more for analytical purposes than as a political tool? In other words, what are the obstacles to wage coordination? Some possible answers to these questions are provided below.

3.2. Obstacles to wage coordination

The Europeanization of trade unions appears to be unable to get beyond a stage of 'regulating diversity' (Gollbach, 2000), as regards both bargaining levels and topics. For example, in multi-employer collective bargaining systems, negotiations are essentially conducted by union and employer organizations, whereas in single-employer systems, they take place between the unions, staff representatives, or individual workers and the company. The topics that can be addressed and the duration of collective agreements also vary widely between countries. In the Central and Eastern European countries (CEECs) in particular, collective bargaining structures are weak and decentralized, which limits union control over wage formation processes.[26] Wage claims are negotiated at company level only, where rights to union representation are weak. More often than not, there are no bargaining structures at a higher level. These systems thus have a lower and less stable rate of coverage compared to multi-employer processes. In these particular conditions, trade unions are unlikely to play a role in such coordination initiatives (or only as observers) because they are mainly weak in structural terms and might prefer to be part of a national competitive strategy focusing on relatively low wages and low levels of regulations governing working conditions.

The structural differences mentioned above also make data collection and comparison difficult. Furthermore, given the diversity of national judicial and political systems, industrial relations and union cultures, it is impossible for any national regulation to be directly applied in other countries. As a result, in each case, it will be the specific characteristics of the participating unions that will determine the way in which their particular transnational group or EIF coordination committee is organized. If even the Doorn Group countries found it difficult to coordinate their practices despite their relatively similar cultures, it is easy to imagine how difficult coordination must be between the 28 nationalities currently represented within the EIFs.

In addition to the question of heterogeneity, the question of sovereignty also comes to the fore. Decisions regarding common objectives require a delegation of sovereignty from national organizations to their European level Coordination Committee. An essential element for stabilizing and developing a connection between union organizations at both national and Community levels therefore relates to the confidence that each of the national organizations has in its supranational union leadership. It is through the creation of a strong and combative inter-union fabric that national branches and confederations will be able to gradually agree to hand over their sovereignty to supranational bodies in exchange for a European mandate. Community-level union bodies will also have to provide an answer to the question of whether it is possible to move towards an ETUC or European sectoral level federations that are more accountable, on the basis of action decided by their affiliate members.

Thus, until now, the heterogeneity and the jealously guarded sovereignty of bargaining systems and practices in the various member states undoubtedly constitute an obstacle to their coordination. But another important barrier lies in their current evolution. The macro-economic framework imposed by EMU has contributed to the erosion of national collective bargaining systems. The expansion of the low-wage sector has led to a decline in the bargaining power of the unions with regard to overall wage determination, while the strong trend towards the decentralization of wage formation has become even more pronounced since the onset of the crisis (Glassner and Keune, 2010) making comparison of the wage increases obtained in sectoral agreements all the more difficult (Glassner and Pochet, 2011). It is also important to mention here the more general context: the demise of the European trade unions due to declining membership levels, the institutional decline of neocorporatism (see Rehfeldt, 2009), more aggressive employers, privatization of state-owned enterprises, and so on. All the changes mentioned above and the context of unions decline have had a de facto effect on the unions' ability to coordinate collective bargaining systems at a transnational level. The trends described here are particularly marked in Germany, and this is the source of another major difficulty facing union coordination: the ambiguous role of German trade unions.

3.3. German trade unions, driving force behind and brake against the coordination of collective bargaining

The German unions are at the centre of the transnational bargaining model, initiator of the various initiatives: EMF, Doorn, and interregional network. They played a key role in the emergence of European coordination strategies, particularly IG Metall, which initiated the launching of the EMF Coordination Committee. The EMF's union membership is concentrated in Germany, and the powerful IG Metall, its leading union, plays a decisive role in the formulation of proposals. The Doorn Group was formed by the *Deutscher Gewerkschaftsbund* (DGB) (together with all the other German sectoral federations), following up on the Belgian proposal. Although the downward pressure on wages after the establishment of the single market and the introduction of the euro clearly had a European dimension that affected all the member states, the idea of starting with concrete results in a small number of countries evidently appealed to the German unions.

This also corresponds to Franz Traxler's view that bringing a number of small countries to coalesce around Germany would make it possible to achieve a critical mass large enough to guarantee European leadership on wage issues (Traxler, 2002). He argued that leadership on wages would not require representing all workers, but that a grouping together of some 15 percent of workers would be enough to influence wage norms (Traxler and Brandl, 2009).

Finally, it was also IG Metall that launched cross-border wage cooperation (interregional networks) in June 1997, as part of the EMF's coordinated approach: The German union invited labour representatives from 14 neighbouring countries to attend its collective negotiations. Since bargaining is conducted at regional and sectoral levels in Germany, the coordination strategy adopted was based on the regional networking of sectoral actors. IG Metall remains the driving force of all these initiatives.

The German unions' leadership is fairly[27] well accepted by its neighbours – the Benelux countries and Austria – since Germany's wage policies are likely to serve as benchmarks for the former Deutsche mark zone, and comparisons with its wage trends have always played an important role in Belgium and the Netherlands.[28] On the other hand, the predominance of the German trade unions as the driving force behind coordination has been problematic for most other member states, and in particular the Mediterranean countries.

In fact, German trade unions have been following a stringent wage restraint policy for over ten years, until 2010 (Hege, 2012; Lehndorff, 2013). And, not surprisingly, the country displayed the most adverse wage trends of all the OECD countries between 2000 and 2009.[29] By asserting the virtues of German competitiveness – achieved partly thanks to the decline of its wage model – the last two Chancellors succeeded in progressively establishing their wage restraint policy as a model to emulate for the rest of the EU. In practical terms, this has exerted a downward pressure on wages in the eurozone countries. A decade of German wage restraint has thus prevented, during this period, any attempt to coordinate wage increases upwards in Europe.

Since 2011, the wage strategy followed in Germany has allowed for an upper level wage coordination policy to emerge. Decentralized seminars in this regard were organized in 2011–2012 by the ETUC collective bargaining committee coordinator in the different member states. The national trade union organizations, however, do not appear to have been receptive to the message of union coordination being even more of an imperative when faced with European governance's take-over of wage-related issues. Trade union strategies initiated 20 years ago or so and coordinated around accepted wage norm did not always prove conducive to developing a wage policy offensive. The ETUC calls for the promotion of a regime of European growth based on wages but has not managed to develop an appropriate or united strategy for strengthening institutions responsible for collective bargaining in the different specific national situations. Given that authoritarian control is being exercised over EU wages, the union debate is subsequently focusing on devising a rule for establishing a European minimum wage.

3.4. The European minimum wage: Better than nothing? Or a dangerous option?

Could the European minimum wage (EMW), as a second-best or better as a complementary option for the coordination of collective bargaining, be a starting point for establishing wage trend norms within the EU? Or would it, instead, be a dangerous option if the trend is towards lowering existing minimum wage levels?[30] We will quickly explain the EMW history.

The German trade unionists, which are campaigning for a cross-sectoral minimum wage in their own country since 2004 (see below), have been again the main driving force behind the EMW. This euro-demand appeared as a promising issue at the Seville ETUC Congress of May 2007. They received support from delegates from two other major countries, France and the UK, as well as from the European Federation of Public Service Unions (EPSU). But the delegations from Italy and Scandinavia, where minimum wages are negotiated at sectoral level, categorically refused to follow this route, fearing that it would mean compromising the power of their unions – which is based on their bargaining capacity – by empowering the state and permitting state interventionism. 'We do not want state intervention', explained a Swedish representative from Tjänstemännens Centralorganisation (TCO), adding that, 'in our country 90% of workers are covered by a collective agreement. We don't need a minimum inter-professional legal wage'. The scepticism towards a statutory minimum wage must be interpreted in light of the existing minimum-wage regulations in the Nordic countries. The Nordic model is characterized by a high union density and high collective agreement coverage.[31]

This veto blocked any demand regarding EMW.[32] Similarly, at this moment, the EMF was also against the demand, considering it 'untimely and premature'. More generally speaking, the opposition front feared creating a downward pressure on wages where the situation was better, for, as ETUC Confederal Secretary Walter Cerfada explained, 'while a threshold for a "non-regression" clause can be set at legislative level, this cannot be done at bargaining level'.

In May 2011, at the Athens Congress, given these numerous divergences, little progress was made on this issue, with the same unions sticking to their initial positions. ETUC decided to propose a wage floor in each member state (without specifying the conventional or statutory status of this floor).[33]

In the context of the crisis and under pressure from the EU authorities, a restrictive minimum-wage policy became part of the package in the overall austerity programme adopted by the member state governments (see Schulten, 2009, 2012).[34]

This context leads trade unions to finally take a decision on a specific wage floor. In the 'Social Compact for Europe' (June 2012), the ETUC declared not only that, 'the statutory minimum wage, in those countries where trade unions consider it necessary, should be increased substantially' but also that, 'all wage floors should respect Council of Europe standards on fair wages'. These rules define a minimum wage rule between 50 percent and 60 percent of the national median wage.[35] Now that this rule of principle is on the table, each affiliate can decide on the way it uses it.

Given that current legal minimum wage levels range from 36 percent to 62 percent of the median wage – corresponding respectively to 1.95 euros in the Czech Republic and 9.50 euros in France – this European rule would produce a relative pay rise in the former but could present a danger for national minimum wage levels by promoting a downward harmonization in France for instance. With the introduction of a floor of 8.50 euros, Germany reaches 51 percent of the median wage, adhering to the new European rule in its downwards limit, but falling below the threshold for a low wage (9.14 euros). How do German trade unionists finally manage to obtain a harmonized floor with a specific threshold? This leads us back to the history of the German debate on minimum wage up until its introduction in September 2014, because of the importance of the development of German industrial relations system for the rest of Europe.

3.5. A minimum wage in Germany: A driving force behind and/or brake against the EMW?

The German debate over a minimum wage commenced in the 1990s. For a long time, however, this was confined to a few sectors, construction in particular, based on a rationale of dealing with wage competition from businesses in the new member states of the European Union, who posted their employees to Germany with pay conditions that were significantly below those provided for by collective bargaining. Since the end of the 1990s, however, low wages in Germany that are the result of collectively bargaining and thus covered by *Tarifautonomie* have increased at the same low rate as wages not decided upon in this fashion. By the end of 2010, more than two thirds of workplaces and half of all wage earners were not covered or were no longer covered by a sectoral agreement. In addition to the extension of areas not covered by collective bargaining, 19 percent of collective agreements set wages at a level of below nine euros. Services in the security industry, hairdressing, cleaning, and hotel and catering were particularly badly affected. This development has increasingly compromised the trade union assumption that collective agreements and *Tarifautonomie* constitute the most effective defence against low wages and wage inequality (Hege, 2006). It is in this context that the debate emerges on the introduction of a legal minimum wage. This is advocated by the union representing those working in the poorly-paid services sector (Ver.di, major union in the public and private services sector, the Nahrung-Genuss, Gaststaetten (NGG) and the union for workers in the food and catering services). The industrial unions (IG Metall and IG BCE), however, have been backtracking on this issue for a long time and the employers are opposed to it. The principle of the minimum wage is difficult to incorporate into the system of *Tarifautonomie*, which rejects any kind of state intervention. It was, however, the issue of continued low wages that brought the unions together in support of the demand for a minimum inter-professional hourly wage of 8.50 euros[36] to be applied for all employees, irrespective of the customary sectoral minimum agreements (see Hege, 2005). The Social Democratic Party (SPD) subsequently adopted this demand.

3.5.1. Different visions of the minimum wage: Universal or differentiated floor?

During the election campaigns in September 2012, the conservative parties Christlich Demokratische Union Deutschland (CDU) and Christlich-Soziale Union in Bayern (CSU) were more reserved about this matter and stated that, ‘we want a minimum wage floor to be defined by collective agreements (and not by the law), on the basis of the market economy and not a minimum wage policy’ (Christliche Demokratische Union, 2011). In April 2012, the European Commission gave its backing to the option of the ‘differentiated floor’. It called on the member states to introduce a minimum wage, arguing that wage floors need to be sufficiently adjustable, with the involvement of the social partners to reflect overall economic developments. Differentiated minimum wages [...] can in that context be an effective means of upholding labour demands (European Commission, 2012, p. 11).

The CDU/CSU proposal on the minimum wage aims both to facilitate the extension of existing agreements (that is to say, to reform the procedure of extension by which a collective agreement becomes mandatory for all the companies in the sector in question) and ensure that sectors without a collective agreement set a minimum wage. Minimum wages currently exist in around ten different sectors.[37] The sectoral minimum wage has also revived the principle of extending collective agreements by intervention on the part of the public authorities, despite this method having traditionally played a weak role in Germany, as it violates the spirit of *Tarifautonomie*.

The CDU therefore proposed government intervention only in cases where the social partners have failed, believing that minimum wage differentials help to take into account the diversity of regional and sectoral situations.

Angela Merkel (CDU), however, surprisingly announced on 28 November 2013, that the coalition agreement with the SPD regarding the introduction by law of a national minimum hourly wage to 8.50 euros (gross) would be effective as of 1 January 2015.

The introduction of a law on the minimum wage in Germany therefore has a highly symbolic value in Europe, but its effects are still difficult to estimate. One of its impacts could be to curtail certain atypical forms of employment. Notably, in a number of sectors the studies conducted show that the introduction of a minimum wage leads to a change in the structure of employment. The new minimum wage could lead to companies becoming less interested in making use of 'mini-jobs'.[38] Furthermore, the monthly ceiling on the maximum payment for them setting a wage of 8.50 euros per hour would amount to introducing a time limit on these jobs of about 13 hours per week. At a more general level, a study carried out by the Friedrich Ebert Foundation, which is close to the SPD, announced that a legal minimum wage of 8.50 euros would increase household revenue by 14.5 billion euros, tax and social revenues by 5.4 billion, and 1.7 billion in savings from social transfers for the state (Ehrentraut et al., 2011).

It is, however, important to understand that certain elements of application could be problematic because of the numerous exceptions foreseen (seasonal workers and certain categories of mini-jobs) and the postponed date of application (1 January 2017). It is therefore very much in the interest of the German trade unions to monitor the implementation of such legislation very closely.

The introduction of the minimum wage creates 'an important paradox; although, in principle, *Tarifautonomie* excludes state intervention in the areas of trade union and employer organisations' responsibility, the sustainability or consolidation of the system no longer appears possible to imagine outside the remit of the state' (Bahnmüller, 2011, in Hege, 2012). The way in which the role of the state evolves in the system of collective bargaining in Germany will have broader repercussions in terms of the reconfiguration of power between the different actors. This will obviously be the case in Germany but also in neighbouring countries and on a European scale.

4. Conclusions and future perspectives: What potential is there for transnational mobilization?

The German union movement plays an influential role in Euro-unionism thanks, in part, to the political and economic weight of the country. It appears to act as the 'centre of gravity' for the determination of a transnational bargaining model. That is the reason why it is essential to better understand the recent developments in Germany, often considered as a model (in terms of both the political economy and the collective bargaining system).

We have described how Germany has conducted wage and social dumping in the last decade as part of its strategy of fostering competitiveness. The Euro-Plus Pact at eurozone level, confirmed this political orientation and Germany as the model for Europe. The structural discrepancy of the German economy, however, between a highly successful export sector and a rather weak internal market, makes this national model unsustainable in the long term and unsuitable for Europe as a whole. Given the difficulties in establishing inter-union solidarity in Europe, the question of how to promote an agenda for the redistribution of wealth to counter over 30 years of wage restraint remains an open one. For indeed, in this regard, unions have not succeeded in developing a new vision of their political role. Thus far, their coordination meetings to set a common wage norm have simply not enabled them to develop a more combative union policy on wages. They face conflicting incentives: On the one hand, the principal strategy is one of arresting beggar-thy-neighbour policies and struggling for pan-European wage increases. On the other hand, some unions (due to pervasive structural weaknesses) are tempted to be seduced by ultimately egoistical national strategies of beggar-thy-neighbour subpar wage agreements.

Furthermore, the chances for wage coordination in the near future seem even more remote after the launching of European economic governance in 2011. The adoption of an authoritarian system of wage monitoring by the EU has pushed aside any plans for the introduction of wage norms beyond setting up a European minimum wage rule.

What then are the prospects and what could be the necessary conditions to promote an offensive European wage policy?

Europe cannot function if based solely on all countries running a trade surplus with export-led development models. The Europeanization of German developments would lead to downward wage competition and would increase inequality between countries. To solve the European crisis a preliminary condition would require significant changes in German politics to foster more expansive wage developments and strengthen wage institutions (implementation of the statutory minimum wage, but also higher bargaining coverage by revising the extension mechanism).

A collective, transnational mobilization is essential to the construction of a combative wage policy. For indeed, the whole point of coordination is to promote the creation of a European industrial relations system in which collective bargaining is predicated on the political recognition of the autonomy of the bargaining parties, the essential condition for any deliberation. Lowell Turner (1996) has shown that transnational cooperation develops via networks (the CBCCs in this instance) and new institutions (here, the ETUC and EIFs) set up by structures belonging to organizations that already exist. But he noted that, in the long term, these structures could not act effectively without popular mass demands or protest to back them up. Although crucially lacking in the last decades, transnational social mobilization has somewhat risen in pace and intensity since the onset of the crisis. On 5 April 2008, the ETUC mobilized 30,000 unionists from all over Europe for a Euro-demonstration at Ljubljana (Slovenia) in support of two demands: improved pay and purchasing power, and a more equitable distribution of profits.[39] The European trade unions also organized a strong response to the Pact for the Euro signed in March 2011, with a joint Franco-German declaration in response to Sarkozy-Merkel, and a series of Euro-demonstrations in Berlin, Brussels, London, Budapest, Luxembourg, and Wroclaw (Poland).[40]

At the ETUC Athens Congress in May 2011, the debate was clearly dominated by the question of how to respond to economic governance. From all the countries across the spectrum of today's two-speed Europe – from Greece to Germany – support emerged for the idea of the need for a paradigm change, with a higher level coordination of wage, fiscal, and social policies. It can be seen that Euro-unionism was, at that moment, seeking a return to what originally lay at the heart of union identity – the defence of wages – even if, by February 2012, wages had once again disappeared from the slogan adopted for the Euro-demonstration, 'for jobs and social justice'.

The demand for securing a pay rate at European level, which would effectively raise the majority of minimum wages – in other words, the introduction of a European minimum wage – could provide a strong incentive for collective mobilization on a European scale. The EIF CBCCs and/or the ETUC Committee on the Promotion of a European Minimum Wage could then become the 'suitable political structures facilitating the emergence of a transnational union protest movement' for which Turner had so forcefully pleaded (Turner, 1996). This scenario would boost unions' legitimacy as regards supranational wage setting and avoid a situation in which wages are left in the hands of European economic actors (ECB, European Commission, IMF).

Notes

1. In Europe, as Michel Husson (2010) has shown, the share of wages in national income dropped by 8.6 percent (9.3 percent in France) between 1983 and 2006.
2. A clear distinction is required between wage coordination or coordination of national collective bargaining and that of transnational collective bargaining. The first, examined here, corresponds to the development of a common benchmark in national and sector level wage demands. Transnational collective bargaining takes place at the level of multinational companies and since the beginning of the current century has led to the signing of many transnational company agreements. See Charles Levinson (1972) on a history of these agreements and more recently da Costa and Rehfeldt (2011).
3. Participating countries had to comply with such criteria as: achieving a 'high degree' of price stability, that is, an inflation rate which was not to exceed 1.5 over the average rates of the three member states presenting the lowest inflation rate; maintaining public deficit below 3 percent of GDP, and public debt under 60 percent of GDP.
4. For a detailed analysis of the intergovernmental compromise of the time, see the ethnographic study by George Ross (1995).
5. Wage 'moderation', that is wage restraint, is an economic measure aimed at slowing down real wage progression (purchasing power).
6. Definitive abandonment of the exchange rate instrument, limiting inflation, and competitive policies.
7. For an analysis of the policy options implicit in the construction of European indicators on employment and wages, as well as the absence of the expression of social conflict in this construction, see Dufresne (2012).
8. The member states that did not sign the pact were the UK, Hungary, the Czech Republic, and Sweden.
9. In Greece, for example, the European Commission has already directly intervened in the bargaining process by imposing a cut of about 20 percent in civil service wages and a decrease in minimum wages for young people and the unemployed. For more details, see ILO (2011).

10. José Manuel Barroso, at the European University Institute, Florence, 18 June 2010.
11. The 1997 Growth and Stability Pact, a follow-up to the Maastricht convergence criteria, had already reinforced budgetary constraints prior to adoption of the Six Pack and the fiscal pact.
12. The original data on nominal compensation per employee, GDP, and employment derive from EUROSTAT and the index is calculated by DG Economic and Financial Affairs (ECOFIN), (AMECO database).
13. On the basis of the number of workers they cover, precarious contracts include the following: low-wage employees (6.5 m), mini-jobs (4.9 m), self-employed (2.4 m), regular temporary but involuntary contracts (>2), fixed-term contracts (793,000), temporary (780,000). For more details, see Bispinck and Schulten (2011).
14. International Labour Organization (ILO).
15. In the Maastricht Treaty, the question of pay was totally excluded from the EU competence with the article 137.6 (today 153.5). With this article, the European system of industrial relations not only explicitly excluded the wage, but also transnational rights to association and to strike action from community legislative capacity. Yet these rights correspond to the basic conditions for the constitution of a collective bargaining system. European trade unions were thus left without any means to exert legal pressure.
16. For a detailed analysis about the history of coordination of collective bargaining, see Dufresne (2011).
17. No explicit wage coordination process has been initiated by European employer organizations. Indeed, they reject any idea of negotiations or even social dialogue on wages. For example, BusinessEurope is satisfied with the increased pace of wage restraint resulting from the Pact for the Euro, but refrains from engaging in dialogue on the topic with the ETUC.
18. For more information on the Doorn Group, see Dufresne (2009).
19. Confédération des Syndicats Chrétiens, and Fédération Générale du Travail de Belgique.
20. The Belgian trade unions always wanted the French to join, as France was one of their trade competitors included in the law of 1996.
21. In community jargon, 'qualitative aspects' are a neologism describing social rights in which funding can be quantified and introduced, often implicitly, into wage norms.
22. At the time, the Doorn group was blocked by the German unions. The main reason it was finally able to hobble along was because of the strong commitment from Belgian unions and their binding external wage norms, as well as the ETUC's political determination to keep it in check. For further details, see Dufresne (2009).
23. It should be pointed out that the CGT was not a member of the ETUC or its corresponding European sectoral union federation branches until 1999.
24. It should be noted that there have been very few studies on the sectoral level. The most recent doctoral theses addressing this level are Hilal (2005), Dufresne (2006).
25. Food, Agriculture and Tourism; Mine, Chemicals and Energy: Textiles, Clothing and Leather; Building and Woodworkers; Journalism; Public Services; Communications.

26. See in particular Schmidt and Vaughan-Whitehead (2011).
27. It is important to note that this acceptance is only relative and that the unions in Scandinavian countries (particularly in Denmark) are very wary of German trade union domination.
28. This is why the Doorn Group was formed and also why German-Belgian-Dutch interregional sectoral cooperation developed more rapidly than in other European regions.
29. Real wages dropped by 4.5 percent. For more information on German trends, see Bispinck et al. (2010).
30. For a European panorama on minimum wage, see IRES (2006), Schulten et al. (2006), Kampelmann et al. (2013), but also the updated data bank on minimum wages from the WSI: www.wsi.de/mindestlohndatenbank
31. 'While Denmark and Sweden use collective agreements as their only mechanism for regulation of minimum wages, Finland, Iceland and Norway have also started to use *erga omnes* instruments (extension of collective agreements). The social partners have the main responsibility for wage regulation in all these countries, but only Sweden and Denmark apply this arrangement exclusively' (Eldring, 2012, p. 71).
32. An interesting report from the Norwegian institute FAFO explains the arguments against a European minimum wage from a Scandinavian point of view. See Eldring (2012).
33. This principle has gradually appeared in the successive resolutions of the collective bargaining coordination committee since 2005. In 2007, it formed part of the resolution in Seville and was repeated in the document entitled 'Towards a new social deal in Europe' in May 2009.
34. Various national studies (Dufresne and Pernot, 2013) highlight restrictions or regressions on minimum wages, particularly in Greece, Romania, and Ireland. The most far-reaching intervention so far, has taken place in Greece, where the troika decreed a massive reduction in the minimum wage of 22 percent (and even 32 percent for young workers under 25), which entered into force in February 2012. In other countries like Latvia and Portugal, as well as in a more informal way in Spain, the troika exerted pressure to obtain freezes in the national minimum wage.
35. The median wage corresponds to the wage at which half of all workers of the population considered earn less than this level, whilst half of all workers earn more than it.
36. Ver.di and NGG announced in 2004 a first demand at 7.50 euros.
37. Construction, waste disposal, security services, roofers, electricians, painters, industrial cleaning, carers, continuing education.
38. The mini-job is based on a contract for a low wage in a context where no minimum wage exists. Mini-job wages are below 400 euros a month, irrespective of the legal nature of the contract or whether it is full or part-time, temporary or permanent. Mini-job workers do not pay taxes for private or sickness insurance or contributions to their pensions. Employers have to pay 13 percent towards health insurance and 15 percent towards pension insurance at the mini-job administrative centre, in addition to the 400 euros paid to the worker.
39. The demonstration was part of the ETUC campaign for more equal pay, adopted by the 2007 Seville Congress. For a detailed analysis of this Congress, see Dufresne and Gobin (2007).

40. In addition to these Euro-demonstrations organized by the ETUC, what is now at stake when transnational mobilizations are examined, is the coordination of national mobilizations, which is partly outside of union structures. See Belkaïd (2012).

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6

The Vanishing Promise of a More 'Social' Europe: Public Services Before and After the Debt Crisis

Amandine Crespy

1. Introduction

The politics of public services regulation is one area where the dilemmas of a common European policy in the socio-economic realm have come to the fore. Since the mid-1990s, the promise of a more 'social' Europe – or of more positive integration – seems to be farther away than ever. The term 'services of general interest' (SGI) coined in EU law and policy debates covers the provision of all public utilities and services including network industries (telecommunications, energy, transport, etc.), social services (healthcare, child and elderly care, aid to families and people in need), and services in the field of education and culture. Today, the provision of SGI accounts for about 26 percent of European GDP and occupies 30 percent of the European workforce (CEEP, 2010). Through national and European liberalization policies, they have been increasingly shifted from historical, public owned providers to the private sector. There is a large consensus on the idea that SGI are a cornerstone of European competitiveness and social cohesion, and that they constitute a crucial element in the debate on the modernization of the European welfare states. However, the balance between competition and freedom within the internal market, on the one hand, and national regulation protecting the public interest in the provision of utilities and services, on the other, has triggered contentious debates as to how much autonomy member states should enjoy vis-à-vis the European level. In the 2000s, EU legislation that would regulate SGI was discussed in the European institutions. The purpose was to protect SGI from the negative impact of EU competition policy, something that a number of local authorities and citizens were calling for. Lengthy discussions, however, stalled around 2007 and any major initiative was abandoned. More recently, SGI seem to have been a main victim of the debt crisis, as European governments adopted austerity policies and dramatically cut funding and jobs in many segments of the public service. This dynamic not only affected member countries of the eurozone, but all EU countries across the board, and could not be prevented as no regulatory safeguard existed at the European level.

Against this backdrop, this chapter asks the following questions: Why has the debate on SGI regulation failed to materialize into policymaking in the decade prior to the current great recession? How did the debt crisis impact the pre-existing political dynamics? In order to tackle these questions, a neo-institutionalist analytical framework is used, both from a historical and a discursive perspective.

A first hypothesis relates to how public policy becomes trapped in path dependency when choices made in the past continue to influence actors' preferences in the long run because of lock-in effects (Thelen and Steinmo, 1992; Pierson, 2004). This is especially relevant with respect to EU debates and the politics of SGI regulation as the organization and funding of SGI are deeply, historically rooted and loosely entrenched in national philosophical and legal conceptions of the state (Dyson, 2010). Whereas the EU Commission was the agent promoting change, member states typically sought to slow down the decision making process and then upload their own policy model onto the EU level (Matlary, 1997; Schmidt, 1998; Eising and Jabko, 2001). In this respect, the chapter focuses on France and Germany, countries which have two contrasting traditions with regard to SGI (Bauby, 2011): While in Germany they are very much decentralized – with important competences allocated to the *Länder,* France has a strongly centralized conception of the *services publics*. National decision makers are therefore reluctant to promote change foisted upon them by the EU. This is mainly because EU intervention is likely to be perceived as intrusive, and the competences of the EU limited due to the absence of proximity with citizens and the local cultural specificities of most SGI (Barbier, 2008).

A second hypothesis relates to how, by modifying the balance in (material or symbolic) resources and power among agents, established policy practices 'affect the social identities, goals and capabilities of groups that subsequently struggle or ally in politics' (Skocpol, 1992, p. 58). More specifically, Smith (2006) has argued that the 'sectorising of the government of Europe' entailed a pro-liberalization bias which favours specific pro-market interest groups over pro-regulation actors, such as political parties and unions which stand for diffuse citizens' interests. In fact, the long existing liberalization and political dynamics along the lines of policy sectors impeded the formation of a broad coalition advocating horizontal regulation. Furthermore, the choice of policy instruments before as well as during the crisis also plays a role: In the post-Lisbon era, soft law has been favoured for the coordination of social policy as opposed to hard law for liberalization and austerity policies. This had negative repercussions on the provision of public services and fostered their further marketization.

However, institutional constraints and historical dynamics do not shape agency in a deterministic way. The ideational context and actors' motivation are also crucial in explaining why some constraints exist and how policy debates dynamically unfold. In this perspective, a third hypothesis relates to the role of discursive interactions, rather than discourse in a structural understanding (Schmidt and Radaelli, 2004). Examining the interplay of institutional settings, on the one hand, and ideas and discourse, on the other, helps explain how coalitions that seek to promote or hinder change can form on the basis of perceived common interests (Crespy, 2010a). Discursive interactions within and among coalitions contribute to shaping policy outcomes in significant ways (Schmidt, 2008). The way in which the respective role of the state and the market were framed was key in shaping policy debates and outcomes prior to the crisis. Later, the dominant framing of the debt crisis as a problem of excessive public spending was bound to weaken the funding of SGI at the national level in a context where the debate over EU wide re-regulation was extinguished.

The chapter therefore argues that the crisis did not puncture but rather reinforced established path dependencies with regard to SGI regulation. Unlike what Pierson claimed in the 1990s (Pierson, 1996), an era which can (arguably) be seen as the political 'golden age' of Social Europe, the trends established since then displayed the weakness rather than the strength of EU policy instruments and political debates in relation to social policy. Due to its political weight in the policy debates prior to the crisis as well as in the broader post-crisis debate, Germany played a crucial role by advocating subsidiarity and defensive national policy as opposed to EU-level regulation. The study relies on in-depth documentary research including documents from the European Commission, its database for online consultations on the SGI, the minutes of the four debates in the plenary session of the European Parliament dealing with SGI, material from the trade unions (especially from the European Public Services Union (EPSU), Eurostat data and academic reports, and to a lesser extent journalistic sources. These documentary sources are complemented by the use of an interview-based study (Mangenot, 2005) as well as two additional interviews with representatives of the main interest group dedicated to SGI and a representative of the EPSU. The chapter consists of three parts. The first part goes back to the economic, legal, and political issues at stake in European policy debates related to SGI. The second part explains why the discussions in the 2000s for the horizontal regulation of SGI at European level ended in deadlock. The third part shows how the policy responses and the discourse aiming at tackling the debt crisis in the EU exacerbated the erosion of both the regulation and funding of SGI in the member states.

2. Services of general interest, integration, and EU politics

2.1. Services of general interest and the transformation of capitalism in Europe

The rising significance of the service sector in the economic structure of developed countries is undeniably a major mutation of capitalism since the industrial revolution. Whether stemming from public or private providers, these services today represent a substantial part of the economic activity in Europe, generating about 26 percent of GDP, employing 30 percent of the workforce, and attracting about 6 percent of all investments (CEEP, 2010).[1] Over the past two decades, public services have undergone a strong process of marketization, that is the recommodification of services which were considered as rights and basic needs which the state had to care for regardless of market functioning. There have been significant differences in the scope, pace, and form of marketization across countries and sectors. However, a number of common trends shed light on the fundamental changes which have occurred. Everywhere in Europe, the marketization of public services has occurred through liberalization, privatization, and deregulation. Liberalization means that markets are open to competition among several providers beyond national boundaries. In the post-war era of the 20th century, public transport, telecommunications, energy and water distribution, education, healthcare, and so on, were provided either directly by public authorities and administration or large national companies integrated in the state apparatus which enjoyed a monopoly. Liberalization has put an end to public monopolies and introduced competition, hence creating markets in areas where the state used to provide services. Liberalization has been partly accompanied by privatization, that is, the transfer of service provision from the public sector to private companies. Today, most sectors nevertheless exhibit coexistence between public and private providers. The end of national monopolies has meant deregulation in the sense that the regulations ruling provision by public companies (notably over prices) had to be adapted within the framework of competitive markets. The ideational shift and the slow yet on-going neo-liberalization of Europe's political economies have had broader implications with regard to the marketization of public services (Chambat, 1990; Keune et al., 2008). It has translated into the end of demand-oriented and debt-friendly macro-economic policy and the rise of the 'sound money' paradigm. In this context, the leitmotif of public services 'modernization' became the main narrative justifying the political intent to reduce public spending as deficits had become a main concern in many countries. The introduction of the new public management principles and internal deregulation of public services have aimed at increasing the efficiency of public services, while the privatization of large public companies has often been seen by governments as a means to quickly provide state revenue.

The deep transformation regarding the realm of SGI has been to a large extent spurred by the building of the European single market through law in the form of liberalization directives. The freedom to provide services was already enshrined in the 1957 Treaty of Rome founding the European Economic Community; however, it has long remained a dead letter. With the tertiarization of European economies, though, services have attracted increasing attention on the part of EU institutions. Since the 1986 Single Market Act that paved the way for a common European market, the EU has actively fostered the policies of liberalization, and/or privatization implemented in a number of member states (for instance in the UK and Germany). This implied pursuing the opening of national markets and subsequent dissolution of traditional monopolies run by national historic operators in a number of sectors (electricity and gas, telecommunications, TV and radio broadcasting, transport).

A degree of re-regulation has occurred at the supranational level as most EU directives include some form of 'universal service obligation' whereby one provider (mostly the former state-owned monopolist), commits to ensure the continuity, availability, and affordability of service provision to all parts of the national territory.

After over a decade of competition in most sectors, the modalities for the regulation and funding of SGI have proved problematic from a public interest perspective. First, productivity gains, the main argument of liberalization proponents, are to a large extent due to cuts in jobs and wages subsequent to marketization, which cannot be disentangled from real efficiency gains due, for example, to better production processes or technology (Flecker and Hermann, 2012). Second, as far as benefits for consumers are concerned, results are also mitigated. While the overall level of satisfaction with SGI is reasonably high, users with lower income and lower education level tend to be less satisfied with the consumer choice paradigm and dissatisfied with higher prices (Van Gyes et al., 2009). Finally, the effective financial compensation of the cost for the provision of universal services is also problematic. More generally, such issues result from the fact that private companies on competitive markets focus on the most profitable segments of the market – a practice which is known as 'cherry picking' – which is often in contradiction with the general interest.

In brief, the economic, legal and political developments affecting public services reflect the changing state-market-society boundaries (Fereirra, 2005).

2.2. Legal and political issues

While it is mainly framed as an economic or legal problem in the literature, the regulation of markets for services at the EU level actually entails crucial political and legitimacy issues for the EU. The legal intricacies and the political misunderstandings linked to SGI are to a large extent rooted in culturally constrained understandings of such services across the continent. The French notion of *service public* is probably the most encompassing and it is closely linked to the role of the state as both a provider and regulator (including prices). It goes far beyond the narrow understanding of the public service in Britain as it traditionally covers all sectors where a general interest can be identified. In continental federal states, such as Germany and Austria, the provision of public services is traditionally largely decentralized. The *Länder* retain important competences for the regulation of *öffentliche Daseinsvorsorge* (public essential services) and local authorities have important implementation powers. in Central and Eastern European countries, the model of ubiquitous and free-of-charge public services during the Communist era was rejected after the transition to capitalism and the different countries have followed various paths with regard to the re-introduction of a notion of 'public services' into their legal system. The notion of SGI coined in EU law aims at encompassing this diversity through a neutral stance as to whether general interest can be better ensured at a central or local level, and by public or private providers. The key point here is that the notion of SGI has been in constant flux in EU primary and secondary law since its first mention in the treaty of Rome. It has now been broken down into three different legal concepts leaving only a small part of services defined as 'non-economic', hence not affected by EU law (read liberalization).[2]

In 2004, the EU Commission put forward the Services Directive that aimed at liberalizing all services activities in the EU. The regulatory barriers to the free movement of services within the EU and the persisting fragmentation of national markets had been identified by the Commission as a main obstacle to the achievement of the Single Market in a sector of the economy that stands for about 70 percent of GDP and employment in the EU today. The Services Directive was therefore a key measure in the Lisbon strategy launched by the EU heads of state and government at the Lisbon European Council in 2000. No distinction was made between public and private services as the draft directive included a number of SGI such as (non-mandatory) education, health services, and social assistance. Because of its radical approach to liberalization and deregulation, the draft put forward by the EU Commission triggered fears about social and regulatory dumping as well as firm strategic out and near-sourcing across the EU. 'Bolkestein'[3] became the symbol for the defence of 'Social Europe' against the neoliberal bias of the EU. The issue was highly politicized and a broad coalition actively resisting policy change formed as left-wing political parties, the anti-globalization movement, and trade unions mobilized to a hitherto unseen extent. Two major euro-demonstrations gathering about 50,000 people took place in Brussels and Strasbourg in 2005 and 2006. The Services Directive famously played a great part in the failure of the French referendum on the ratification of the European Constitutional Treaty held in May 2005. The pressure from public opinion and civil society led the EU institutions to soften the de-regulatory nature of the proposed legislation and allow for the preservation of some national rules in sensitive areas related to SGI, labour law, and the mobility of workers.

The Commission's initiative for the liberalization and deregulation of services markets was all the more contested because it interfered with a long-running debate in the same policy area: the adoption of a framework directive on SGI. The purpose of such a directive was to establish regulatory rules for restricting competition where it is problematic with regard to the provision of services that address basic needs. The distinction between economic and non-economic services determines whether the EU competition rules apply to services (especially the prohibition of state aids and the capacity of states to impose regulatory obligations upon foreign services providers). Because this distinction remains a 'grey area' in EU law, states have been even more constrained in their capacity to finance and regulate public services. The first move towards an SGI policy at EU level was the introduction of the Article (16) on the Services of General Interest in the Treaty of Amsterdam. It was mainly French political actors that put the issue on the agenda in the aftermath of the large strike 1995, in which effects of EU integration on the 'French social model' played a great role (Héritier, 2001). Since then, legal scholars have continuously analysed the tension between public and private law as well as between economic competition and public interest (Prosser, 2005; van de Gronden, 2009). The asymmetric policy regime – with strong exclusive Commission competences in the field of competition and shared fragile EU competences in the realm of social policies – has been increasingly seen as problematic: It features the clash between market integration by means of deregulation at the EU level and long-established regulated social models at the national level (Joerges, 2009).

Since the early 2000s, the regulation of public services at the European level has been a recurrent issue in the realm of EU politics. In 2001, the EU Commission put forward a Green Paper that was accompanied by a consultation of stake holders, including large SGI providers, local, regional, and national authorities. In 2004, the Commission took an additional step towards the legislative procedure with a White Paper. Both papers were discussed in the EP that subsequently passed resolutions. The Party of European Socialists as well as unions and lobbies unsuccessfully carried out a campaign asking for a European framework directive on services of general interest in 2006. The agenda for SGI regulation was moreover consistently supported by the French government. More recently, the Lisbon Treaty has provided a legal basis for a European regulation of SGI. However, Article 14 of the Treaty on the Functioning of the Union and the new Protocol on the SGI did not result in legislation. The European Commission has repeatedly refused to put forward such a proposal on the grounds that there was neither a legal basis in EU law nor a clear political demand from the Council and the Parliament for such a move. The next section explains why the long debates over potential EU legislation on SGI in the 2000s did not result in any major policy initiative in the field.

3. Pre-crisis path dependencies

3.1. Inertia due to contrasted national traditions

When tracing the debate over SGI regulation and EU policymaking, it can be said that national decision makers were eager to preserve their own arrangements for SGI regulation. First, this is reflected in the constitutionalization process of SGI. The distinction between economic and non-economic services determines whether the EU competition rules apply to services (especially the prohibition of state aid and the capacity of states to impose regulatory obligations upon foreign services providers). Because this distinction remains a 'grey area' in EU law, states have been even more constrained in their capacity to finance and regulate public services. This section focuses on France and Germany which have been the two key players in this debate. France has traditionally tried to preserve – if not to upload – its traditional state-led model of *service public*. Whether left or right-wing, successive French governments have seen the extension of protective regulation at EU level as a way to re-balance the dominant liberal approach. When the debate started in 2000, Germany was governed by a red-green coalition under Gerhard Schröder and was therefore potentially a strong ally for the pro-EU regulation camp. In the EU-15 (before 2004), France and Germany had the bulk of votes in the Council and could have advanced such an initiative. France was furthermore supported by Belgium, which was a traditional advocate of a framework directive on SGI. Additional supporters included the Directorate General of Employment and Social Affairs and the European Parliament. However, a number of governments, including the UK and Austria, were clearly opposed to the intrusion of the EU into the domain of national public services.

The first move towards an SGI policy at EU level was the introduction of Article (16) on the Services of General Interest in the Treaty of Amsterdam. The French government played a pronounced role, having had to face a major strike where Europe was depicted as a major threat to the 'French social model' in 1995 (Héritier, 2001). The discussion was re-opened with the European constitutional treaty and its successor, the Lisbon treaty, providing an ambivalent result. The new Protocol on SGI annexed to the treaty puts the stress on subsidiarity, the diversity of SGI traditions in Europe, and the autonomy of local, regional and national authorities with regard to the organization and financing of SGI (Crespy, 2010b) rather than on a necessary common EU policy.

Second, Germany has been a major veto player with regard to a further involvement of the EU in SGI regulation. During the discussions on SGI at the Laeken European Council in 2001, the German government expressed concern about a potential European framework. In the 2003 consultation on the Green Paper, it strongly expressed its position against a legislative proposal; so did the joint Brussels-based office of the three biggest German *Länder*. The reflections of the Commission in the 2004 White Paper similarly provoked strong opposition from the *Bundesrat,* which considered there was 'neither a European competence, nor a need' for such a move. In 2007, the petition for the protection of public services launched by the mayors of ten major European cities was not signed by Klaus Wowereit, the Social Democratic mayor of Berlin, illustrating quite well the German focus on subsidiarity at the local and regional level.

Third, while France has championed the idea of an EU framework directive, it has also proved conservative in other respects. The French government has for instance insisted on preserving arrangements criticized by the EU Commission, and has opposed the setting up of a common European regulatory body for SGI. While resistance to change among the member states is a well-known phenomenon in the literature on EU studies, this chapter will expand more on two other aspects which played a crucial role.

3.2. The sectorization of EU policymaking

The European Commission never really had a political agenda regarding SGI. In the aftermath of the adoption of the Single European Act in the late 1980s, the Commission advocated the end of national monopolies and the opening of networks and infrastructures to third (that is foreign and private) providers in the sectors of telecommunications (1988), TV and radio broadcasting (1989), transport (1991), and energy (1996 and 1998). Such liberalization directives contain a revision clause which has brought about the continuous extension of liberalization to services provided to the public at large. Policymaking on SGI has therefore historically been established on a sectoral basis. When the EU Commission suggests initiating horizontal legislation on SGI in 2000, it is has already engaged in a sector-based dialogue with sectoral actors. This brought about two consequences: On the one hand, national preferences were focused on the sectoral approach; on the other hand, the preferences of sectoral actors (regulators and firms mainly) prevailed over the organizations presenting diffuse interests.

On the part of the German authorities, there is a strong belief that the sectoral approach can circumscribe the influence of the EU as they claimed in their contribution to the public consultation accompanying the Commission Green Paper in 2003.[4] While it favours the setting up of a broad horizontal legal framework for SGI, the French government also claimed that sectoral liberalization had been a success and that sectoral rules should not be called into question or affected by a potential framework directive.[5] The possible inconsistency between the existing sectoral rules and a new broader framework actually raised concerns among many stakeholders. Whereas the French government has officially supported the adoption of framework legislation, the position papers of the main French – former or still public – firms (*France Télécom, la Poste*, EDF, GDF) reflect a more ambiguous assessment.[6] Private firms represented by the employer association MEDEF have opposed EU framework regulation. These positions clearly contrasted with contributions sent to the EU Commission by citizen organizations, such as the *Ligue des droits de l'homme* or ATTAC, which formulated principle claims for the recognition of the fundamental nature of SGI for society as a whole and denounced their marketization.

An interview-based survey conducted among European organizations in 2004–2005 leads to similar conclusions as to the 'structuring sectoral logics related to real specificities as well as actors' logics related to their position in the constellation' (Mangenot, 2005, p. 155).[7] While the European Trade Union Confederation (ETUC) (pro-directive) and the employer association Business Europe (anti-directive) oppose each other, the consumers' organization (BEUC) and the platform representing public or mixed firms (CEEP) display reserved positions. More strikingly, European providers and regulator organizations expressed strong scepticism towards the potential added value of a horizontal framework with regard to existing sectoral rules in their sector (Mangenot, 2005, p. 168). Due to uncertainty on the interaction between sectoral and horizontal rules, many actors are sceptical or even clearly opposed to the initiation of a framework directive on SGI. This was a strong deterrent for the Commission since it seeks to have the widest support among stake holders before initiating legislation.

The adoption of the above-mentioned Services Directive in 2006 further locked in the sectoral approach, thus obstructing horizontal regulation. It had legal and political consequences that both reinforced sectorization. From a legal point of view, it practically dissolved the notion of SGI as a unified concept by allowing seven configurations according to which different SGI can be submitted to different legal regimes (Van den Abeele, 2005, p. 28). From a political point of view, the shock created by the large scale protest against 'Bolkestein' had a strong though paradoxical effect on the Brussels political microcosm. The new Barroso Commission appointed after the European election in June 2004 was traumatized and politically weakened by the controversy. It was afraid that a framework directive on SGI with a broad scope of application could similarly trigger protest by a large coalition of political actors dissatisfied with the proposal.[8] The issue of SGI regulation had become so sensitive politically that it was taken away from the Directorate General for the internal market, where the draft Services Directive under the supervision of Commissioner Bolkestein had been elaborated, and transferred to the General Secretariat. As a result, the Commission favoured a sectoral approach to the left-overs of the Services Directive with two communications on social services in 2006 and 2007 confirming that the idea of a framework directive had been abandoned in favour of a sectoral approach.

Interestingly, the sectoral approach by the EU Commission went hand-in-hand with a further sectorization of interest representation. A few months after the adoption of the Services Directive, the Party of European Socialists (PES) as well as the ETUC attempted to counter the effects of the Services Directive with a public campaign for a framework directive on SGI. The PES set up a group made of MEPs, lawyers, and experts on SGI that drafted a framework directive proposal for SGI regulation and symbolically handed it in to the European Commission. After liberalization was set as a direction by the Services Directive, this initiative had little echo and no practical effect. As for the ETUC, it tried to mobilize national constituencies with a petition for the defence of public services. But, for various reasons, the initiative failed to garner strong support among the national trade union member organizations and the signatories of the petition were mainly concentrated in France and Belgium.[9] After the adoption of the Services Directive, which they saw as a major failure, the third sector organizations and groups (mainly French) which had campaigned for the adoption of a framework directive on SGI decided to set up a lobby focused on social SGI, the *Collectif SSIG,* whose main objective was to gain 'sectoral visibility' (Collectif SSIG-FR, 2006, pp. 8–9).

To sum up, the dynamics of the policy debate over SGI regulation displays a pattern of self-reinforcing lock-in, where the established sectoral practices impeded the formation of a strong coalition in favour of EU regulation of SGI. Furthermore, the effects of sectorization were mediated and constructed in the discursive interactions taking place in the parliamentary arena.

3.3. The lack of a consistent discourse among regulation advocates

This last section analyses the discursive interactions between French and German Social Democratic and Conservative members of the European Parliament (MEPs) in the four plenary sessions dealing with SGI between 2001 and 2006. It will demonstrate that the sectorization of policymaking had an impact on the debates. But inconsistency in the discourse of the pro-regulatory camp (namely, the Social Democrats and the French) was not only related to the issue of sectoral vs horizontal regulation; it was also due to ideological discrepancies which brought about unresolved tensions in their discourse.

In the first debate on the Commission's Green Paper in 2001, the Conservatives were not opposed to the idea of adopting a framework directive regulating SGI, as accounted for by the Report of the German Conservative, Werner Langen. An in-depth frame analysis[10] of the minutes of the debates (Crespy, 2012) demonstrates how an anti-directive position crystallized within the European People's Party (EPP), while the pro-directive stance of the PES has faded over time. In 2001, the salience of the sectoral approach was quite low for both political groups but EPP representatives increasingly advocated the sectoral approach (as opposed to a framework directive). The debate over the Rapkay report in 2006 was a turning point, with a strong polarization between PES and EPP. This debate took place about six months after the decisive parliamentary compromise over the Services Directive that, in spite of some derogatory provisions, made liberalization and deregulation the rule and the persistence of national regulation the exception. For the Conservatives, it was clear that this speaks against the adoption of a framework directive regulating SGI. Thus, the struggle was lost by the advocates of a framework directive, as in 2007 the idea of horizontal regulation had clearly been abandoned and the debates exclusively focused on social SGI.

A second dimension of framing which impeded the adoption of horizontal framework legislation was the irresolvable tension between a market frame and a general interest frame in the discourse of the Social Democrats. Overall, the idea that SGI were primarily about serving the general interest is increasingly weak in the Conservatives' discourse while being more salient in the speeches by PES MEPs. At the same time, however, the market frame also gained considerable ground among the Social Democrats over time. Whereas the Conservative discourse became increasingly coherent over time – with a stress on the market frame – the discursive strategy of the Social Democrats was inconsistent in the sense that it both polarized and converged with the discourse of the EPP.

A third central component of the debate dimension relates to the distribution of competences between the EU and the member states through the subsidiarity frame. This frame is clearly championed by German MEPs, but also by Conservatives in general. Again, the discourse of the Social Democrats displayed a convergence with the EPP's discourse over time. For the EPP, the preservation of local autonomy meant the absence of a framework directive, thus the absence of derogations from competition rules. Among the Social Democrats there was a discrepancy between a defensive and an offensive vision. For the Germans, the defence of subsidiarity aimed at protecting the social tasks of the SGI at the local level. For the French (and the Belgians alike), by contrast, subsidiarity alone could not achieve this goal. By 2006, however, subsidiarity became a central concern and has gained ground even in the discourse of French MEPs.

In a nutshell, the debates in the EP between 2001 and 2007 provide evidence that ideological divergence has been a significant obstacle in the pro-regulatory camp to persuade a majority of MEPs that there was a need for a framework directive on SGI. Discrepancy relates to the respective boundaries of the market and general interest, on the one hand, and to the articulation of social democratic policy goals with subsidiarity, on the other. As a result, a majority within the EP crystallized on an anti-regulation stance. It is therefore argued here that the existing ideological and discursive discrepancies within Social Democracy are a further impediment in addition to national institutional conservatism and the sectorization of policymaking. This explains why the PES has remained caught in inertia with regard to a policy issue that has epitomized their incapacity to advance the realization of a political project defined as 'Social Europe'.

4. Services of general interest: An adjustment variable in the era of austerity

4.1. Fierce conflicts regarding the SGI

The public sector and publicly provided services have been the main target of austerity policies in all European countries since 2008. This, of course, has been particularly acute in countries where austerity plans designed by the so-called Troika (the European Central Bank, the International Monetary Fund, and the European Commission) have been setting conditionality for the granting of financial loans like in Greece, Ireland, or Spain. However, this also holds true for countries which are seen as better off, like the UK, which was directly involved in the financial rescue of the common currency (see Box 6.1) (Baskoy, undated).

Even Germany, the eurozone's economic hegemon, adopted the largest austerity plan in the post-war period in June 2010. The so-called 'package for the future' (*Zukunftspaket)* foresees 80€ billion cuts – i.e. 0.8 percent of GDP – by 2014. 10,000 job cuts in the public sector were foreseen by 2014. Nevertheless, the poorer countries of the Baltic and Eastern periphery have suffered most heavily from the financial crisis as dramatic cuts in numerous SGI sectors have led to a decrease in welfare standards (see Box 6.2).

Box 6.1 Public sector in the UK

In its 2009 Budget, the British government set the target of saving £9 billion a year amounting to a total of £35 billion by 2014 by:

- ✓ selling government buildings and the privatization of state-owned enterprises such as the Royal Mail
- ✓ contracting out some welfare services
- ✓ efficiency measures in health, education, transportation, local government, privatisation of jails, and restrained salary increases to public sector workers
- ✓ cutting 10,000 jobs in local authorities in 2010
- ✓ cutting 350,000 jobs in the central public sector between 2010 and 2014

Source: Boskoy, p. 15.

Box 6.2 Healthcare in Bulgaria

The Bulgarian government plans since 2009 have included:

- ✓ reduced rights: 380,000 Bulgarians lost their rights to free healthcare.
- ✓ cuts in healthcare spending: the state budget for hospitals was cut by 24 percent in 2009 alone, and the overall budget for 2010 was cut by 16 percent. Total healthcare spending fell to 4.2 percent of GDP, far lower than other European countries.
- ✓ closing 21 large hospitals, and closing or reducing 130 other centres – out of a total of 350 hospitals.
- ✓ privatization of hospitals and services: the health minister stated in 2010 that 'Privatisation is the way to go. There must be privatisation of both hospitals and the services provided by hospitals'.

Source: PSIRU Cuts Watch Brief, Bulgaria, University of Greenwich, 23 November 2011.

Besides publicly run services, some problematic aspects in the liberalized network industries have been more salient as the crisis has hit societies. The price of energy, for example, has become increasingly problematic for a large number of households as their income share dedicated to energy has steadily increased over the past years. In the UK, the proportion of household expenses accounted for by gas and electricity rose from 1.8 percent in 2003 to 3.1 percent in 2013. The rise of energy prices has been associated with the stagnation – or even decrease – of real wages, which has dramatically affected the resources available to households. In Belgium, for example, expenses for energy have increased four times faster than workers' wages between 1997 and 2009. This trend has strongly accelerated since 2008. In the countries which have faced an explosion of public debt (Latvia, Cyprus, Portugal, Spain, Ireland), the need for increasing state revenue has led to double-digit rises of taxes on energy.

Austerity measures directed at SGI have counter-productive effects in three respects. First, massive job and wage cuts in the public sector are bound to accentuate high unemployment levels and poverty rates. Poverty is skyrocketing even in the most affluent societies in Europe. In Germany, charity organizations and NGOs are becoming a substitute for social services (Spiegel, 2013). Second, the dismantling of SGI is short sighted and fails to prepare societies' welfare for the future. Current reflections on the modernization of European welfare states converge on the idea of a necessary shift from social insurance and money transfer to the concept of an active welfare state providing enabling services (Esping-Andersen, 2000; Kautto, 2002). However, what we have witnessed over the past few years is the cut of social benefits combined with insufficient or absent investment in SGI (see Figure 6.1).

It has for example fallen from 4.5 to 1.4 percent of GDP in Spain and from 2.6 to 1.7 percent in the UK (from 2.9 to 2.1 percent in the EU 27). Whether, and under what conditions, the private sector will take up the role as an investor in efficient infrastructure and high performance services remains to be seen.

Third, as the state withdraws, austerity accelerates the privatization of public services. While the provision of SGI by private companies is not wrong as such, there are good reasons to fear a decrease in the egalitarian provision of services to all segments of societies. Because profit-making is the goal of private providers, they tend to focus on the most profitable territories and customers. For this reason, the privatization of SGI should go hand-in-hand with efficient regulation by the state and control by regulatory bodies. But efficient regulation is hard to achieve in practice

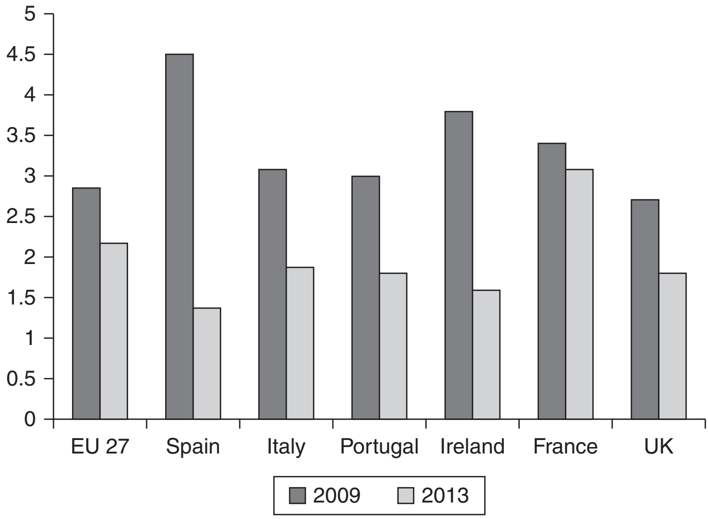

Figure 6.1 Evolution of public investment in the EU 2009 and 2013 in percent of GDP
Source: EPSU, Austerity and the alternatives, October 2013, p. 13.

(Petretto, 1998). Thus, the expected result of this development is less the modernization of SGI provision than its dualization. This means that publicly provided services have a residual role reflecting exacerbating inequalities; while better-off citizens can afford quality services, the less well-off majority will have to deal with 'low cost' services, and poorly endowed public authorities will remain responsible for addressing the basic needs of the most vulnerable segment of society.

European societies therefore seem to be caught in a blatant paradox. In spite of being crucial stabilizers limiting the impact of depressed economic conditions on individuals and lying at the centre of welfare states' modernization, SGI have been a main target of responses to the debt crisis. This has dramatically accelerated the shift of SGI provision to market forces and further weakened social cohesion. The next two sections examine the institutional and discursive factors which can explain this paradox.

4.2. Continuing path dependencies: Soft social policy vs hard austerity

Path dependencies in SGI policy described in the previous sections have been only reinforced by the broader context of the great recession and the current era of austerity since 2009–2010. From an ideational point of view, this has meant a further weakening of social policy objectives in a context where the enforcement of austerity has clearly been at the foreground. From an institutional point of view, soft law instruments for social policy coordination have been increasingly subordinated to new hard law instruments for enforcing fiscal discipline. All of this has contributed to the further marginalization of issues related to the satisfactory provision and funding of SGI.

Since 2010, a new governance framework has emerged which serves to tighten macro-economic coordination (including fiscal and social policy) in response to the debt crisis. Progressively, the various instruments have coalesced into the European Semester, whereby the EU Commission monitors the economic and social situation in the member states and formulates recommendations (which are endorsed by the Council) for them to consider while planning reforms and conceiving their budget. Although these recommendations are technically soft law, the European Semester is connected to recent regulations. Through the 'excessive deficit procedure' the Commission can propose to the Council to enforce financial sanctions in the case where member states fail to take 'corrective action' to tackle excessive deficits. A main consequence of budget austerity has been that available public resources for funding the core tasks of the welfare state have shrunk. An in-depth study of all country specific recommendations issued by the Commission and Council in the framework of the European Semester since 2011 shows that these have been mainly schizophrenic. Member states are urged to bring their levels of deficit and debt down in the shortest possible time span lest they incur the excessive deficit procedure, while, at the same time, they are advised to dedicate resources to a number of SGI areas (education, services to jobseekers, childcare, and transport infrastructures) in order to address policy needs and stimulate their economy. The enforcement of fiscal discipline through hard law procedures has clearly resulted in cuts in funding and the drying out of investment as explained in the previous section.

Moreover, in a context where public debt is seen as the main cause or manifestation of the crisis, the funding or re-regulation of SGI has been further marginalized while, on the contrary, neoliberal recipes have remained high on the agenda. This has implied the continuation of an SGI policy which can be qualified as a 'negative' integration policy in two respects: indirect regulation of SGI through competition policy, and market integration through sectoral liberalization. First, the European Commission has sought to address criticism by local and national public authorities regarding the legal uncertainty of state aid, that is, rules relating to public financial support to SGI providers in the framework of the internal market competition policy. The reform of the so-called Monti-Kroes package from 2005 took until 2012 to be implemented in the incarnation of the Almunia package.[11] Although it is too early to assess the effects of the new rules on the provision of SGI, legal scholars nevertheless seem to agree that, while providing more flexibility for local and social SGI, mainly by granting them derogation from notifying public financial support to the Commission, the new rules also bring about more complexity in other respects (Szyszczak and van de Gronden, 2013). More particularly, the more stringent control by the EU Commission on the definition of SGI, on whether it is provided in an efficient way from an economic point of view, and to what extent public compensation may distort cross-border competition is contentious, and shows that the line between member state and EU competences remains blurred.

Second, sectoral sectorization in the network industries and elsewhere has been ongoing. In 2009, a third energy package (gas and electricity) was adopted. Whether the new agency for the cooperation of energy regulators established in Ljubljana in 2011 will put the emphasis on unifying energy supply or monitoring prices in the interest of consumers remains to be seen. The third postal directive adopted in 2009 brought about the full opening of the markets for all products and customers in all EU countries in 2012. At the time of writing, the fourth railway package is about to be adopted. In the six legislative proposals involved, the EU Commission has among others proposed the full liberalization of services to passengers. It is difficult to foresee the consequences of these policies for the affordability and equality of SGI provision, notably because the European Commission has stopped conducting sectoral evaluation of liberalization policies since 2006.

Third, the deadlock resulting from the adoption of the Services Directive and the failure to initiate a new framework directive in the late 2000s left soft coordination as the only available policy instrument. A non-legally binding voluntary Common Quality Framework was adopted in December 2011 (European Commission, 2011a), which was only possible because of the 2010 Belgian Presidency's activism. Such a framework, however, is not expected to produce major results on the ground. The EPSU has underlined that the EU Commission advocates non-mandatory quality standards but makes no proposition as to how the existing legal provisions (the Charter of Fundamental Rights, the Protocol 26 on SGI, and the Article 14 TFEU) could be used in order to tackle problems related to SGI provision (EPSU, 2012). The Belgian Presidency, together with some MEPS (notably Proinsias De Rossa[12]) tried to relaunch the political dynamic on SGI by advocating the creation of a high level group on SGI but the initiative met the resistance of most member states as well as the Commission. Similarly, new policy initiatives have remained in the realm of wishful thinking expressed through weak instruments. In February 2013, the European Commission launched an initiative to encourage social investment (European Commission, 2013) which consists essentially in recommendations of the EU Commission urging the member states to invest in education, training and healthcare. This agenda is supported neither by legal instruments nor by financial resources (with the exception of some of the European Social Fund). The fact that the Commission names children and young people, jobseekers, older, disabled, and homeless people as the main addressees of its social investment strategy reflects the logic of residual SGI explained above where public authorities concentrate on the most vulnerable groups. The same can be said about the creation of a European Platform against poverty and social exclusion, a main 'flagship initiative' in the framework of Europe 2020.

All in all, soft instruments have proved to be in no way appropriate to deal with the devastation affecting SGI provision caused by austerity policies enforced through stringent macro-economic instruments.

4.3. Contradicting frames and the ongoing marketization of general interest

Before, and even more so after, the outbreak of the debt crisis, efforts to maintain adequate funding and regulate SGI have not gone beyond the rhetorical recognition of their importance for social cohesion. As it has been stressed, the reflection on SGI at the EU level has been gradually reduced to social services since the early 2000s. Even in this realm, the general interest frame has been consistently associated with the contradicting market frame. On the one hand, the discourse in EU institutions has stressed the underpinning principles of solidarity and social cohesion. Policy objectives have therefore included quality, safety, affordability, and equality of access by all citizens, and especially the most vulnerable (European Commission, 2006). In 2006, the EU Commission claimed that social services are 'not for profit' (Ibid., p. 5). On the other hand, it is clear that SGI are conceived as part of and of the internal market, which means subjected to rather than exempted from competition law. In fact, the idea of SGI modernization has been consistently conveyed by using a market frame.

> Social services constitute a booming sector, in terms of both economic growth and job creation. They are also the subject of an intensive quest for quality and effectiveness. All the Member States have embarked upon modernization of their social services to tackle the tensions between universality, quality and financial sustainability.
>
> (European Commission, 2006, p. 5)

The common trends across the member states have been the introduction of managerial methods such as benchmarking, decentralization to the local level, the outsourcing of public sector tasks to the private sector, and funding through public-private partnerships.

This discourse has logical implications. It articulates public spending in social services as the main problem and privatization of provision, and funding as the main means for modernization. As a consequence, the approach prevailing on the ground in the member states and promoted by the EU Commission is one that makes private companies the main actors responsible for tasks which have been described as serving solidarity and not geared towards profit. The privatization of social services has also been increasingly presented as a source of growth and jobs (European Commission, 2009).

While this approach has found roots in the political discourse in the course of the 2000s, the impact of the financial crisis has accentuated the existing contradictions in two ways. Not only have the needs for SGI been increased for an ever increasing number of vulnerable individuals within European societies, the debt crisis has also dramatically diminished the public resources available for funding these very services. Although the collapse of the financial sector and the accumulation of private debt have been the core problems in most countries, that is, a crisis of the contemporary model of growth, the dominant narratives have focused on the crisis of debt frame (Hay and Wincott, 2012, p. 217). In this perspective, the allegedly excessive costs of public services are construed as an additional problem which justifies an acceleration of marketization as accounted for in several statements made by European decision-makers amongst whom the Commission President:

'At a time when public authorities are confronted with the need for fiscal consolidation, it is essential to ensure that right framework is in place so that high-quality services can be provided as efficiently and cost-effectively as possible' (European Commission, 2011b).

In its recent communication on social investment, the recommendations made by the European Commission to tackle the challenge of funding SGI are the following:

> Resources for social policies are not limited to those from the public sector. A non-negligible part comes from people and families. In addition, non-profit organizations provide social services on a substantial scale (...) Social enterprises can complement public sector efforts, and be pioneers in developing new markets, but they need more support than they are receiving now. The for-profit parts of the private sector would need to be further encouraged to use the potential of social investment....
>
> (European Commission, 2013, p. 5)

It is recommended that states short of resources should appeal to public charity, on the one hand, and to the markets, on the other, for the delivery of basic services to impoverished populations. It is therefore clear that the ubiquitous public debt frame leaves no space for policy initiatives which follow the logic either of solidarity or social investment.

5. Conclusion

The objective of this chapter was twofold: first, to present the state of the political debate about SGI before the crisis, and, second, to assess how the outbreak of the financial and debt crises in Europe has affected the existing problems. Drawing on both historical and discursive institutionalism, a number of factors have been highlighted which explain why, in spite of a long debate about the need for a specific regulation *vis-à-vis* competition policy, no substantive EU policy has been pursued. From an institutional-historical point of view, the contrasting traditions for SGI organization and funding have deprived the EU Commission of the support of major member states, in particular Germany, for an EU legislative initiative in the field. Another crucial factor has been the entrenched sectorization of policymaking through liberalization pursued by the EU in numerous SGI sectors since the late 1980s. This has prevented the formation of a powerful intersectoral coalition. In addition, the pro-regulation actors (mainly the Social Democrats and trade unions) had no consistent discourse in the debates as they have gradually adopted the market and subsidiarity frames used by the Conservatives, the Liberals, as well as a part of German Social Democrats.

Political inertia and the ongoing marketization of SGI have only exacerbated throughout the unfolding of the crisis. SGI have been a main target of austerity policies with dramatic cuts in funding and jobs in the public sector. While austerity has been enforced by new rules and instruments, including at the constitutional level, efforts to ensure adequate SGI provision have only been the subject of soft law and recommendations. More generally, social policy objectives and instruments have been marginalized in the framework of Europe 2020. Meanwhile, sectoral liberalization in energy, transport, education, culture, and so on, is ongoing. Again, the discursive dynamics are essential to understand why, while they are recognized as a main stabilizer in times of crisis, SGI have been the main victim of governments' responses to the crisis. Because the crisis has been framed exclusively as a matter of excessive public spending, governments have accelerated the delegation of public interest tasks to the markets, and, to a lesser yet increasing extent, charity organizations. Besides obvious problems regarding the serious threats to social cohesion which have been highlighted in the chapter, the failure of states to provide collective goods and services responding to societies' basic needs brings about popular distrust in parliamentary democracy, a theme that has been recently raised by a group of renowned scholars interested in both party politics and political economy in Europe (Schäfer and Streeck, 2013).

Notes

1. Public Services – Supporting The Very Fabric of European Society. Brussels: European Centre of Employers and Enterprises providing Public Services (CEEP), available at: http://www.ceep.eu/images/stories/pdf/publications/activityreport2010.pdf (accessed 26 January 2015).
2. Services of general economic interest (SGEI) cover all utilities (including post) and have been subject to liberalization directives. Social services of general interest (SSIG) cover all welfare services (health, child and elderly care, assistance to families and the poor, social housing, education and training, culture, etc.) and are partly subject to the EU competitive regime. Only non-economic services of general interest (NESGI) remain outside of the scope of EU competition law (army, police, justice, primary and secondary education).
3. Frits Bolkestein was the (Dutch) Commissioner for the Internal market from 2000 to 2004 and the promoter of the Services Directive.
4. Paper position from the Federal Republic of Germany about the Commission Green Paper on Services of General Interest (Stellungnahme der Bundesrepublik Deutschland zum Grünbuch zu Dienstleistungen von allgemeinem Interesse der Europäischen Kommission KOM(2003)270), September 2003.
5. Note by French authorities, Response to the Green Paper of the European Commission on Services of General Interest), no date.
6. Idem.

7. This study is based on a series of 16 interviews with European providers organisations (in the sectors of railways, postal services, electricity), with regulation authorities (telecommunications, audiovisual, postal services), in the Commission Directorate General for Competition, with the ETUC, the CEEP (public enterprises), UNICE (business), the BEUC and the European Economic and Social Committee.
8. Interview with a lobbyist for the *Collectif SSIG*, Brussels, September 2010.
9. Interview with a representative of the Belgian General Confederation of Public Services, Brussels, February 2008.
10. Frame analysis relies on the detection of the main ideas and discursive elements which determine the direction and content of a debate by setting the boundaries of what is inside and what is outside the frame. Frames serve to hold all the more specific elements of discourse together.
11. Joaquin Almunia is the current Commissioner for competition policy. Official Journal L7, 11.01.2012, pp. 3–10; Official Journal C8, 11.01.2012, pp. 15–22; Official Journal L 114 of 26.4.2012, p. 8.
12. Proinsias De Rossa was the Rapporteur on the European Parliament resolution of 5 July 2011 on the future of social services of general interest (2009/2222(INI)).

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7

Social Europe: From 'Add-On' to 'Dependence-Upon' Economic Integration

Paul Copeland and Mary Daly

1. Introduction

Under its new economic reform strategy, Europe 2020, the EU has committed itself to reducing poverty and social exclusion by 20 million by 2020. Despite several decades of the EU engaging in the policy area of poverty and social exclusion, this is the first time it has set itself a quantitative target. A further encouraging aspect of this recent development is that the governance process of Europe 2020, known as the European Semester, incorporates the target. After its re-launch in 2005, the Lisbon Strategy was criticized for focusing too much on growth and jobs, and relegating the social objectives to a secondary priority or 'add-on' status. Both these developments suggest significant progress towards the integration into the EU of poverty and social exclusion and a deepening of social Europe.

In 2014, we wrote an article in which the purpose was twofold: first, to illustrate the importance of applying a political sociology approach to the topic of governance architectures and their individual policy components; and second, to specifically analyse the significance of the Europe 2020 poverty target and the likelihood of it being able to achieve its aims. Here we return to the topic in light of recent developments in the EU's economic governance and the increased political activity surrounding the poverty target. The chapter argues that Europe 2020 and the European Semester further embed the dominance of market-led integration across the EU by shifting social Europe from a historic 'add-on' to economic objectives, to that of 'dependence-upon' economic objectives. In other words, reforms surrounding the EU's economic governance, while fully incorporating the Europe 2020 poverty target into the process, construct a political hierarchy in which member-state action within the field is more or less dependent upon the 'soundness' of the domestic financial situation. European economic governance therefore constructs an ideological straightjacket in which 'sound' public finances at the national level are the overriding priority for the process of European integration and the poverty target suffers as a result.

This chapter is structured into five main parts. The first part considers the existing literature on EU governance and social/employment policy. We reiterate our belief that to fully understand developments in any policy area one needs to pay attention to the political strategies that privilege certain interests and actors over others, create hierarchies and dependencies of priority, and reflect a broader set of socio-political inequalities among actors and interests. From there the remaining four parts explain the Europe 2020 poverty target, analyse its relationships and connections in Europe 2020, scrutinize the EU's emerging economic governance, and its implications for the poverty target, as well as those in response to the political climate by social actors.

2. New modes of governance and the importance of political sociology approaches

The literature on new modes of governance in the EU has been extensive, particularly in the fields of EU employment and social policy (Trubek and Mosher, 2003; Büchs, 2007; Heidenreich and Bischoff, 2008; Mailand, 2008; Zeitlin, 2009; Velluti, 2010; Graziano, 2011; Gwiazda, 2011). Given that the EU has long been characterized by a constitutional asymmetry that prioritizes market integration and market efficiencies over social cohesion (Scharpf, 2009), the use of open methods of coordination (OMC) within both the Employment Strategy and the Lisbon Strategy gave optimism to those who aimed for a rebalancing of the process. With its targets, benchmarking, and periodic review, the OMC appeared to optimize a European compromise that would allow for progress within the social dimension without impinging on the sovereignty of members. The optimism surrounding the launch of the Lisbon Strategy should not be underestimated and is best captured by Rhodes (2000, p. 3) who argued that providing the political will exists: 'Lisbon may one day be considered Europe's "Maastricht" for the welfare state'. Rhodes' point is important, not just because he captures the mood across the EU at the turn of the century, but also because he contextualizes his claim by highlighting the necessary links between the political dynamics surrounding new modes of governance and their ability to meet the desired objectives. In other words, as a legally non-binding mode of governance, the absence of any 'hard' consequence, such as being referred to the European Court of Justice (ECJ) by the European Commission, requires a strong and consistent political will for them to be successful. This argument has been further elaborated by ter Haar and Copeland (2010) who conduct an inventory of Social Europe and argue that it is mainly comprised of soft modes of governance such as the OMC. For the authors, this is not necessarily a problem, but its full realization requires a sustained political effort across all levels of governance.

Until fairly recently discussions centring on new modes of governance and the political dynamics of the EU have often been decoupled within the existing literature. Focusing on governance architectures such as Lisbon and Europe 2020, their constituent policy areas, and the significance of developments for the process of European integration, we argue that a full understanding requires the incorporation of the political dynamics surrounding European integration along with the institutional and governance elements. Thinking through the OMC Social Protection and Inclusion during Lisbon II serves to illustrate the point of the inter-connectedness of politics and governance. Following its formation in 2004, the centre-right Barroso Commission, along with a centre-right dominated Council and Parliament, re-launched the Lisbon Strategy under the banner of 'growth and jobs'. Lisbon II, as it became known, institutionalized a governance process that prioritized growth and employment over social cohesion. The meta-OMC of Lisbon II merged the Broad Economic Policy Guidelines (BEPG) and the Employment Guidelines into a single 'guidelines package' structured around macroeconomic, micro-economic, and employment pillars (Tholoniat, 2010, p. 107). Member states had to operate within an annual governance cycle and compile National Reform Programmes (NRPs) around the three pillars. The OMC processes in social protection and inclusion, and education and training operated outside of the meta-OMC, albeit procedures were put in place for them to feed into the process. Their lack of incorporation into the governance mainstream and their separate governance cycles has been interpreted as indicative of the relegation of social Europe under Lisbon II (Armstrong, 2010; Velluti, 2010; Copeland, 2012). The 'failure' was due to politics. Therefore a narrow analysis of OMC social protection and inclusion during Lisbon II, that is, one that does not pay attention to the broader political dynamics, provides a limited understanding of actual developments.

To fully appreciate the situation, it is necessary to consider the broader macro-political environment in which it and subsequent developments were situated.

In our 2014 piece we argued that a political-sociology approach provides a framework in which to resolve weaknesses in existing work. It is worth briefly reiterating the main tenets of this approach for the purpose of this chapter. A political-sociology perspective sees governance as one of multiple sites of concentrated power and an apparatus over which groups contest for control. The approach examines how institutions/groups/forces interface with the political sphere and struggle for power (Neuman, 2007). Among the main critiques which this more 'integrated' perspective seeks to overcome are the reification of norms and their treatment in relative isolation apart from the actors who use them to guide their actions; a tendency towards a functionalism in the selection and operationalization of instruments; and the focus on institutions in and of themselves (institution centric) rather than institutions as a vector of power built through socio-political processes (Jenson and Mérand, 2010; Kassim and Le Galès, 2010; Favell and Guiraudon, 2011). An underlying point, then, is that ideas, discourses, governance instruments, and arrangements are inherently political, the subject of ongoing power struggles between actors, and are continually being remade (rather than fixed). Moreover, instead of being politically neutral, instruments and governance arrangements confront actors with structures of opportunity and privilege certain courses of action, interests, and actors over others (Kassim and Le Galès, 2010, p. 4). Europe 2020 commits itself to 'smart, sustainable and inclusive growth' but behind such commitments may lie a hierarchy of priorities that privileges 'smart growth' over the other two, for example. Furthermore, particular objectives may be 'coupled' within a governance architecture – that is, the achievement of particular objectives could be conditional upon progress in other policy objectives. From this perspective, all the elements of governance architectures are to be conceived as located in and reflective of hierarchies of power and privilege (Copeland and Daly, 2014).

In the following section we approach the poverty target, Europe 2020 and the reforms surrounding the establishment of the EU's economic governance from such a political-sociological lens. This means paying particular attention to the political strategies that privilege certain interests and actors over others, create hierarchies and dependencies of priority, and reflect a broader set of socio-political inequalities among actors and interests. Historically, relative to the more socially oriented actors, European integration has privileged actors surrounding the single market and financial markets at both the EU and member-state levels. The purpose of the analysis is therefore not to claim that the EU privileges economic actors over social actors, rather it is to explore the unequal relationship between the two sets of actors during the EU's response to the financial crisis and the consequences of this for social Europe.

3. The Europe 2020 poverty and social exclusion target

Europe 2020 is guided by a series of headline targets and 'thematic' priorities related to employment policy, poverty reduction, research and development, and climate change. These are prioritized for their significance for raising Europe's competitiveness (European Commission, 2010a). In the field of poverty and social exclusion the target aims to reduce the numbers of poor across the EU by some 20 million by 2020 of an estimated target population (calculated in 2010) of 120 million. If achieved, this would represent an overall reduction in the prevalence of poverty across the EU by some 17 percent. To give some idea of the scale of this ambition, over the course of the eight years of relative growth in Europe (2000–2008) relative income poverty in the EU remained unchanged (Cantillon, 2011). Yet despite its ambition, the political support surrounding the target is relatively weak. The existence of the target owes much to Commission entrepreneurship, the politics surrounding the re-election of the Barroso Commission, as well as the support of a small group of mainly Mediterranean states in the European Council (Copeland and Daly, 2012). Political division within the European Council resulted in a watering down of the Commission's initial proposal to have member states converging on a single definition of poverty – an income poverty definition in which individuals are considered to be poor if their income falls below a 60 percent cut-off of the median level of income. Opposition over the poverty target came from a group of Northern (Germany, Sweden, and UK) and Eastern European States who questioned the EU's legal remit within the area of poverty and social exclusion. They also argued that progress within the other thematic issues of Europe 2020 would automatically reduce poverty, and that spending on poverty reduction during a period of financial crisis could further create instability.

The final agreed target includes this measure but only as one component. In actual fact, the target provides considerable flexibility as poverty can be defined in one of three conceptualizations: income poverty, severe material deprivation, and/or jobless households. Income poverty (or 'at risk of poverty' as it is known in EU parlance) is defined by an income cut-off of 60 percent of median income. Material deprivation refers to an individual being without at least four items of a nine-item list of 'deprivations'.[1] It focuses on 'outcomes' and actual living standards of people rather than on the (financial and other) means available to achieve a certain level of wellbeing. The actual living conditions of individuals can differ between people with identical resources, depending on needs, health conditions, social networks or other personal constraints, and abilities (Eurostat, 2012). The jobless-household definition refers to the number of people in a household where the adults worked less than 20 percent of their total worktime potential during the reference period. For the purposes of achieving the target, poverty in the member states can relate to any one, two, or all three of these phenomena – the choice is up to member states. Member states can also provide their own definition of poverty, providing that it is justified, and they are also expected to set their own national target. The aggregate of the national targets is expected to result in a reduction of the numbers of poor by 20 million.

In terms of governance, in contrast to the Lisbon II era the poverty target is fully incorporated into the governance mainstream and operates within the annual cycle of Europe 2020 and the European Semester (discussed below). In compiling their NRPs, governments are to include their progress and priorities regarding the poverty and inclusion target, and jointly the Commission and the European Council can issue country-specific recommendations, despite the legal uncertainty surrounding these. Europe 2020 establishes a set of ten integrated guidelines to analyse: 'the economic and job situations, the overall budgetary picture, macro-financial conditions and progress on the thematic agendas per Member State' (Commission, 2010a, p. 28). The integrated guidelines draw on different legal foundations and country-specific recommendations can be issued for guidelines that relate to the BEPG (under Article 121.2) and employment policies (under Article 148). There is no Treaty provision for their issuance for the poverty target, despite the Commission having done so since 2011. The suggestion of a more formalized treaty provision for OMC social inclusion similar to that of the Employment Strategy was rejected in the period of negotiating the Lisbon Treaty (Armstrong, 2012). Since 2011 the total number of country-specific recommendations has slowly increased from three member states in 2011, seven in 2012, 11 in 2013, and 12 in 2014.

On a second level, the poverty and social exclusion target is supported by one of the seven flagship initiatives. The platform aims at creating a joint commitment among governments, EU institutions and key stakeholders at the various levels of EU governance and holds an annual convention. It also promotes the exchange of best practices between the various actors and the formation of partnerships to help achieve the target. The target is also supported by the OMC social inclusion, although it was temporarily suspended until 2012, thereby undermining the ability of the Social Protection Committee to directly feed into the governance of the poverty target and Europe 2020.

4. Situating the poverty and social exclusion target within the European Semester

The poverty target is situated within the EU's new economic reform strategy, Europe 2020. It is important to understand the political context in which the strategy was penned – this was against a backdrop of economic and financial turmoil in the EU. On the eve of the financial crisis in 2008 the euro appeared as a success story of the European integration project. In 2007 EU-27 debt and deficit levels amounted to 59 and 0.9 percent and were comfortably within the margins determined by the Maastricht Criteria and the Stability and Growth Pact (Degryse, 2012, pp. 69–70). Successive bailouts and stimulus packages to avoid an economic recession led to a rapid increase in these indices (Ladi and Tsarouhas, 2014) and concerns over the future sustainability of the eurozone.

The European Commission sought to take the initiative in the crisis and establish its own leadership by a major rethink of the integrated guidelines for growth and jobs, the Stability and Growth Pact, and the Lisbon Process. In 2008, the European Council gave the European Commission a mandate to forge a successor to the Lisbon Strategy in which social Europe was to feature more prominently; this was in response to the negative criticism surrounding the 'growth and jobs' agenda of Lisbon II. However the preparations were overshadowed by the emergence of the financial (banking) crisis and the worsening economic recession. Within both the EU institutions and governments of the member states, there was a high degree of ambiguity surrounding how the crisis would develop and therefore an appropriate policy response, but the real focusing event was the sovereign debt crisis in Greece and a fear that it could spread to several other member states (Copeland and James, 2014, pp. 6–8). The latter called into question the sustainability of the eurozone for the first time.

The Commission aligned itself with actors in the Directorate General for Economic and Financial Affairs (DG ECFIN), as well as the Economic and Financial Affairs Council (ECOFIN) who were calling for a strengthened economic pillar of the EMU (Dyson and Quaglia, 2012, p. 201). The president, Jose Manuel Barroso, was determined to address criticism that he had been slow to respond to the crisis by making Europe 2020 the centrepiece of his second term (Dinan, 2010). Herman van Rompuy, the then recently elected President of the European Council, had also announced that addressing the economic crisis was his number one priority, and the two presidents agreed to work together to provide a solution to the situation (Dinan, 2011). Both DG ECFIN and ECOFIN dominated the reform agenda with the vast majority of ideas that were eventually incorporated into the governance process of Europe 2020 stemming from this group of actors. In contrast, other DGs such as the Directorate General for Employment, Social Affairs and Inclusion (DG EMPL) as well as the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) played a more marginal role (Copeland and James, 2014, p. 10).

As a product of these political and economic conditions, Europe 2020 proposed a step change in economic policy co-ordination through reinforced mechanisms of budgetary discipline and fiscal consolidation (see Armstrong, 2012). To bring this about Europe 2020 enshrined a new preventive system of *ex ante* surveillance, the centrepiece of which was a new annual 'European Semester'. From the onset, Europe 2020 has always privileged activity and progress within the macroeconomic pillar and thereby empowers actors within DG ECFIN, as well as those operating in the finance ministries at the national level, over any other grouping of decision-makers.

As part of the Europe 2020 Strategy, the European Semester commences with the Commission's new Annual Growth Survey that outlines the EU's economic priorities for the following 12 months. On this foundation, governments formulate and submit their medium-term budgetary and economic strategies for peer review prior to national parliamentary approval. This is achieved through the 'simultaneous' but 'separate' reporting and evaluation of Europe 2020 with the EU's fiscal framework, the Stability and Growth Pact (SGP). Despite drawing on separate legal provisions, coordination of the Europe 2020 NRPs and the Stability and Convergence Programmes (SCPs) of the SGP aims to strengthen the linkages and relationship between the fiscal situation within the member states and the broader macroeconomy and selected Europe 2020 thematic issues (such as micro economic and employment/social areas). During the formulation of both the NRPs and the SCPs governments engage in bilateral negotiations with the Commission to ensure that they remain 'on track' with respect to the budgetary and macroeconomic situation. To strengthen the surveillance of macroeconomic imbalances, the Commission has developed new competitiveness scoreboards to measure productivity, employment and public/private debt. Finally, the ability of the EU to offer tailored policy advice through country-specific recommendations was widened to include both macro and microeconomic issues. The Commission also gained the additional right to apply political pressure on member states by issuing 'policy warnings' under the new Lisbon Treaty.

In addition, member states who are receiving financial assistance in the form of macroeconomic adjustment programmes (bailouts) are placed under much greater surveillance and scrutiny, particularly with respect to employment and social policies. Bailout packages have occurred in tandem with reforms to the EU's financial assistance mechanisms including the European Financial Stability Facility (EFSF), European Financial Stability Mechanism (EFSM), and the European Stability Mechanism (ESM). According to Ladi and Tsarouhas (2014, p. 173) all three instruments are modelled on the IMF, with the EFSF and ESM in particular linked to financial conditionality. A result is that bailout countries have been required to make significant spending cuts in the areas of public employment and welfare provision, as well as a liberalization of employment policy. The European Commission and (to some extent) the European Central Bank (ECB), is now tasked with supervision, monitoring, and implementation of macroeconomic adjustment programmes. Furthermore, the EU will now oversee public policy reforms, particularly in the fields of pensions, healthcare, industrial relations law, and public administration (ibid: 174). The content of the reforms is required to be compatible with the contents of the Annual Growth Survey which forms part of the European Semester.

In its structure and how it takes effect, the European Semester strengthens a political hierarchy cantering on the prioritization of government policy relating to budgetary and fiscal discipline. In accordance with the SGP sound public finances are those in which government deficits do not exceed three percent of GDP per annum and/or government debt exceeding 60 percent of GDP. Although the policy objectives are not new to Europe 2020, their reinforcement and prioritization signify a ratcheting-up of their principles within the political hierarchy. They are also indicative of the EU institutions that are driving forward the process of European integration.

This particular point is highlighted by considering the 2011–2014 Annual Growth Surveys which make fiscal consolidation the number one priority, to be followed by the secondary order priorities of 'promoting growth and competiveness' (i.e. microeconomic reforms) and promoting employment (European Commission, 2010b, 2011, 2012, 2013a, 2013b). No explicit mention is made to reduce poverty and social exclusion; rather, the EU's most vulnerable people are to be protected via the strengthening of the link between social assistance and labour market activation policies. Poverty and social exclusion are then to be reduced via increasing employment, suggesting that the poverty target, and only a certain aspect of the target at that, represents a third order priority within the governance architecture. There are numerous problems with this as an anti-poverty strategy. For one, having a job is no guarantee that individuals or a household are not living in poverty. The literature on in-work poverty suggests that low-wage/low-skilled workers or persons who work in low-productivity/low-wage economic sectors are more susceptible to poverty, as well as employees who are non-unionized or work in small companies (Crettaz, 2013, p. 256). Since the crisis hit, the number of individuals or are considered 'in-work-poor', defined as the share of persons who are at work and have an equivalized disposable income below the risk-of-poverty threshold of 60 percent of the median equivalized income, has increased from 8.2 percent of the EU-27 population in 2007 to 9.1 percent in 2012 (Eurostat, 2014). In addition, a further dimension to this issue is that many of the people living in poverty are unable to work. This may be because of disability, illness or infirmity, or it may be because they have child-rearing or other caring-related obligations. Hence, measures to address household joblessness or a philosophy which relies on the 'trickle-down' effect of job creation on poverty has only a limited place in an anti-poverty strategy.

This hierarchy of priorities is mirrored within the NRPs that are dominated by concerns to balance budgets and increase competitiveness. However, there is some change notable in these over time. In the submissions for the 2013 round, for example, somewhat more attention was given to poverty and social exclusion, but this was still slight and not commensurate with the increasing scale of the poverty-related problems facing the member states (Frazer and Marlier, 2013, p. 7). The increase is a response to growing criticism from social actors at the EU level, such as those within DG EMPL, the European Trade Union Confederation (ETUC), the European Anti-Poverty Network, and some MEPs, that Europe 2020 does not give sufficient consideration to social problems. However, despite an increase in the number of country-specific recommendations for the poverty and social exclusion target in recent years, the substantive content of these and of social policy reforms at national level do little to move the EU discourse beyond strengthening the links between social problems and labour-market activation. That is, the receipt of unemployment benefit is becoming more and more dependent upon an individual searching for work and being able to provide evidence of such endeavour. This is despite the European economy having been in recession with fewer jobs for those who want to work. Where the country-specific recommendations provide more focus to the issue of poverty and social exclusion, they predominantly target particular groups such as the Roma population or children, rather than the broader spectrum of society that experiences and is affected by the 'problems' involved. All of this is set against a backdrop in which austerity in the EU has resulted in increases in the level of poverty and social exclusion from 114 million in 2009 to 124 million by 2012 (European Commission, 2014d, p. 14). Moreover, it is likely that the current level of poverty and social exclusion is significantly higher than the 2012 figure.

5. The strengthening of economic governance and the increased dependency of social Europe

Given that the launch of Europe 2020 and the European semester as both an exit strategy and a preventative mechanism of a future crisis did little to resolve the speculation surrounding the sovereign debt crisis, the EU institutions, particularly the European Council via ECOFIN, were forced to act further and strengthen the governance procedures for budgetary discipline in the member states. As a result, the EU embarked on a series of reforms in its macroeconomic policy. These reforms have centred on the integrative and coordinative character of the European Semester and aim to heighten surveillance and policy linkages between national budgets and domestic-policy objectives. Given such a focus, we suggest that the EU's response to the eurozone crisis strengthens the hierarchical tendencies and reinforces the 'old' order of priorities within Europe 2020. In effect, the European Semester has served as a focal point to organize a form of economic governance in which national budgetary discipline and the correction of macroeconomic imbalances have not only become the guiding principles of the EU integration machine, but have been made the principles on which all other policy objectives are dependent. All of these developments represent a clear formalization of the privileging of activity in the macroeconomic pillar over other pillars and thereby empowering actors within DG ECFIN and ECOFIN. As a result, bailout countries have been forced to adopt austerity to reduce government deficits and debt with other member states strongly encouraged to follow the same economic logic. In turn, this has increased unemployment and worsened the social situation across most of the EU.

The adoption of Europe 2020 dovetailed with preparations to strengthen the SGP. To finalize the governance arrangements around the European Semester, in September 2010 the European Commission proposed the strengthening of the SGP and new economic governance in the form of the 'Six Pack'. This involved a set of six legislative acts – five regulations and one directive – intended to make governance more rigorous within the EU (Degryse, 2012, p. 30). The Six Pack was approved by both the European Council and the Parliament at the end of 2011 with the aim of reducing public deficits and addressing macroeconomic imbalances. The preventive arm of the Six Pack formally established the European Semester (European Parliament and European Council, 2011) while the corrective arm determines the procedure concerning excessive deficits/government debt (Council of the European Union, 2011). The aim here is to prevent their emergence and to speed up their correction. In theory, the SGP provided for corrective action if a budget deficit within a member state exceeded 3 percent of GDP. While government debt was also not to exceed 60 percent of GDP, there were no consequences should this be breached. Member states whose debt exceeds the 60 percent GDP threshold must now take measures to reduce this. Should a member state fail to act on either an excessive deficit or debt level, the Commission can request the state to deposit an interest bearing deposit of 0.2 percent. A failure to respond to the recommendations can result in the deposit becoming non-interest bearing and eventually converting into a fine (European Parliament and Council, 2011a). These rules also include the introduction of a reverse qualified majority vote (RQMV) meaning that to undo corrective measures proposed by the Commission, the European Council would be required to achieve a qualified majority vote (QMV). The purpose of all of these reforms is a much stricter implementation of the SGP.

Adding a further layer of complexity to the new economic governance in 2011 the EU member states with the exception of the Czech Republic, Hungary, Sweden, and the UK signed the Euro-Plus Pact. The Pact is essentially an intergovernmental agreement that focuses upon five main areas: competiveness; employment; sustainable finances; fiscal sustainability; and tax policy coordination. Members of the pact are to set annual targets in the five areas to be followed-up by policy reforms;

they are also to provide sufficient justification when action in a particular area is not required. Progress within the Pact is reported in the Europe 2020 NRPs. With respect to social and employment policy, no mention is made of the importance of ensuring social cohesion or reducing poverty. Rather, governments are to follow the strategy of promoting employment and increasing their competitiveness via focusing on wage indexation. The aim is to increase labour productivity, reduce wages in the public sector, and reduce labour costs by weakening 'the degree of centralization in the bargaining process'. For the latter, the pact therefore calls for a move away from national collective bargaining to more regional and local agreements reflecting differences in labour costs and productivity. Not only could such a move undermine national cohesion, but it could also indirectly contribute towards increasing poverty. ETUC argues that the Pact will force member states to enter into a competitive downward spiral of undercutting each other's wages and working conditions (Degryse, 2012, p. 45).

The Treaty on Stability, Coordination and Governance, or Fiscal Compact, as it became known, represents an additional stage or lever in strengthening of economic governance centring on budgetary discipline and surveillance. Although the Fiscal Compact is compulsory for the eurozone members, non-eurozone states can also participate – only the Czech Republic and the UK declined to do so when it was agreed in 2012 (the Czech Republic joined the Compact in March 2014). The Compact is an intergovernmental agreement establishing the 'balanced budget rule' whereby national budgets should either be in balance or surplus and can only be in deficit during exceptional circumstances. Governments are to transpose the rule into their constitutions or quasi-constitutional sources of law that bind the budgetary process. The ECJ is required to monitor whether the rule has been implemented correctly and can issue a fine of 0.1 percent of GDP if a member state fail to do so. Inspired by Germany's 2009 'debt brake' the Compact also includes its own debt brake (see Fabbrini, 2013, p. 9). If a member state exceeds the 60 percent debt to GDP ratio, they are required to reduce this level by a minimum of one-twentieth per year of the exceeded percentage points.

The reforms surrounding the strengthening of the EU's economic governance establish budgetary discipline as the EU's number one priority within the European Semester. Progress within other policy areas of both Europe 2020 and broader policy matrix of the EU are dependent upon developments within this particular priority. In the short term, the aim to reduce government deficits and debt across the EU has resulted in cuts to welfare policy that has acted to increase poverty and social exclusion (as well as unemployment). The real concern is that in the long-term, the governance structures put into place to both respond to the crisis and to prevent a further similar crisis construct an ideological straight jacket that reduces the incentives at member-state level to embark on independent social policy reform, including measures oriented to reducing poverty and social exclusion. This formalizes the historically disadvantaged position within the EU's political hierarchy of the social actors.

Against this backdrop, we are forced to view the Europe 2020 poverty target as something of a paradox. Member states are asked to reduce poverty and social exclusion while simultaneously maintaining strict budgetary discipline, irrespective of the economic growth cycle. This is not so much a problem for Northern member states, who have relative good public finances and welfare states that score well in terms of poverty and social exclusion. They are starting from a good position and have some room to manoeuvre with respect to the funding of any programmes. However, it is more problematic for the Southern and some Eastern European member states where public finances breach existing EU rules and welfare states score lower with respect to poverty and social exclusion. In short, the latter grouping of countries does not have the material capability to reduce poverty and social exclusion by redistributive programmes. The only alternative here would be to focus on reducing the number of jobless-households as a means of reducing poverty, and as mentioned above the relationship between the two is questionable. That said, the particular approach embodied in the target and in subsequent EU social and economic policy may find some resonance in the East, in that new member states are more sympathetic to liberal welfare policies, which historically emphasize the flexibility element of flexicurity. It is unlikely to find much support from the Southern members who were originally in favour of the poverty target and opposed to the inclusion of a jobless-household definition. Whether the Mediterranean states eventually take this direction remains to be seen. But the discourse surrounding poverty and social exclusion within the EU, combined with the ratcheting-up of economic governance predominantly focused on activation and employment, may mean that such states are powerless to resist within the newly formalized governance hierarchy.

6. The symbolic achievements of social actors

In response to criticism that EU-led austerity and the strengthening of economic governance constructs Social Europe as dependent on the

EU's economic objectives, the European Commission and the European Council have launched a series of initiatives with the aim of addressing the social consequences of the crisis. Support for these initiatives came from the EU's social actors, as well as the Southern member states. While Northern and Eastern members, including Germany, were also broadly supportive of the various initiatives, in comparison the policy outcomes are more tokenistic than equivalent developments in economic governance. They do little to shift the social dimension away from its dependency on economic integration, reinforce the dominance of employment-driven solutions to social problems, and thereby continue the political hierarchy constructed around the European Semester. A further concerning trend here is that social problems within the EU are being recast as resulting from the financial crisis, rather than being a persistent feature that predates 2008.

The 2012 Employment Package launched by the European Commission aims to steer and guide the employment objectives of Europe 2020, as well as serving to illustrate how the EU budget, particularly the European Social Fund, can be used to improve labour markets (European Commission, 2014a). The Employment Package is ideologically multifaceted and it speaks to different political persuasions at both the EU and national levels. It was followed by the Youth Guarantee in 2013 (European Commission, 2014b) which ring-fences €6 billion from the European Social Fund to tackle the issue of high youth unemployment. The purpose of the guarantee is to ensure that anyone under the age of 25 will receive a job, apprenticeship traineeship or be able to continue in education within four months of leaving education or becoming unemployed. The Guarantee partially funds the priorities and programmes identified by the member states. Finally, the Commission launched the Social Investment Package (European Commission, 2014c) which aims to generate sustainable welfare reforms within the member states. It provides specific guidance on how member states can formulate active inclusion strategies within existing welfare budgetary parameters and is founded on the understanding that some of the best performing welfare states spend similar amounts of GDP to some of the least well performing. The Social Investment Package provides a more long-term understanding of social problems by steering welfare spending into programmes that will reduce one's exposure risks and therefore improve future prospects. Notably, all three packages do not provide additional funding to tackle the EU's social problems and they situate employment as the dominant, and indeed, central guiding principle.

A final recent relevant development centres on what has been referred to as the strengthening of the social dimension of economic and monetary union. The aim here is to introduce appropriate employment and social indicators in the areas of unemployment. These include youth unemployment and the rate of those not in education, employment or training; household disposable income; the at-risk-of-poverty rate; and income inequality. The purpose of the new scoreboard is to feed into talks between national employment and social ministers ahead of the Spring European Council, which is dedicated to the European Semester, and the preparation of country-specific recommendations (European Commission, 2013, p. 2). The scoreboard is nothing new in terms of indicators, but it aims to give the employment and social situation 'more prominence' in Europe 2020. It builds on a longstanding proclivity in the EU to getting measurement right. Precedents include the work conducted within the Social Protection Committee surrounding OMC Social Protection and Inclusion. If member states breach the indicators on the scoreboard, there are no automatic consequences. This confirms that the scoreboard is not a political tool. Rather, it is 'an analytical tool to observe divergence from historical trends or from the EMU average' (ibid, p. 3). This particular issue has been argued by the ETUC claiming that 'the scoreboard will be powerless to correct economic policy, even when the analysis shows that this will lead to negative consequences for the employment and social situation' (ETUC, 2014). It therefore calls for a mechanism to be introduced that enables macroeconomic policy to be corrected as necessary.

A further notable development has focused on poverty and social exclusion itself. During the June 2011 decision by the EPSCO Council to reintroduce some elements of the OMC into the Europe 2020 process, it was decided that member states should produce National Social Reports in addition to NRPs. The former would take the form of short strategic reports focused on each of the three strands of the social OMC established under Lisbon – social inclusion, pensions, and health/social care – wherein member states present their strategies and progress achieved towards the Common Objectives for Social Protection and Social Inclusion. These were planned to be used as an input into the Social Protection Committee (SPC) annual report on the social situation and were envisaged to have an input also into the assessment of progress achieved by member states in the context of the 2012 European Semester, including as part of the multilateral surveillance, organized by the SPC. The first national reports were prepared in 2012, but only eight member states contributed by the deadline set. As a result, ministers agreed to shift to bi-annual National Social Reports, to underpin the social dimension, as well as to contribute to the SPC's own Annual Report (EAPN, 2013, p. 5).

In short, while there has been political activity surrounding the social dimension and it has produced some policy outcomes, the overall result is tokenistic in comparison to reforms surrounding EU economic governance. In the social dimension, there are no 'Pacts', no intergovernmental agreements, and no significant high profile political consensus to tackle social problems, some of which have been worsened, if not caused, by the EU's response to the financial crisis. The reforms in the social dimension have been unable to significantly break down the political hierarchy and policy dependencies within both Europe 2020 and the European Semester that favour economic integration as the most important underlying principle of the European integration process.

7. Conclusion

While the Europe 2020 poverty target appears to signify progress towards a more substantive social dimension within the EU, the broader reforms to the EU's economic governance cast the target in deep shade and serve to formalize a historic political hierarchy in which macroeconomic objectives form the underlying first priority of the process of European integration. Since 2010, the EU's social objectives have been made dependent on the economic objectives of 'sound public finances' and budgetary discipline, as member states now face heightened surveillance and financial sanctions should they fail to adhere to the EU's budgetary and fiscal rules. As a result, the area of poverty and social exclusion and the broader objectives of the social dimension have shifted from being an 'add-on' to the EU's economic objectives, to becoming 'dependent-upon' developments in economic integration.

The response to the eurozone crisis represents a fundamental shift within the political and economic governance of the EU. While EU governance in the macroeconomy has historically had a stronger legal foundation and thereby tougher sanctions compared to Social Europe, since 2010 there has been a further divergence between the two. The OMC mode of governance within the SGP has shifted from weak oversight and enforcement, to a significantly strengthened governance process in which there are semi-automatic sanctions, strong surveillance in the form of the European Semester, and a constitutionally enshrined balanced budget rule within the member states. In contrast, the OMC Social Protection and Inclusion has been weakened because of its absorption into the European Semester and dependency for progress on developments within the macroeconomy. This represents a critical juncture within the governance of the EU's political economy – to further strengthen their position vis-à-vis social actors, financial actors have used the crisis as a window of opportunity.

This strengthening of EU economic governance also serves to shift the policy paradigm of European welfare states, as the balanced budget rule at the national level removes the flexibility of government spending policies in relation to the economic growth cycle. Given this constraint, there are few incentives for governments to embark on innovative social welfare programmes. If economic growth slows, tax receipts fall, and social assistance increases (in the form of unemployment and other benefits) and total debt and deficit requirements of a member state are likely to breach existing EU rules if combined with any long-standing commitments in normal government spending, such as social welfare programmes. Under these political conditions the most logical thing for governments to do is to avoid long term spending commitments in welfare policy. This paradigm reinforces at national level the EU discourse of tackling poverty and social exclusion via increasing employment levels, regardless of the pay and conditions attaching to work and the fact that employment is but a partial antidote to poverty.

It would be inaccurate to give the impression that there have been no measures taken at EU level to address the consequences of austerity and heighten the profile (and likely effectiveness) of the poverty and social exclusion target. A number of such measures have been taken. However, as the discussion in the penultimate section of the chapter demonstrates, the activity related to the social dimension has been more of a symbolic gesture compared to equivalent activity in economic governance. The policy outcomes have not specified any sanctions should member states fail to comply. Furthermore, they reinforce the dominance of employment-driven solutions to social problems, do little to shift the social dimension away from its dependency on economic integration, and thereby cement the political hierarchy constructed around the European Semester.

One final point is the value of a political-sociology approach to understand developments within the social dimension. While research will inevitably continue to focus on specific developments within Social Europe, whether these be the poverty target or the Employment Strategy, it is essential that such research connects with the bigger political picture involved in the process of European integration. Analysed in isolation, the poverty target appears to signify an impressive step forward for Social Europe, but joining up the dots of the Europe 2020 policy matrix, and then connecting those with the broader governance of the EU and its underpinning politics leads to a very different conclusion.

Note

1. These items are: (i) to pay rent or utility bills, (ii) keep one's home adequately warm, (iii) face unexpected expenses, (iv) eat meat, fish, or a protein equivalent every second day, (v) a week of holiday away from home once a year, (vi) a car, (vii) a washing machine, (viii) a colour television, (ix) a telephone.

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8

A Multi-Layered Social Europe? Three Emerging Transnational Social Duties in the EU

*Ben Crum**

1. Introduction

The euro crisis has made the question of social justice in Europe more pertinent than ever. It triggers this question in several ways. For one, the crisis has exposed the fragility of the basis on which transnational redistributive obligations can be imposed in the European Union. The crisis has certainly not brought the EU peoples closer to one another and the reluctance among member states to fully vouch for each other has been striking. Indeed, as George Soros (2012) puts it, the euro crisis has had the effect of dividing the EU member states into 'two classes – creditors and debtors – with the creditors in charge, Germany foremost among them'. At the level of individual citizens, the unemployment rates of Austria and Germany (which hover around 5 percent) stand in stark contrast to those in Greece and Spain where more than a quarter of the labour force is out of work (Eurostat, 2013, latest data for October 2013). Clearly, the promise of a 'Social Europe' has (thus far) not materialized, and European citizens do not live under a single integrated conception of justice.

At the same time, the crisis has underlined the deep interdependencies between the Euro(pean) economies. The members of the eurozone simply cannot afford to let one of them go bankrupt, for financial and political reasons (Crum, 2013). This fact has forced them into some form of solidarity, involving in particular the establishment of a major lending scheme (the European Stability Mechanism, preceded by the European Financial Stability Facility) that is to guarantee affordable loans to governments in acute financial trouble on the condition that they commit to a financial reform programme.

A further way in which the euro crisis raises the question of social justice is the suggestion that to overcome the crisis and to stabilize the single currency the establishment of a fiscal union is needed with major transnational redistributive programmes that will help to balance out differences in wealth and economic development across the eurozone (Bofinger et al., 2012; European Council President, 2012, p. 5; Maduro, 2012). While such a redistributive regime may well serve to stabilize the eurozone, I doubt whether it is an appropriate solution. For one, there are good reasons to doubt whether the euro crisis is best diagnosed as calling for more integration (rather than less). Analyses that read into the present crisis the imperative of further integration seem to persevere in the very misconception that has led to the crisis, namely that, by creating functional interdependencies, popular sentiments of identification and solidarity will quickly follow. The present conundrum rather goes to underline that the failure of a genuine Social Europe is not a matter of accident or perverse manoeuvring by political elites but rather explained by the absence of the effective societal preconditions and sentiments that would allow a substantial redistributive regime to develop.

Still, even if European citizens are not predisposed to pay taxes to finance extensive programmes for transnational redistribution, this need not preclude the emergence of any social obligations between them. However, any such notion needs to recognize the primacy of the nation state as the vehicle for social justice (Risse, 2011). This primacy is threefold. First, in the most general sense, it is historical in that there are already effective mechanisms of social justice at the national level while these still need to be developed at the international level. Second, for better or for worse, the nation-state context has been remarkably effective in mobilizing the requisite sentiments for social redistribution and for establishing the necessary incentive structure that allow such redistribution to be sustained. Third, the primacy of the nation-state level goes to acknowledge that conceptions of what social justice requires may differ from one context to the other and that these understandings are generally premised on a shared process of common will-formation (Rawls, 1999b, p. 144). There is a need to recognize the legitimacy of the diversity of national conceptions of social justice that have emerged and the normative understandings that underpin them (Scharpf, 2002). Hence, any transnational social duties need to be considered as complimentary to the national arrangements in place.

Recognizing the nation-state as the primary vehicle for social justice, this chapter proposes to recast the debate on Social Europe in multi-layered terms. Such a perspective recognizes the EU to have a social vocation, but also insists that it operates complementarily to national welfare states, which retain much of their autonomy and diversity. The EU level thus emerges as an additional layer that, on the one hand, helps to protect and stabilize the national welfare states and, on the other hand, redresses for arbitrary inequalities as they operate in transnational interactions and provides some inroads into the transnational sharing of the common wealth in Europe. The transnational duties that European integration generates can be understood to operate on two levels.[1] In the first instance they speak to states, the relations they maintain with each other in the framework of the EU, and the duties they owe to each other's citizens. But more than merely governing interstate relations through the states, these duties also have direct implications for the individual citizens of these states.

I develop this argument by way of a kind of critical hermeneutics in which established EU practices are (re)interpreted in light of deeper normative principles associated with established conceptions of social justice (Habermas, 1983). In that light, the next section provides a sketch of the circumstances of social justice in the European Union. The subsequent sections then identify three transnational social duties that can be gleaned from European integration, under the respective catchwords of economic non-discrimination, institutional stabilization, and social policy tolerance. Together these three duties may provide the kernel for a multi-layered conception of Social Europe. In the conclusion, I reflect upon these three duties to consider how they hang together and the ways in which they are affected by the euro crisis.

2. The circumstances of social justice in the EU

The European Union does not amount to a fully integrated people and a corresponding supranational welfare state. Instead, regional cooperation in Europe is probably most safely characterized as having spawned a system of multilevel governance (Marks and Hooghe, 2001; Bache and Flinders, 2004) in which the supranational and the national levels of government have become systematically entwined without amounting to a fully integrated, federal structure. Importantly, in many respects the political centre of gravity remains at the level of the member states rather than in a single European centre (Schmidt, 2006).

Indeed, one of the most striking traits of the European integration process has been the resilience of national differences. As much as European states may have come to resemble each other as constitutional democracies with an embedded liberal economic order and as much as cooperation may have proceeded, there remain fundamental differences between the political structures of the United Kingdom and those of Germany, or between the social-economic structures of Sweden and Slovakia. Importantly, many of the identities and values of Europeans continue to be shaped by their particular nationalities and the language, social, and cultural settings that come with them. These differences are very likely to be reflected in the ideas people hold as to what is to be involved in an acceptable and reasonable constitutional order (Diez Medrano, 2003). Also in institutional terms, the national political orders continue to take precedence over the European one. Not only have the member states been instrumental in establishing the Union in the first place, in its daily operation they also have an indispensable, mediating role in the processes of collective political will-formation (BVerfGE, 1993).

Yet, after more than 60 years of European integration, relations between the member states of the EU have come to be informed by an awareness of the deep interdependencies. This is particularly apparent for the economy of the single market of goods, but it also applies to, for instance, the operation of large-scale companies, student mobility, labour migration and the single currency. Thus, citizens in the EU have come to be enmeshed in a wide range of social, economic, and cultural transnational relations that are no longer effectively mediated by their nation-states. The ensuing character of the European situation is eloquently summed up by Kalypso Nicolaïdis:

> [T]he European Union has established itself as a new kind of political community, one that rests on the persistent plurality of its component peoples, its *demoi*. [...] its peoples are connected politically directly and not only through the bargains of their leaders. And yet, to the extent that these peoples are organised into states, these states should continue to be at the core of the European construct.
>
> (Nicolaïdis, 2004, pp. 82–83)

This suggests that the European Union is not, or is no longer, appropriately regarded as merely a union of states. However, given the persistent diversity of *demoi* or people, neither is it appropriately seen as a union of citizens. Indeed, as both levels play a role that cannot be reduced to the other, the Union is best regarded as a 'union of citizens and states', in which citizens are addressed directly while remaining part of their nation states as well (Crum, 2012, ch. 5).

Transnational interdependencies in the EU have steadily developed in direct interaction with the development of a common political structure. While states remain key actors in the EU, there are also unmistakable supranational aspects to its decision-making. Notably, the EU commands far-reaching power over its member states. EU laws are recognized to take primacy over national legislation and the Commission and, if needed, the European Court of Justice can impose sanctions if states fail to meet their obligations to the Union. What is more, the supranational institutions of the European Commission and the European Parliament exercise considerable influence over EU decision-making. That combined with the fact that the use of qualified majority voting in the Council of Ministers means that EU legislation can be adopted against the will of individual states, makes it clear that states can no longer claim to be full gatekeepers of the political power that the EU exercises over their citizens.

Notably, such political intertwinement also seeps through into domestic policies, not least given the fact that all EU member states are democracies. Thus the mutual interdependencies can be incorporated and elaborated in domestic debates, and the perspectives that are developed on them are likely to be more varied and sophisticated than the mere reaffirmation that the national sovereignty and security need to be secured. Rather than the national interest being assumed as a more or less objective given, it becomes the object of a process of deliberation (Risse, 2001). What is more, with increased international interaction, the public discussion of national interests may well take account of those being elaborated in other states. At times, positions and experiences of other states may even be incorporated into the domestic political will-formation (Savage and Weale, 2009). Indeed, this is exactly what is indicated to take place through the transnationalization or Europeanization of domestic public spheres (Risse and van de Steeg, 2003; Koopmans and Erbe, 2004).

Under these conditions we see little of the EU as a system of socio-economic redistribution. Admittedly, the EU does command some redistributive instruments in the form of the Common Agricultural Policy, the regional and structural funds and investments in research and common European infrastructural projects (Bache, 2007). These are the biggest chapters in the EU budget, which has a total size of 150 billion Euros. However, set against the total EU GDP of almost 13,000 billion Euros (Eurostat, 2013, figure for 2012), it is obvious that the EU budget offers rather minimal opportunities to genuinely redirect the distribution of incomes in Europe.[2]

Still, there has been some evidence that increasing interdependencies among European states may come with a reduction of social-economic inequalities between them. For most of the history of European integration, income levels in member states have grown significantly, while the differences in the average income levels between the richest and poorest member states have tended to decrease (Morrison and Murtin, 2003; Beckfield, 2006). Yet, even if these inequalities between states decreased, European states that have historically been poorer are unlikely to surpass the richer ones, and even if they do (like Ireland and Spain appeared to do up until the financial crisis) they remain particularly vulnerable to economic downturns. A second caveat is that while inequalities in the average income *between* EU member states have tended to decrease, since the mid-1990s income inequality *within* the different countries has tended to increase again, although patterns are quite varied (Morrison and Murtin, 2003; Beckfield, 2006, pp. 972f.). What is more, if European integration ever had the ability to reduce between-state inequalities, it has been severely put to the test over the last decade: first by the eastward enlargement that brought a whole set of much poorer countries into the union and then by the economic crisis and its uneven impact across the EU.

To sum up, the European Union has given rise to a thick transnational sphere marked by many and intense transnational interactions and interdependencies, ever more pooled policy powers, a partly autonomous political order, increased mutual observation among national public spheres, and socio-economic convergence. Still, nation-states have proven remarkably resilient in the prominent position they retain in the decision-making processes and in the political and social allegiances of their citizens. While these conditions prevent the EU from developing into a genuine supranational welfare state, they certainly need not rule out any kind of transnational social obligations. The rest of this chapter is dedicated to identifying potential options for this.

3. Economic non-discrimination

The most obvious duty of social justice that is implied in the European integration project is the extension of equality of economic opportunity across borders. From its inception, the creation of a single European market based on the free movement of goods, persons, services, and capital has been at the heart of the integration project. This objective of a single European market is primarily driven by the neoclassical assumption that the integration of markets creates economies of scale and makes a more efficient allocation of production capacities possible from which all stand to benefit. Concretely, European economic integration offers national producers the opportunity to specialize in sectors in which they enjoy distinctive competitive advantages and access to the whole European market, while consumers gain access to a broader range of products to choose from (Balassa, 1962). Under these conditions total welfare increases. What is more, each individual party should in principle be able to share in this welfare increase by exploiting his or her relative niche. A key tenet of neoclassical economics is moreover that weaker economies stand to benefit more (in relative terms) from market integration than strong economies, and that integration thus leads to convergence between economies (Barro and Sala-i-Martin, 1992).

The problem with this neoclassical economic model is that, while it may be true that market integration contributes to economic growth, it is much less evident that all parties are destined to share in these gains. An important reason for that is that, in practice, producers and consumers operate with imperfect knowledge about the opportunities in the market. Another, and arguably more important, reason is that actors enter the single market from different historically determined starting positions that may reflect power imbalances between them and limit their flexibility to exploit the opportunities that arise. For example, one does not turn Dutch meat farmers overnight into accountants even if economic models indicate that the holding of cattle is most efficiently left to other places in Europe. To the extent that actors are unable to fully adjust to the dynamics of the European market, the integration process is bound to produce losers as well as winners. Indeed, if the ability to appropriate the efficiency gains of the single market remains concentrated among specific countries or economic actors, then integration may even lead to increasing injustice.

However, as we are looking for a multi-layered conception of Social Europe, our evaluation has to look beyond the specific economic dynamics at the normative principles implied in the integration project. Importantly, the very idea of market integration can actually be seen as involving the removal of illegitimate and arbitrary sources of inequality and the creation of equal economic opportunities. As long as national markets are separated from each other, individuals from one country are prevented from exploiting the opportunities they might have in others. In this respect the boundaries between markets can be compared to the barriers that separated estates in pre-capitalist societies, in which, if one was born as a servant, one would never have access to the economic opportunities of a nobleman. The modern idea of (national) social justice can be regarded as driven exactly by the recognition that such traditional social barriers are rationally unjustifiable and, hence, are to be abolished. Instead modern conceptions of social justice tend to assign a key role to the principle of equality of opportunities (Rawls, 1971, pp. 83–84).[3]

Thus the objective of economic integration can draw on the general cosmopolitan critique of national borders as an arbitrary source of inequality (e.g. Caney, 2001). Importantly, equality of opportunity does not directly grant all involved an (equal) claim to the benefits of the positions to which it applies. To the contrary, once equality of opportunity is secured, it rather serves to justify inequalities in the enjoyment of these benefits to the extent that these are the product of *relevant* differences between individuals (like differences in effort or willingness to take risk). Ultimately, the principle of economic non-discrimination does not erase the existence of socio-economic inequalities in the EU. It will however erase the relevance of national borders in this regard.

If the principle of equality of opportunity is central to our understanding of social justice, it is hard to see why its scope of operation would be limited by national borders. Thus the first EU duty of transnational social justice that I propose is:

1. The 'positive' duty to provide each other with full and equal access to each other's (national) economic domain and the opportunities it offers, including the duty to forego any form of nationality-based discrimination.

Notably, considerations of this kind are easily discernible in the legal framework of the European Union. From its inception, the single market has been founded on four transnational freedoms: the freedom of goods, persons, services, and capital. These freedoms have been complemented by a strict principle of non-discrimination (Article 18 TFEU) that prohibits discrimination on grounds of nationality within the scope of the European Treaties.[4]

The actual elaboration of the principles of equality of economic opportunity and non-discrimination has in the EU been mostly left to the European Court of Justice. The court has tended to make these principles subservient to the realization of economic freedom and 'undistorted competition' in the European single market.[5] In contrast, from the normative perspective of social justice, it would seem more appropriate to consider the organization of the single European market as a means towards the pan-European realization of non-discrimination and cross-border equality of opportunity.[6] The organization of the

European single market should then be oriented to the aim of offering all EU inhabitants, regardless of their nationality or place of residence, equal opportunities to share in its benefits. Undistorted competition may well be conducive to the equality of economic opportunity, especially to the extent that it serves to maximize overall efficiency. At the same time, however, there is nothing in the principle of equality of economic opportunity *per se* that precludes the delineation of boundaries to markets (i.e. 'embedded liberalism', Ruggie, 1982) and even the social need to correct their operation (Fligstein, 2005). However, as Fritz Scharpf (most recently 2010, p. 223) points out, such constructive interventions are not at the disposal of courts but rather require collective political action.

In the context of the euro crisis, the duty to economic non-discrimination has stood strong, although some politicians have been tempted to call for curbing the rights to free movement of citizens from new EU states. Still, even if economic non-discrimination stands strong, it promises limited social relief. With employment opportunities declining in most EU member states, intra-EU migration can only offer limited solace for the effects of the crisis. Indeed, labour migrants are likely to be among the first to be laid off (Galgóczi et al., 2012). Nevertheless, indications are that intra-EU labour migration has increased rather than declined with the crisis, with renewed south-north movement adding to existing east-west streams. At the same time much of this migration seems to be concentrated in low-skilled work (in production and care) with migrants often over-qualified for the jobs they take up (Ibid.). In that light, proposals for a European employment agency and for a job training and mobility programme to diffuse structural unemployment (Maduro, 2012, p. 24) may certainly help to improve the working of the EU labour market, even if they do not by themselves create new jobs.

4. Institutional stabilization

A second way in which EU member states have come to be socially obliged to each other is through the political and economic stabilization that regional integration has provided. Obviously, this aspect of European integration has been of particular relevance to the three accession states of the 1980s (Greece, Spain, and Portugal) and it has certainly also nourished the expectations of the countries from Central and Eastern Europe that joined the EU in the last decade. Certainly from a broader, global perspective, it is anything but self-evident that states successfully consolidate the transition from a dictatorship to a democracy and, at the same time, enter a relatively stable path of economic growth. In general, this mechanism can be seen to apply for all EU member states (not least West Germany in the early years of integration) for which the integration process has led to a level of stability and peace in the relations with their neighbours that knows few, if any, precedents in the long and bloody history of the European continent. Essentially, the relative stability that member states enjoyed has created the conditions for steady economic growth and the development of welfare state arrangements.

In a way, the mutual involvement of European countries in the preservation of each other's institutional structures builds upon the humanitarian duty to assist societies that are stricken by external disasters and the somewhat more conditional duty that John Rawls (1999a, p. 37 and §15) recognizes for liberal peoples to assist those 'burdened societies' that face particularly daunting conditions to maintain a just or decent political and social regime. However, the duty at work in the EU can be said to be considerably more extensive, not so much because it is more demanding but rather because it is more substantial in terms of the conditions to be assured in all member states. The EU member states are not only committed to support each other in the mere capacity of self-government, but by common agreement on the EU treaties they have committed to support each other in the maintenance of a rather specific political order: One that relies on the consolidation of democratic political institutions, the protection of the rule of law and general basic rights, and the preservation of a market economy. The very substance of this order is indicative of the degree of normative convergence between the EU member states and the extent to which their domestic conceptions of justice overlap.

Thus the second EU duty of social justice that I propose runs as follows:

2. The 'positive' duty to support each other in the sustenance of stable political and economic institutions that give effect to the values on which the European Union has been founded (Art. 2 TEU) as well as to a free and effective market economy.

In the preparations of the accession of the new members from Central and Eastern Europe, these considerations have been formalized in the so-called 'Copenhagen criteria' for accession. Also they have been formally incorporated in the central values on which the Union is founded:

> The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. (Article 2 TEU)

Importantly, the Treaty provides for a procedure to suspend member states in case of 'a serious and persistent breach' of these values (Article 7 TEU). Also the so-called 'solidarity clause' that has been included in the Treaty of Lisbon (Article 222 TFEU) can be read in this light as imposing an obligation on member states to provide crisis relief and to support the rebuilding of the basic political and economic infrastructure if one of them would be hit by a sudden crises or (natural) disaster.

Obviously, in the present crisis of the eurozone, the limits of this duty with regard to the stabilization of the economic order are tested. Fundamental differences in national conceptions of economic policy have come to the fore, and provoked rather bitter exchanges between the countries involved. Nevertheless the crisis has underlined the deep interdependencies between the Euro(pean) economies. The members of the eurozone simply cannot afford to let one of them go bankrupt, for financial and political reasons (Crum, 2013). This fact has forced them into some form of solidarity, involving in particular the establishment of major lending schemes (the European Financial Stability Facility and the European Stability Mechanism) that supply liquidity relief for governments unable to serve their debt obligations on the condition that they commit to a financial reform programme. In that respect, the duty to institutional, and economic, stabilization is already deeply inscribed in the financial-economic order of the EU. At the same time, the ways in which these bailouts have been handled also underline the (present) limitations of this duty as, beyond the institutional stabilization that is provided, the shared values offer little guarantee or guidance on how the economies involved are to find their way to growth again and how they are to secure and rebuild their social institutions.

5. Social policy tolerance

The third transnational EU obligation of social justice directly concerns the relation between the supranational level and the national systems already in place. As indicated, whatever EU duties of social justice may emerge, they certainly cannot substitute for the social policies of the member states. The EU institutional framework is far from equipped to take over the redistributive commitments maintained by the member states. The limited redistributive capacity of the EU is essentially justified by the primary claim to self-government of its member states and the relative thinness of transnational public reason. Importantly, there remains great variation between the social arrangements in the different EU member states – appropriately referred to by Fritz Scharpf (2002, p. 653) as 'the legitimate diversity of existing welfare-state institutions and policy legacies at the national level'.

Hence, we rather have to conceive of EU social obligations as complementary to the national conceptions of social justice. Such a complementarity with national conceptions of social justice would even appear an intrinsic feature of any conception of a multi-layered Social Europe. This implies that, besides the 'positive' duties of economic non-discrimination and institutional stabilization, multilevel social justice comes with a 'negative' duty to respect each other's political autonomy in defining one's social policy objectives nationally:

3. The duty to respect each other's political autonomy in defining one's social policy arrangements nationally.

Notably, the ability of states to exploit the policy autonomy granted by this third duty is to some extent constrained by the preceding two duties. Obviously, social policy autonomy needs to be exercised within the, relatively broad, institutional and normative constraints inscribed in the second duty.

However, it is particularly the constraining effect of the first duty that can be problematic to the extent that the freedom of movement puts pressure on member states to adjust their social policies.[7] In principle, the EU treaties draw a neat distinction between the single market and social policy. Social policies remain primarily under the control of national governments and the Union only has a coordinatory competence in them (Article 5.3 TFEU). Specifically, member states can make the access to most social provisions of other EU nationals conditional on them having work within the country. Tellingly, the 2004 EU residence directive (Article 7b) allows member states to withdraw the right of residence of anyone who, after an initial period of three months, becomes 'a burden on the social assistance system of the host Member State' (Martinsen and Vollaard, 2014, p. 685). Thus, national social regimes are shielded against the unlimited expansion of claims from other EU nationals, and the principle of non-discrimination is limited to access to work and does not extend to access to social assistance.

Still, even though the domain of national social policy can formally be delineated from that of the single market, it is often argued that the broader dynamics of market integration undermine the social policy autonomy of EU member states (Scharpf, 2002). Specifically, such arguments assume economic integration to invite policy competition between governments to the effect that they are driven to outbid each other in the downward adjustment of their social policies and regulatory standards. Notably, however, European welfare states remain marked by the persistence of fundamental differences between them (Falkner, 2009; Höpner and Schäfer, 2012, Section 3). What is more, even if social policy convergence has been observed in the EU, this does not necessarily reflect a race to the bottom. To the contrary, up until the mid-1990s, the predominant trend was a 'pattern of convergence to higher levels [of social protection]' (Caminada et al., 2010, p. 551). Since then the levels of social protection offered by European welfare states have rather started to diverge that one can conclude that 'a [general] trend towards lower protection levels and higher poverty rates has started' (Ibid.). These findings are in line with more general studies of variation and change in national social policy regimes that underline that these are above all explained by national political choices while the influence of international economic integration is modest and may indeed push in different directions (Brady et al., 2005). Thus, given the diversity of social arrangements that actually persists despite European integration (and indeed globalization in general), we should not too quickly discount the continuing ability of nation states to govern their own conception of social justice.

However, there obviously are certain policy sectors where freedom of movement does put substantial pressure on the member states' social policy autonomy. Most notably, this concerns the area of labour law, which is the social policy domain that is most closely related to the terms of competition in the single market. In this field the expansion of equality of economic opportunity in the European single market has clearly come to undermine social policy autonomy. As a response, far-ranging common standards have been adopted with regard to matters like working conditions.

In other social law domains where no common standards have been agreed (like industrial relations), the European Court of Justice has, in the name of economic freedoms in the internal market, tended to constrain the ability of national actors to effectively maintain organizational practices that have traditionally been part of the national labour regime (Joerges, 2010, p. 78; Höpner and Schäfer, 2012). These tendencies suggest that there is a need to reaffirm the legal (or even treaty) basis for the protection of national social arrangements, so as to set clear boundaries to the scope of the single market. Such a legal basis might for instance build upon Article 4.2 TEU that provides 'The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions [...]'. More specifically, there is the commitment in Article 14 TFEU to secure the necessary principles and conditions of effective services of general economic interest that needs to be read in conjunction with Protocol No. 26 on Services of General Interest.

Besides the spill-over of the single market into social policy, there was until the late 1990s little direct EU involvement with social policy (apart from labour law) (Leibfried, 2005). However, over the last decade, attempts have been made to treat social policies as a shared concern without imposing binding European measures. This is how the open method of coordination, as it operates in the policy domains of employment, social inclusion and pensions, can be understood (Trubek and Trubek, 2005). Under this method, member states agree on certain rather broad policy goals but choose their own means to attain them. By way of systematic monitoring of the different measures and results obtained, each state is stimulated to reflect upon its own performance and to learn from the experiences ('best practices') of others. Thus, it can be said that the EU open method of coordination does make social policies the object of common concern whilst recognizing the diversity among national practices and expressing the respect for self-government in this domain.

To a certain extent such recognition of diverse social policy models was also inscribed in the original design of the Economic and Monetary Union (EMU) as it left member states considerable policy discretion as long as they kept their budget deficit under 3 percent of their GDP (Scharpf, 2002; Crum, 2013). However, this tolerance has been severely compromised by the response to the euro crisis. As the financial crisis led some euro members into grave problems with serving their public debt, they have been granted loan packages but at a severe price in terms of their socio-economic autonomy. The Memoranda of Understanding attached to these loans include far-ranging interventions in the national social policy arrangements, like the restructuring of the pension systems, the reduction of the minimum wage and the suspension of sectoral agreements (Scharpf, 2011, p. 185). Even if such interventions may be required to restore the sustainability of the national budgets and the confidence of the financial markets, the way these memorandums are devised leaves little scope for the consideration of political alternatives. Instead, these measures are presented as an apolitical, technocratic interpretation of the conditions the bail-out countries face. Most fundamentally, these technocratic templates are imposed while sidestepping the national democratic process and with little regard to the policy principles and traditions obtaining in the country.

Notably, the general response among EU policymakers to the crisis seems to be to extend the number of benchmarks by which countries' socio-economic position is to be accessed, to reinforce the ability to impose sanctions in case breaches are found, and to generalize the use of policy contracts, like the memoranda of understanding, also to non-bailout euro members (European Council President, 2012, p. 4). These measures risk leading to a steady erosion of social policy autonomy, and indeed to stifle any social policy debate, at the national or the European level. Hence, they make it even more urgent to define and protect a sphere of national social policymaking that is essentially outside of the domain of EU competence, and to guarantee that when European financial stability necessitates the direct interference with national fiscal and socio-economic policies, this is bound to be transitional and oriented towards returning policy autonomy again to the national government involved.

6. Conclusion

The euro crisis clearly presses the question of social justice in the European Union. There is no doubt that the social fates of Europeans have become deeply interdependent and that the way these interdependencies play out depends very much on the rules that are adopted at the European level. This circumstance calls for a clarification of what the EU's social aspirations are and how they relate to the established, national, conceptions of social justice.

In this chapter, I have sought to open up the potential of European integration as a vehicle for social policy by outlining the contours of a multi-layered conception of Social Europe with its own distinctive political duties. Such a multi-layered conception recognizes the 'normative peculiarity' of the nation-state as a privileged site for self-government

(Risse, 2011) as it conceives of the EU social justice regime as complementing the conceptions of social justice that prevail at the national level. Notwithstanding the privileged status of the nation state, a multi-layered conception of Social Europe is justified by the circumstances by which European integration has become marked: many and intense transnational interactions and interdependencies, a partly autonomous political order, and increased mutual observation among national public spheres.

These circumstances enable and, indeed, call for transnational obligations of social justice with the objectives to redress arbitrary inequalities; to express transnational convergence on certain substantial principles and institutions; and to reinforce the capacities of the nation-states to maintain their own conception of social justice. These objectives roughly correspond to the three obligations that I propose as constituting the core of the EU conception of social justice:

1. Economic non-discrimination: the 'positive' duty to provide each other with full and equal access to each other's (national) economic domain and the opportunities it offers, including the duty to forego any form of nationality-based discrimination.
2. Institutional stabilization: the 'positive' duty to support each other in the sustenance of stable political and economic institutions that give effect to the values on which the European Union has been founded (Art. 2 TEU) as well as to a free and effective market economy.
3. Social policy tolerance: the 'negative' duty to respect each other's political autonomy in defining one's social policy arrangements nationally.

While these duties are inherently different from the ones that have been at the heart of national welfare regimes, they demonstrate that social duties are conceivable beyond the trusted boundaries of the sovereign nation-state. EU citizens have actually become subject to duties of social justice that constrain their actions, and those of their nation-states, for the sake of a common European social good.

Crucially, however, the full impact of the EU social justice regime needs to be appreciated in combination with the conceptions of social justice that prevail at the national level. In contrast to many previous visions on 'Social Europe', a multi-layered approach underlines the need to exploit the complementarities between the two levels rather than to regard them as alternatives for – or even competitors with – each other. Indeed, in this light, one of the primary functions of the EU social justice regime is to facilitate the sustenance and development of a variety of autonomous conceptions of social justice in the EU (Sangiovanni, 2013). Notably, such an approach resonates well with recent thought on Social Europe. Thus, Fritz Scharpf (2002, p. 663) has posited that 'instead of striving for uniformity, European social law should allow different types of welfare states to maintain and develop their specific institutions in response to different understanding of social solidarity'. In a similar vein, Maurizio Ferrera (2009, p. 225) calls for an EU 'social space' 'whose main function should be to safeguard or reconstruct those institutional preconditions [...] that underpin domestic sharing arrangements'.

Ultimately, the identification of the three duties should not so much be read as an empirical claim but rather as a reinterpretation of certain practices as they have emerged in the course of European integration, which can be used to reflect on its social potential (Habermas, 1983; Sangiovanni, 2013, p. 221). Thus, these duties can be regarded as incipient duties that have only been developed imperfectly within the EU so far. What is more, their emergence has not necessarily been driven by a conception of justice. However, once these practices have been established, we can come to recognize them as the expression of such a conception.[8] To the extent that the proposed formulation of these duties is found to be appropriate, the very act of explicating them may have a self-reinforcing effect and, thus, contribute to the evolution of the EU as a sphere of social justice.

However, as it happens, the euro crisis has come to challenge each of the proposed duties, albeit in different ways. Of the three duties, the one that so far has escaped from the crisis mostly unscathed is the duty of economic non-discrimination; free movement remains an essential ingredient of the single market, even if some Western European politicians have expressed concerns regarding the protection of their national labour markets. In contrast, the duty that has most severely come under pressure in the present crisis is social policy tolerance. Fear of the implosion of the eurozone has left little patience with, and tolerance for, the countries who have found themselves unable to serve their debts. While before EMU these countries might have handled such a situation by devaluing their currency, now the EU and the IMF had to move in to save them from bankruptcy. They did so, however, at the cost of submitting to far-reaching reform programmes that left little of their political autonomy. As these measures infringe deeply upon established national social arrangements, they fail to appreciate that the EU does not command a comprehensive supranational conception of social justice that can compensate for that.

The way that the diversity of national social-economic arrangements has been sidestepped in the responses to the euro crisis, also reflects upon the duty of institutional stabilization and the supposedly shared values on which it is taken to rely. Although there is certainly a foundation of values that are shared across the EU, the level of depth and detail of this foundation can easily be overestimated. As the crisis also demonstrates, no European consensus can be assumed to exist on the scope of the free market, on the exact relation between the public and the private domain, or even on the guiding principles of public finance. Also values such as 'a competitive social market economy' and 'self-government' that feature prominently in the EU treaty (Articles 3.3 and 4.2, respectively) remain politically contested and may be interpreted differently by different constituencies. Ultimately, the euro crisis has highlighted how deeply democratic decision-making and social solidarity are, and remain, entrenched at the national level, and that so far the European level offers no effective substitutes for that. While there is certainly some scope for supranational solidarity, eventually the successful overcoming of the crisis hinges on national capacities. Hence, any solutions that disable national self-determination and social policy autonomy are unlikely to be sustainable.

Notes

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1. I thank Carlos Closa for urging me to explicate this point.
2. Compare for instance the Dutch governmental budget that is almost twice as big as that of the EU, while the national GDP of around 600 billion Euros is less than one-twentieth of that of the EU as a whole.
3. Note that the principle of equal opportunities need not necessarily rely on the philosophical presupposition of the fundamental equal dignity of every human being (as it does in Rawls's work), but that it can also be derived from a consequentialist approach that considers the systematic exclusion of certain groups from certain opportunities as preventing the full realization of the societal well-being.
4. Notably, the principle of non-discrimination has from the EEC-Treaty onwards (1957) been accompanied by the principle of equal pay for male and female

workers (now Article 157 TFEU). In the Treaty of Amsterdam (1997), the EU was moreover provided with the competence to 'take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation' (Article 19 TFEU).

5. This has particularly come to the fore in the European Court of Justice judgments in the Laval and Viking cases (ECJ C-341/05 and C-438/05, respectively). For commentary, see Joerges (2010). For a more elaborate analysis of the conditions under which the ECJ has come to wield such powers, see Scharpf (2010).
6. A further caveat here is that it is essential to underline the character of free movement as a *right* that individuals can dispose of as they deem fit. However, I note the risk that, in an integrated market, this right becomes turned into a *duty* to move to wherever job opportunities arise. Thus, authorities might make the enjoyment of social services conditional upon a willingness to relocate across Europe. Such a reading would run contrary to the identity-constituting role that the present analysis recognizes nation-states to perform and is certainly not an understanding that I would promote.
7. Cf. Rawls's question: 'Isn't there a conflict between a large free and open market comprising all of Europe and the individual nation-states, each with its separate political and social institutions, historical memories, and forms and traditions of social policy?' (Rawls and Van Parijs, 2003, p. 15).
8. In fact, historically, also most domestic welfare arrangements did not emerge from a sense of justice but rather from some form of enlightened self-interest (de Swaan, 1988); only after the fact did they come to be rationalized and justified in a systematic way.

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9
Conclusion: Social Europe Is Dead. What's Next?

Amandine Crespy and Georg Menz

1. Introduction

The last few years have undeniably been eventful for Europe in ways which are difficult to interpret as one struggles to adjudicate between those positing a stalling of European integration and a second camp claiming formidable acceleration in pace and scope. Although many new structures and policy instruments have emerged, this has seemed to be always 'too little, too late' – a phrase which has now become famous in the public debate over EU integration – to deliver an efficient and satisfactory response to the problems which the EU has been facing since the outbreak of the financial crisis in 2008 and the subsequent debt crisis in the eurozone (and beyond). In the immediate aftermath, the banking crisis has morphed into a sovereign debt crisis in some countries, while casting serious questions about budgetary policy, competitiveness, and economic stability elsewhere. During the summer of 2010, the very existence of the eurozone and of the political project that is the EU was on the brink of disintegration. During this period, academic observers have mostly focused their attention on monetary policy, including banking reform and the reform of economic governance. In recent years, however, the effects of both the crisis itself and the policies enforced purportedly to tackle it have come to their full effect. Rising unemployment rates and – sometimes dramatically diminished – welfare state capacities have conspired to place significant parts of European societies in dire straits socially and financially, especially among the younger generations. Against this backdrop, the issue of Social Europe has become more important than ever. As we indicate in the introduction, Social Europe is understood here as a political project which aims at preserving social justice in the context of transnational market capitalism by developing (regulatory as well as distributive) policy instruments at the EU level. Endeavours towards Social Europe therefore focus on the development of a supranational social market economy inspired by the coordinated economies which have historically been shaped by social democracy in Scandinavia and the German-speaking Rhineland countries. After a period of strong scholarly interest in developments in social policy within the context of EU integration during the late 1990s and early 2000s, as policy activity has slowed down, so has scholarly interest waned. Only very recently, scholars of social policy have started to study the changes prompted by the new institutional and policy constellation emerging from the euro crisis.

The purpose of this book is to provide in-depth analysis of how this crisis has affected the pursuit of Social Europe. A main hypothesis is that such pursuit had proved to be elusive – read: had failed – already before the crisis, a diagnosis which had been made by students of political economy, notably among what may be called the 'Cologne school' (Höpner and Schäfer, 2010; Scharpf, 2010), but this submission has rarely been accepted by other students of EU social policy (De la Porte and Pochet, 2002; Trubek and Trubek, 2005; Heidenreich and Zeitlin, 2009). Thus, our objective is not restricted to an account of the policy initiatives resulting from the crisis and the new governance procedures for macroeconomic coordination in the EU. It is also to connect these latest developments with pre-crisis trends and make a novel contribution to key debates in the field. From a theoretical point of view, the book tackles questions which relate to three issues. Firstly, the issue of continuity and change has been compellingly addressed by historical institutionalist scholars, notably in relation to social policy in the EU (Pierson, 1996). Seven years on, should we see the financial and debt crisis as a critical juncture punctuating the pre-established order or, on the contrary, as the continuation of previously established trends? Secondly, there has been a widespread understanding among scholars that social policy at European level has mainly developed as a regulatory – as opposed to distributive – policy left to 'courts and markets' (Leibfried and Pierson, 2000). Here again, this conception can be debated – if not objected to – when paying attention to the politics of Social Europe especially since the 2004 round of enlargement. Thirdly, this book taps into the broader question of Europeanization and governance: How have the dynamics between the member states and the EU supranational institutions evolved? How does the Europeanization of national social policy and the building of Social Europe unfold in terms of the dynamics of uploading and downloading? In the following, the first three sections summarize and discuss the novel insights provided in the various chapters respectively in relation to the three debates mentioned, namely, the issue of continuity and change involved with the euro crisis (Section 2), the genuine political nature of Social Europe (Section 3), and the role of Germany in shaping the recent developments in the governance of social policy in the EU (Section 4). Finally, we discuss how the book sheds light on future avenues for research by linking recent policy debates with underlying normative conceptions of Social Europe (Section 5).

2. Social Europe: From path dependency to 'fast-forward' Europeanization

As the main endeavour of the volume has been to analyse the impact of the euro crisis on the project of Social Europe, the first evident set of questions prompts us to examine how much change the crisis has brought. The analysis of change and continuity is a classic yet utterly challenging puzzle in political science. With regard to social Europe, the academic and political debates alike have often opposed those who see the glass half full to those who see it half empty, depending on one's benchmark and model of reference. In the late 1990s and at the turn of the millennium, a number of scholars have provided optimistic accounts and interpreted the innovations pertaining to social policy at the European level as signs of a Social Europe in the making. Rooted in the historical institutionalist perspective, Pierson's argument in the mid-1990s put the emphasis on the activism of supranational institutions and the unintended consequences of member states' decisions leading to the ineluctable emergence of a Social Europe. And it is true that a large number of social policy instruments and initiatives, for example, in the realm of gender equality, have proved path dependent and resistant to change. In the 2000s, as pointed out by Copeland and Daly in this volume, Rhodes claimed that the open method of coordination (OMC)

> could help provide the missing institutional hub of Social Europe, around which other processes and initiatives can effectively rotate. Social protection issues will move much closer to the centre of European policy making-helping to correct the asymmetry between positive and negative integration-and their interdependencies with other areas of employment and macro-economic making will be explicitly acknowledged.
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> (Rhodes, 2000, p. 3)

Looking back at almost two decades of integration, it appears that the EU has clearly departed from a vision where social integration would be self-reinforcing and lead to the coming of age of a supranational, coordinated, social market economy. As always in the social sciences, the final assessment depends to a large extent on the level of analysis. When focusing on the output of social policy strictly speaking, it is tempting to conclude that major policy innovations have continued to be generated. And it is certainly true that regulation proposed by the Commission has produced important results in fields like health and safety at work or gender equality. We also agree that most policy instruments once established at the EU level, such as the poverty target, mostly become path dependent and 'stick' in policymaking. However, focusing too much on instruments and innovations in governance entails the risk of missing the bigger picture. When re-connecting social policy to the broader framework of political economy and the historical unfolding of European integration, what cannot be ignored is the many ways in which the embrace of neoliberalism has precluded the coming of age of Social Europe.

To various extents and in different ways, the chapters show that beyond path dependencies and locks-in pertaining to social policy *per se*, other long-term phenomena have powerfully impeded Social Europe. From the structural sociological point of view adopted by Bieler, class politics and the asymmetric balance of power between capital and labour explains the weakness of the social dimension of EU integration. While many have seen the Delorsian era as the golden age of Social Europe, he argues that it should be recast as a crucial moment where Social Europe was decidedly subsumed to market making. From the late 1980s onwards, the global neoliberal restructuring has been accentuated by the internal market programme promoted by the European Commission. The transnationalization of capital has been accompanied by the building of influence on the EU Commission. In contrast, as Dufresne shows in her chapter, unions' endeavour to shape industrial relations in a way that is more favourable to workers has encountered multiple obstacles. The transnationalization of collective bargaining in relation to wage policy has to a large extent failed and given way to less than cooperative strategies, pursued notably by German unions which often set the tone for European-wide developments.

When turning to the assessment of whether the crisis has brought critical change or not, the authors seem to detect *both* continuity *and* change. In fact, the early 2000s have marked a critical turn for Social Europe both for ideological and institutional reasons, as Menz argues.

Politically, social democrats across Europe have widely embraced the Third Way ideology of liberalized social democracy in their approach to labour market and welfare state reform. At the EU level, pro-integration entrepreneurs, namely, the Commission and the European Court of Justice (ECJ), have followed a similar pattern and decisively opted for labour mobility and competition over national social regulation. This has been accentuated by the new constellation emerging from the 2004 Eastern enlargement which has brought in countries which, for political as well as economic reasons, have not been favourable to the project of Social Europe. The scene was therefore set long before the financial crisis broke out. And in fact, it has performed the role of a catalyst for trends which had been already strongly present in the political economy and the politics of Europe for at least a decade. Regarding wage policy, for example, the crisis has only served to amplify and systematize the strategy of wage restraint (Chapter 5). While such a strategy was previously left to the initiative of national governments, under the new EMU governance it is now promoted and enforced in a top-down fashion. Similarly, the privatization of public services, national assets, and the marginalization of trade unions have been accelerated since 2008. Copeland and Daly make a similar assessment by showing that social policy objectives such as the poverty and social exclusion target have only been progressively weakened first with Europe 2020 and then with its slippage into economic governance and the European semester.

We therefore argue that the euro crisis has exacerbated existing broader structural trends which have been more powerful than path dependencies pertaining to the creation of new social policy instruments. Essentially, the evidence points to the subordination of market correcting to market making – and create further procedural locks-in which will impede Social Europe in the future. A good example of this is the way in which coordination in the framework of the stability and growth pact has become stringent in the framework of the European Semester (and the related procedure for macroeconomic imbalance). Another illustration can be found in the case of services of general interest (SGI) elucidated by Crespy. The retreat of member states towards attempts at defending their national model of public services and the principle of subsidiarity, on the one hand, and the ideologically rooted notion that most public services should be subjected to competition rules within the internal market, on the other, have led to a dead end in the debate over a possible regulation for ensuring a satisfactory functioning of public services. Overall, it is striking to observe how the asymmetry between strong actors and instruments in the realm of economic policy versus weak actors and instruments regarding social re-regulatory or redistributive policy has been reinforced. Rather than a critical juncture, the euro crisis should therefore be seen as a moment of 'fast-forward' Europeanization. Analysing the dramatic social policy changes which have occurred in Italy and Greece, Graziano and Ladi define fast-forward Europeanization as 'the intensification of "hard" mechanisms of Europeanization (e.g. the memoranda) even under the form of apparently less binding pressures (as in the case of the ECB-Bank of Italy letter), and, second, the broadening of domestic policy implications of EU decisions' (2014, p. 122). On the basis of a further set of cases dealt with in this volume, we could further argue that, from the point of view of EU level policymaking, 'fast-forward Europeanization' implies that the direction of change does not change but is simply accelerated in order to prompt more dramatic outcomes at the national level. Thus, we claim that the policy course which had been set at the turn of the century, and which has been fundamentally averse to the realization of Social Europe, has experienced an acceleration with the euro crisis.

3. Social Europe as a conflicted political project

Over the past two decades, Social Europe has often been analysed through the lenses of changing governance in the EU. In the late 1990s, the concept of the regulatory state put forward by Majone (1996) has been fruitfully applied to the EU. Because the EU is deprived of distributive competences necessary to develop a genuine pan-European welfare state, the notion of regulatory state has been particularly suited to describe the activity of the EU in this realm. Furthermore, in line with this analysis, the role of the EU non-majoritarian institutions, namely, the Commission and the Court, has been prominent in advancing integration and overcoming member states' typical reluctance. While the notion of Social Europe has its roots in economic philosophies inspired by social democracy, the actual making of social policy at the European level has (seemingly) taken the form of a less political process driven by non-elected institutions aiming at the well-functioning of the internal market. Along these lines, Leibfried and Pierson (2000) have famously argued that EU social policy was mainly 'left to the court and the market'. As the OMC emerged as the primary method of choice for social policy in the 2000s behind the backdrop of the Lisbon Strategy, it has mainly been described as a bureaucratic exercise based on scientifically established benchmarks and mutual learning on the basis of the exchange of good practices. Because it was supposed to be open to 'stake holders' and relying on soft coordination rather than top-down enforcement, it was seen as a way to overcome the blockages of national politics and deep disagreements about how to best reform European welfare states.

4. The political drivers behind regulation and case law

The contributions gathered in this volume shed a different light on the making of Social Europe and there has been a common endeavour to bring the fundamentally political dimension of Social Europe to the fore. Bieler's chapter reminds us that, although it has been less visible in the political discourse after the 1980s, class politics have not stopped shaping policy developments. The neoliberal restructuring in the global as well as European arena has favoured the transnational circulation of capital over national politics and neocorporatism. This has been reflected in an imbalance in European governance between influential actors representing the interests of the markets and capital (the DG for economic and financial affairs, the European Central Bank, etc.) versus a weakening of actors representing the interests of labour. This has had important policy consequences. For example, trade unions have not been able to arrange for transnational wage coordination, as Dufresne shows. In many countries (and notably in Germany) they have yielded to an uncooperative strategy of wage restraint. Both authors argue that the fate of Social Europe can only be changed by a significant alteration of the balance of power between capital and labour, which requires a turn in contentious politics and engagement of the advocates of social Europe with efficient offensive political strategies. However, such a development does not seem to be in sight. In spite of attempts by the European Trade Union Confederation (ETUC) to articulate a coordinated critical response to austerity endorsed by decision makers, no common European strategy has emerged. The same can be said about the realm of protest politics. Though the *Indignados* and the Occupy movement have forcefully voiced the popular resentment against the taxpayer bail-out of irresponsible banks, global financialized capitalism and EU-enforced austerity, they have proved to be relatively short-lived and activities have in the main remained limited to a few national arenas, thus lacking the pan-European scale necessary to affect governments and the EU institutions.

Consequently, the chapters in no way deny the key role of 'the court and the markets'. On the contrary, the role of both the Commission and the ECJ is stressed as a key ingredient of the demise of Social Europe predating the crisis. However, the argument is that these cannot be regarded as mere apolitical regulatory and judicial politics. Rather, the pro-market strategy of both institutions has been part of a political turn in the EU. Chapter 3 documents the ideational shift which has sealed the fate of Social Europe from the late 1990s onwards. In conjunction with the Third Way turn in many member states, the Commission has performed the role of a pro-active political entrepreneur. It has indeed promoted a certain idea of Social Europe by embracing neoliberal tenets regarding welfare state reforms. In the public debate over Europe, the claim is often advanced that the role of the Commission, especially under Barroso, has been significantly weakened when compared to the dynamic Commission in the Delorsian era, notably due to the emergence of the so-called new modes of governance which do not operate through legislation. This idea can be questioned in many respects. The comparative analysis of several policy areas (including monetary policy, higher education, energy, and labour market) (Crespy and Ravinet, 2014) show that the EU Commission is, for political as well as institutional reasons, more inclined to promote neoliberal recipes to perceived policy problems. However, this does not mean a direct top-down enforcement of policy ideas. Rather, policy formulation is a political process where the fate of the Commission's propositions depends on coalition building, the mobilization of expertise and interests, politicization, etc. With regard to social policy, the role of the Commission as a political entrepreneur has been analysed in more details elsewhere (Crespy and Menz, 2015). As Menz argues, the Commission has not ceased to be a political entrepreneur after Delors. Rather, its strategy and objectives have changed. This has been accompanied by a relative stalling of regulatory activity. Indeed, legislative activity in the realm of Social Europe has declined since 2000. A closer look shows that not only has the Commission proposed fewer directives, but the directives adopted were mainly revisions of existing legislation. Moreover, a number of pending cases show that some issues remain politically sensitive (Graziano and Hartlapp, 2014). As the debate over the regulation of public services show (Chapter 6), the willingness to engage with new significant re-regulation has clearly declined between the mid-1990s and the mid-2000s among the member states, the members of the European Parliament, and within the Commission alike. This has only reflected the shared notion that competition is superior to state (or EU) regulation as a mechanism for coordinating the economy.

In addition, the role of the ECJ has also been eminently political (see chapters 2 and 3) as the court has not only promoted integration through law. Although it is never fully linear, jurisprudence from the 2000s onwards has displayed a strong inclination towards integration through the markets. With the now famous cases of Viking, Laval, and Rüffert (from 2007 and 2008), the ECJ has placed the free circulation of services and the operation of cross-border services markets above national rules for regulating pay and working conditions as well as the right to industrial action to force companies to abide by collective agreements. As Chapter 4 shows, consequences for Scandinavian countries, the paragons of Social Europe – have been significant as the traditional Scandinavian model of collective bargaining has come under threat. While adjustments have been made, Mailand argues that European case law permanently hampers industrial collective action and leaves transnational labour migration and service provision as the most significant factors driving a downwards development of social standards in Denmark and Sweden. Rather than harmonization, it is mutual recognition which has become the main legal foundation for the transnational market, including the labour market. This means that instead of seeking harmonization through the adoption of common rules, member states should recognize the validity of other member states' rules, thus going to the interpenetration of diverse legal orders. The prevailing of mutual recognition over harmonization has important normative implications when envisioning social Europe in the enlarged union. According to Crum, the irreducibility of various national welfare traditions to one single pan-European welfare state should be acknowledged. This triggers two underlying duties of Social Europe. Firstly, national labour markets and societies should be open to all citizens of the union through strict emphasis on the principle of non-discrimination. Secondly, the autonomy of member states in the definition of their social policy should be respected and different arrangements accepted. However, as the case of the aforementioned ECJ rulings and the Nordic social model shows, these two principles can clash. As we will discuss in the last section of this chapter, the two principles of non-discrimination and national autonomy are at the heart of heated political debates at the moment. Thus, neither regulation through legislation nor case law – or, in other words, the ways in which the markets and the Court shape or impede Social Europe – can be isolated from the broader political context they are embedded in.

5. The politics of soft governance

When turning to the OMC, here again there is a need to recall that – even soft – governance is not immune from politics. In their chapter, Copeland and Daly analyse the policy development pertaining to the struggle against poverty and social exclusion. By replacing policy debates in their broader political context, they claim that contemplating the OMC Social Protection and Inclusion during Lisbon II serves to illustrate the point of the inter-connectedness of politics and governance. In this respect, the mid-term reform of the Lisbon strategy in 2005 initiated by the first Barroso Commission has clearly implied a neoliberal turn and the subordination of social policy to economic policy geared towards enhanced competitiveness. The rationale behind this is that welfare should naturally stem from the good functioning of markets which ensure steady levels of growth and employment. In other words, there is a lack in willingness to engage seriously with market-correcting policies. With deficit reduction being at the core of post-crisis governance – that is, Europe 2020 embedded in the European Semester – the dependence of social policy on economic policy has only been reinforced, not to say locked-in. As Copeland and Daly write:

> We are forced to view the Europe 2020 poverty target as something of a paradox. Member states are asked to reduce poverty and social exclusion while simultaneously maintaining strict budgetary discipline, irrespective of the economic growth cycle.

Beyond the concepts of regulatory state, integration through law, or governance, policy choices and the prioritization of policy objectives are bound to have distributional effects. For this reason, politics and ideology have consistently underlined the prospects of Social Europe. Empirical evidence across the range of issues tackled in the book and put in historical perspective suggest that the age of austerity opened in Europe in 2008 only constitutes a further stage in the neoliberalization of European political economies which is incompatible with the implementation of Social Europe.

We thus argue that the euro crisis has not created but made more visible the fundamentally political logic explaining the demise of Social Europe. We are witnessing creeping and sometimes explosive politicization of policy issues. In the 2000s, issues like the Bolkestein directive had triggered major discontent. However, the current politicization seems to be different in degree and in kind. Political conflicts no longer juxtapose a neoliberal Europe versus a Social Europe.

Rather, it accentuates the confrontational potential of social policy in the context of the EU multi-level and multi-national politics depending on the degree of budgetary autonomy enjoyed by various groups of member states. In the creditor countries, national debates focus on how to reconcile traditionally generous welfare systems and competitiveness. The new mechanisms of the EU do not seem to be a major impediment to national choices and strategies. In the countries where autonomy is still relatively important, but pressures can be felt, the debate occasionally focuses on the prerogatives of the EU institutions and the extent to which national decisions should be shaped by the policy solutions advocated by 'Brussels'. Finally, where national autonomy has been almost entirely suppressed due to conditionality for financial assistance, popular contestation has targeted incapable and corrupt national leaders and neoliberal technocrats of the Troika alike. However, national political leaders are often keen to conceal the political drivers of the Europeanization of social policy. Mailand, for example, explains that Danish and Swedish governments have mainly claimed to shield off their national model without acknowledging the effects of Europeanization. Dufresne similarly explains that public debate over the Treaty on Stability, Coordination and Governance (TSCG) has been avoided by most governments. Because some member states would have needed to organize a referendum in order to amend their constitution, the introduction of the so-called golden rule prohibiting budget deficits could also be introduced through 'provisions of binding force and permanent character' which do not require a constitutional change. In spite of the efforts made to contain the politicization of social policy issues, the latter seems inescapable.

6. German hegemony and integration by stealth: The paradox of social integration

The last set of issues tackled in the volume relates to the ways in which social policy reflects and is affected by the developments in EU governance, in particular the relations between member states and supranational institutions. How have the uploading and downloading dynamics of various member states been affected by the crisis? Are we witnessing a trend towards the centralization or, on the contrary, a decentralization of social policy? The responses to the financial and debt crisis since 2008 have almost unanimously been depicted as a moment reasserting the fundamentally intergovernmental nature of the EU. To be sure, crisis management in response to sovereign debt defaults in several EU countries has occurred not only in an intergovernmental way but through bilateral decisions made by the French-German *directoire* named Merkozy. Later, the 'intergovernmental constitution of the EU' (Fabbrini, 2013) has found its strongest expression in the adoption of the Treaty on Stability, Coordination and Governance in March 2012 which is not an EU Treaty but an intergovernmental agreement (which was not signed by the UK and the Czech governments). The agreement has been a crucial step in the constitutionalization of austerity as its key provision is a 'debt brake' which prohibits national budget deficits over 0.5 percent of GDP. It also requires for national governments to present their national reform programmes geared towards competitiveness and to take 'corrective measures' in case of excessive deficit. As France has got stuck in economic stagnation and political gloom over the past few years, EU politics have taken the form of a 'German-led, intergovernmental centralisation' (Scicluna, 2012). However, this has rarely been connected to the fate of Social Europe. This volume provides insights which serve to complement and qualify these views with regard to both the bottom-up and the top-down dimension in the Europeanization of social policy. First, the contributions shed novel light on how, long before the coming of age of Merkelian austerity, Germany has played a crucial role in the demise of Social Europe. Furthermore, the contributions also provide evidence as to a recent trend towards a negative form of centralization of social policy, as it becomes increasingly embedded into the top-down enforcement of austerity supervised by the EU Commission. For doing so, however, we have chosen not to focus on the obvious cases of Southern countries where social policy autonomy has been annihilated as a result of conditionality linked to financial assistance and enshrined in memoranda of understanding. Rather, we investigate the changing dynamics related to the 'model students', Germany and Scandinavia.

6.1. The new German model of austerity-based competitiveness

When looking at the influence of the member states on the bottom-up Europeanization of social policy, attention has often been focused on countries other than Germany. On the one hand, since 1979, the UK has consistently acted as a foe of Social Europe. Together with the US, it has been described as the archetype of a liberal market economy, thus displaying a fundamental misfit with the idea of a supranational social market economy. Politics have had a major influence, too. Since the Thatcher era, for ideological reasons related to economic philosophy as well as to a traditional reluctance towards European integration beyond free trade and the markets, the UK has consistently obstructed and/or opted out from all initiatives aiming at advancing social Europe. Later, during the Blair era, the Third Way ideology has inspired social democratic leaders in a way which supported the neoliberalization of social democracy and social policy rather than any sort of social democratization via Europeanization in Britain. However, the Scandinavian flexicurity model for labour markets undeniably epitomizes one of the greatest examples for policy uploading and diffusion. Flexicurity has been strongly promoted by the EU Commission through the OMC and, although in ways which do not match the Scandinavian model, has shaped a decade of labour-market reform in Europe. However, more recently, the Scandinavian influence as a model of reference and for emulation has declined, not least because of how the Swedish and Danish economies have been affected by the crisis (see Chapter 4).

Over the past few years, Germany has strongly established itself as the central reference model for a competitive coordinated market economy. However, we argue, it has only done so at the expense of Social Europe, mainly in two respects. First, whereas Germany has been pictured as the archetype of a coordinated market economy, it appears to have gained competitiveness recently by losing sight of its traditional social dimension of German capitalism. Second, German political and social actors have played a crucial role in European policy debates which has often hindered the progress of Social Europe. In Chapter 3, Menz recalls that the neoliberal turn of social democracy has not only been propelled forward by Tony Blair, it has also been fully embraced by Gerhard Schröder (as opposed to the then French Prime Minister Lionel Jospin). The famous joint Blair-Schröder paper from 1999 epitomizes a manifesto for the pivot of German capitalism towards a more liberal economic model. The economic programme initiated in the late 1990s and 2000s under the label 'Hartz reforms' have led to a massive flexibilization of the German labour market. The significant increase in temporary work and underpaid 'mini-jobs', unattractive underpaid part-time work, the merging and decrease of unemployment benefits, and the social safety net, etc. have led to an important increase in poverty and the emergence of a class of 'working poor', especially in the low wage services sector (see Chapter 5), unprecedented in the German context. According to both Bieler and Dufresne, German competitiveness and economic hegemony rely to a great extent on wage 'moderation' or restraint, a strategy which prioritizes growth at the expense of welfare.

Moreover, from the broader perspective of political economy, it can be argued that the German economic model is at least as much part of the problem as part of the solution. While, as Bieler writes, 'there is a widespread assumption that the sovereign debt crisis would be mainly a fault of the affected countries having lived above their means', the fundamental problem resides in the coexistence of and the unbalance between one large exports-oriented economy and several smaller economies suffering from trade deficits. While larger German companies have availed themselves of the export opportunities to their smaller European neighbouring economies, such performance has been aided by wage moderation that amounts to a beggar-thy-neighbour strategy. The conventional wisdom has it that Mediterranean countries need to implement their own version of the Hartz reforms and pursue wage moderation, but this presupposes a 'buyer of last resort' elsewhere, globally competitive companies that are often glaringly absent in parts of Mediterranean Europe, and obviously is detrimental to domestic demand due to depressed purchasing power. German banks to some degree alongside their French counterparts have recycled their capital holdings into government bond purchases and outright loans to Southern European customers, creating real estate bubbles in Spain and Ireland and unsustainable credit-financed consumer spending in Greece and Italy. Linking entirely different economies with a single currency that foists a 'hard currency' paradigm on Mediterranean Europe further exacerbates the problem. For in truth, much of Mediterranean Europe, especially Greece and Italy, but even to an extent France, struggles with the ramification of more capable East Asian high-quality, low-cost competition. Yet taking away the policy tool of competitive devaluation and internal deflation leaves only one possible tool to Mediterranean Europe: aggressive wage cuts. Disturbingly, the more recent German approach – based on non-cooperative competition and the sacrifice of social standards – is thus essentially heralded as a model for emulation, though this is politically unrealistic and economically probably a treacherous avenue to pursue anyway.

6.2. Germany's role in the shaping of Social Europe

The further set of findings relates to the ways in which Germany, as a large influential member states, has shaped several policy debates in the realm of Social Europe before as well as after the crisis. In her chapter, Dufresne explains how German trade unions' strategy regarding wage policy has been ambiguous. In the 1990s, they have used their influence in order to set up new transnational coordination structures such as the European Industry Federation and the Doorn group. However, the degree of diversity, even among a small group of continental countries, prevented them from agreeing on common claims and strategies for wages. In the 2000s, German unions clearly chose national competitiveness over transnational cooperation by accepting a strategy based on wage restraint. Given the size of the country and the weight of German unions, this set a benchmark for the whole of Europe in the framework of the new monetary union. At the same time, German unions have been a main engine in the debate for a European minimum wage, although this has been opposed by Italian and Swedish unions as well as transnational sectoral organizations which refuse to abandon their prerogatives for negotiating wages at the sectoral level to a national legislative process, thus avoiding state interventionism. Although they had traditionally also defended the autonomy of collective bargaining, German unions have successfully campaigned for the creation of a minimum wage in Germany after they have realized that wages levels had stagnated at a low level in the sectors covered by collective agreements as well as in sectors not covered by them. The new German minimum wage (8.5€/hour gross) is set to enter into force in January 2015. It remains to be seen what its implications will be with regard to (a) the social nature of the German market economy and (b) the European-wide debate regarding a European minimum wage.

Another example of how German actors have shaped Social Europe can be found in the debate over the re-regulation of public services at the EU level (Chapter 6). As the issue was discussed in the framework of co-decision, German actors were key in the Council as well as in the European Parliament where they are most numerous. On one side, the UK was opposed to any regulatory initiative, whereas, on the other side, France was advocating a positive pro-regulation approach to public services in this area. The pivotal German position contributed to the failure of a potential framework directive on services of general interest. Shaped to a large extent by the position of the *Länder,* which have extended prerogatives for funding and regulating public services, the German government and German MEPs alike have defended the idea that the quality of public services (in terms of funding, accessibility, affordability, etc.) would be best guaranteed through the defence of subsidiarity, that is the preservation of regional and national competences and autonomy. In this respect, a European horizontal framework directive was seen as a threat and thus rejected. This strategy can be seen as short sighted in the sense that, as far as the overwhelming majority of SGI are regarded by the Commission and the ECJ as economic activities, they are bound to be affected by competition rules (notably state aids, public procurement rules, etc.) regardless of regional and national competences. Moreover, as public finances are under close scrutiny on account of the ongoing economic crisis, to say nothing of institutionally anchored brakes on debt emerging in select European countries, national regulation in no way provides a safeguard against a brazen deterioration of SGI, especially in the areas of education, health services, and help to people in need.

An additional, more recent illustration of Germany's role in EU social policy debates is provided in Chapter 7 about the EU target for poverty and social exclusion. The ambition of the EU Commission was initially to define the poverty level at the threshold where individuals' income is below 60 percent of the median income in their country. Opposition in the Council led to a more vague definition of poverty on the basis of three possible conceptualizations and sets of indicators. Copeland and Daly explain that

> opposition over the poverty target came from a group of northern (Germany, Sweden and UK) and Eastern European States who questioned the EU's legal remit within the area of poverty and social exclusion. They also argued that progress within the other thematic issues of Europe 2020 would automatically reduce poverty, and that spending on poverty reduction during a period of financial crisis could further create instability.

In a nutshell, it is clear Germany today sets the tone by espousing a mix of competitiveness and austerity. When examining various policy areas during the decade preceding the crisis, it appears that, while Germany has long been the archetype for a social market economy, it was only able to regain competitiveness by undermining its own social model and preventing the development of a cooperative and balanced socio-economic model at European scale. In various policy debates, German actors have adopted a defensive national position hindering the progress of Social Europe. The last set of findings highlighted in this section relates to the way in which austerity and the German model of competitiveness are enforced. We argue that it is not through mere intergovernmentalism. Rather, it has more or less directly encouraged the emergence of a new type of hybrid governance where the surveillance powers of the EU Commission are increasingly intrusive, notably with regard to social policy.

7. The paradoxical centralization of social policy

In the first years following the outbreak of the financial and debt crisis, most observers have stressed the intergovernmental nature of EMU reform. More recent assessments, however, have stressed the strengthening of the supranational and non-majoritarian institutions, not only the European Central Bank but also the EU Commission. This volume concurs with these assessments and provides further evidence for a new stringent top-down governance which shapes socio-economic policy in a direction which precludes any progress towards a more social Europe. Several chapters (2, 5, 6, and 7 in particular) explain how the new framework for macro-economic governance constraints social policy in various respects. The European semester relies mainly on the hardening of the rules of the Stability and Growth Pact. Thus, the failure of coordination and soft governance has pushed the EU to the 'hardening' of soft law and governance and the emergence of increasingly hybrid governance where the respective role of law and political pressure are increasingly ambiguous, yet tangible (Armstrong, 2013). In this new constellation, the surveillance and sanctions powers conferred to the Commission are significant (Closa, 2014). Hence, when looking at wage policy and the way the Commission strictly monitors unit labour cost indicators (i.e. the average cost of labour per unit of output) Dufresne highlights a statement made by Jose Manuel Barroso:

> What is happening now is a silent revolution – a silent revolution, moving step by step towards stronger economic governance. The Member States have accepted – and I hope they have understood this – to grant the European institutions considerable supervisory powers.[1]

In the framework of the European semester, the Commission issues its country-specific recommendations in which the nature of reforms is being dictated to the member states. Even the 'model students' like Scandinavian countries, are exhorted to conduct reforms to enhance the flexibility of their labour markets (see Chapter 4).

Furthermore, the new hybrid governance is still in flux. Partly as a result of Lazlo Andor, the Commissioner for employment and social affairs, to strengthen the social dimension of the monetary union, the European semester now includes a wide range of social indicators in its 'scoreboard', thus tightening the coupling of economic governance and social policy. The macroeconomic imbalance procedure now includes the monitoring of unit labour cost, activity rate for different age groups (notably young people), the people at risk of poverty or social exclusion rate (including after social transfer), the rate of people of severely materially deprived people, the rate of people living in households with very low work intensity, and so on. Scholarly assessments are divided with regard to the possible implications of this trend. Copeland and Daly

(Chapter 7) find that the scoreboard brings no novelty and is nothing more than 'an analytical tool' securing the Commission's 'measurement right' but which does not entail sanctions if member states fail to comply with the social benchmarks. This echoes the view of the ETUC. However, Bekker notes that

> half of the CSRs representing the social dimension in 2013 are attached to at least one coordination mechanism that may eventually result in a sanction. At times also the corrective arm of the SGP and second stage of the MIP is referred to in the CSR: the EDP and the IDR. This means that employment and social policies may also be a topic addressed in CSRs that are attached to the corrective stage of the SGP.
>
> (2014, p. 10)

Finally, for Crum (Chapter 8), the third underlying principle of a possible Social Europe in a diverse union, namely 'the duty to respect each other's political autonomy in defining one's social policy arrangements nationally', has been significantly eroded over the past decade. Before the crisis, ECJ rulings about economic freedoms have undermined the social model in member states with coordinated models. In the post-crisis era, the enforcement of austerity has annihilated national autonomy in the weakest member states and constrained it in serious ways in the others. In his view, there is a clear need to reassert the autonomy of member states in the definition of national social arrangements.

To conclude, it can be argued that the combination of a German hegemonic economic model with supranational bureaucratic surveillance brings us back to Pierson's argument about unintended consequences of EU integration. By fostering the diffusion of its own model of austerity-based competitiveness, Germany, which has proven reluctant to increase the EU's powers in the realm of social policy, has heavily contributed to shape a new constellation of governance which can only result in social policy centralization via (a) financial constraint and (b) increasingly intrusive recommendation for the nature, direction and tools for reform. We therefore see the continuation of the European paradox: At times of growing resentment against the EU and historically low support for the further integration of social policy, the EU under German leadership and through the incremental action of supranational institutions (especially the ECB, the ECJ, and the Commission) is de facto advancing further integration by stealth. The tackling of social issues are however not tackled as an objective per se, rather social policy is becoming increasingly tightened and subsumed to economic objectives focused on competitiveness, narrowly defined as low labour costs, on the one hand, and stringent fiscal discipline, on the other. If this course is to persist, which sadly looks likely, the EU will shift ever further away from a more social Europe.

8. Avenues for future research

By tackling the three sets of questions outlined above, this volume has contributed to opening new avenues of inquiry which will certainly be main matters for scholars interested in socio-economic integration in the years to come. Two areas seem of particular relevance. First, although we consider the project of Social Europe to have failed, there are in fairness a number of new initiatives in social policy such as the youth guarantee and the minimum wage worth mentioning. Second, we believe that the politicization of social issues will increase with the further tightening of social policy to economic governance. The conduct of budgetary discipline in the framework of the European semester already provides illustrations of this trend. By dealing with these issues, we will discuss to what extent the current trend can be underpinned by the underlying normative principles – or 'duties' – put forward by Crum (Chapter 8) in his attempt to set the direction for a politically acceptable and morally grounded welfare policy and politics in the EU.

8.1. Recent policy debates: What means for what ends?

Though we have argued that Social Europe has come to a dead end with the euro crisis, this does not mean that the field of social policy has come to a grinding halt. On the contrary, the contributions describe debates and governance patterns subject to change. Three recent initiatives and debates are worth discussing here: the recently agreed youth guarantee, the social investment package, and the debate on a European minimum wage. All three initiatives are well in tune with the argument made by Crum that the EU cannot be a pan-European welfare state replicating the historically rooted institutions at the national level. A more realistic and legitimate normative vision would consist in

> recognizing the nation-state as the primary vehicle for social justice, this paper proposes to recast the debate on Social Europe in multi-layered terms. Such a perspective recognizes the EU to have a social vocation, but also insists that it operates complementary to national welfare states, which retain much of their autonomy and diversity.

And indeed, if fully implemented, the youth guarantee, the social investment package, and the debate on a European minimum wage would all contribute to strengthening the EU 'as an additional layer that, on the one hand, helps to protect and stabilize the national welfare states and, on the other hand, redresses for arbitrary inequalities as they operate in transnational interactions and provides some inroads into the transnational sharing of the common wealth in Europe' (Crum). However, the three of them rely on various conceptions and policy instruments through which the EU should be such an additional layer providing welfare.

The youth guarantee might appear as the latest success story in the realm of social policy. As the crisis has brought about massive unemployment, especially among the youth, ministers within the Council and the European Parliament agreed in 2013 on a package ensuring that every young European under 25 receives an offer – either a job, apprenticeship, traineeship, or continued education – within four months after leaving education or becoming unemployed. The initiative taps into distributive policy with a mix of EU and national funding. Copeland and Daly consider this measure as rather 'tokenistic'; it is often bandied about by Social Europe proponents. Indeed, the EU will provide only € 6bn (through the Youth Employment Initiative and the European Social Fund) out of the total annual € 21bn[2] budget required. It can nevertheless be argued that an additional layer of financial support is being proffered, while the member states remain free to choose the means and timing for implementing the measure. It remains to be seen in the future if it is effectively implemented and funded consistently. Moreover, whether the increase of skills through education and training alone can effectively improve labour market participation in countries where even highly qualified jobs are not available can be questioned (Antonucci and Hamilton, 2014).

The social investment package displays a vision of the EU's action in the social realm inherited from soft coordination and the OMC. Here, the Commission picks up on a concept promoted by a number of scholars and experts of social policy (Esping-Andersen, 2002, Hemerijck, 2011, Morel, Palier and Palme 2011). Beyond deep scientific and paradigmatic debates, social investment is usually described as activation policy aiming at investing in human capital in order to foster equal opportunities and reduce social risk notably through education and training, health and child care, activation policy, and housing policy. When taking a close look at the Commission's communication from 2013, it is striking that its role consists mainly in (a) monitoring the member states' performances in the areas at stake in the framework of the European semester, (b) 'urging' the member states to be sensible to social investment (for example investing in fighting child poverty), and (c) providing guidance on how to spend EU structural funds. As it is argued in Chapter 6, though, in the absence of tangible legal constraints *and* significant funding sources, such recommendations are bound to remain dead letter. If anything, the chapter shows that the overarching and stringent enforcement of fiscal discipline has resulted in strong decrease of public investment since 2009. Crespy further argues that, in the same communication, the EU Commission conveys a conception of social policy and social investment which aims at shifting the responsibility (and financial burden) for providing welfare and social investment away from the state to the private and non-profit sectors. It is therefore unclear today whether the social investment agenda (a) will be implemented at all and (b) what kind of practical and cognitive convergence (if any) it will bring about. Soft coordination, as Crum reminds, is more likely to respect member states' autonomy in conducting social policy while providing guidance and monitoring. It remains however very uncertain whether the EU can effectively make a meaningful contribution to a multi-layered Social Europe by such means. Moreover, soft coordination is never deprived of ideological conceptions which may contradict the traditional views on welfare and social policy rooted in the national arenas.

A possible European minimum wage has been a third issue recently debated in relation to Social Europe. Here, the EU would set a minimum standard which would take into account national differences, as minimum wage levels would be defined in terms of a percentage of national median wages. A clause of 'non-regression' would ensure that the introduction of a European minimum standard would not lead to a decrease of the minimum wages in countries where it is already relatively high. However, claims for a European minimum wage could not overcome the diversity of rules and institutions regarding wage policy across the member states. Dufresne explains that this idea has been advocated by German unions from 2004 onwards. However, it has been rejected in the past by unions from countries that perceive of a European minimum wage as a threat because minimum wages are set at the sectoral level through collective bargaining and a policy of non-regression. More recently, the ETUC has therefore reformulated its claims by promoting the adoption of so-called 'floor wages' which would be set at levels of between 50 percent and 60 percent of the national median wage. But again, national diversity seems to be irreducible to EU regulation. While the establishment of such a standard would pull wages upwards in a number of countries, it would bring wages down in France and bring no change after a decade of wage restraint in Germany. Like the debate over a possible framework directive on SGI, discussions over (a) European wage(s) have today reached an impasse and there is little chance of a way forward. In fact, prescriptions within the European semester admonish the member states to pursue a restrictive wage policy to bring labour costs down. Hence, when thinking about ways to reconcile national diversity with EU policymaking in a multi-layered Social Europe, the use of regulatory means for establishing common social standards and steering social convergence do not seem to be on the agenda. This brings further support to the idea that the Commission's entrepreneurship in this realm has fundamentally changed in nature as positive regulatory activity has declined.

In brief, recent policy debates display the multiple ways in which the EU can provide welfare as a complement to the fundamentally diverse national member states. It will be the task of scholars in the future to determine which of the various roles for the EU – a complementary distributive welfare state, a regulator setting minimum standards, or a laboratory of ideas steering cognitive convergence – is politically plausible, normatively acceptable and socially efficient.

8.2. The ongoing politicization of social policy issues

A main argument in this book is that social policy at the EU level should not be seen as a mere matter of market regulation or case law. In fact, structural sociological and economic factors, political majorities in the member states and major ideological shifts have shaped social policy developments to a significant extent. The demise of Social Europe has been accompanied by resistance from the actors who promote the building of a transnational *social* market economy. While national governments have consistently tried to conceal the constraints of Europeanization and economic interdependencies on the scope of their policy choices, occasional politicization has had important implications, like in the case of the failed French referendum for the ratification of the European constitutional treaty in 2005. On the basis of the insights provided in the chapters, we argue that, in the post-crisis era, politicization of social issues is only increasing, especially with regard to labour mobility and the provision of welfare benefits, on the one hand, and member states' compliance and autonomy in the framework of the European semester, on the other. These two issues interestingly unveil the contradictions and dilemmas between the three transnational duties for a multi-layered Social Europe highlighted in Crum's chapter.

Several chapters in this volume have emphasized how the intensification of labour mobility across national borders has been a major challenge for the building of a Social Europe. As capital and markets have become transnational in the era of neoliberal re-structuring, workers and labour costs have increasingly become an element of economic competition among EU member states (Chapter 2). While labour mobility has been encouraged by EU institutions, the achievements of Social Europe in terms of social dialogue or pan-European regulation could never ensure a fair level playing field and maintain the level of influence enjoyed by workers' representatives in the realm of national politics. Furthermore, the ECJ has remarkably ruled, over the past decade, in favour of transnational service provision and workers' mobility at the expense of national social regulation and institutions (Chapter 3). This has been a major threat especially for countries with a social model based on strong unions and collective bargaining for setting agreements, like in Scandinavia (Chapter 5). Arguably, the availability of cheap labour in the poorer countries of the union exerts a downward pressure on wages in countries with higher standards. With the protest related to the Laval case in Sweden (see Chapter 5), the politicization of labour mobility was focused on the defence of national social models of collective action and labour organization. The crisis has triggered a new type of politicization cantered on mobility and the entitlements to welfare rights. This is mainly the result of the exacerbation of two problems over the past few years. Rising unemployment in the bankrupt economies has (re)intensified migration from the South at a moment where the effects of Eastern migration were becoming most visible in Western countries. At the same time, pressure to fiscal discipline and the multiplied efforts to contain the costs and reform welfare states has drawn the attention on migrants and the extent to which, even when coming from within the EU, they should be entitled to social benefits. The UK offers a blatant example of this type of politicization as European migrants have increasingly been pictured as a burden taking undue advantage of the country's social policy. In July 2014, Prime Minister Cameron made a statement that unemployment and childcare benefits for European migrants would be cut from six to three months. The backlash against European-wide free movement of people is not limited to Eurosceptic Britain. A recent ECJ decision permits limiting dispersal of welfare benefits to unemployed EU citizens. The Belgian government, too, has undertaken measures against unemployed

EU citizens. The quasi-deportation of a French unemployed former student has recently been in the news and, indeed, in the first semester of 2012, over 1,200 EU citizens (e.g. from France, Italy, and Poland) have been expelled from the – allegedly pro-European – country of Belgium, suggesting a widespread fatigue with the ramifications of pan-European mobility of the unemployed and the financial burden this imposes on member states. Clearly, the wealthier Northern European countries can ill afford to become the quasi-welfare office for the rest of the EU, especially Romania and Bulgaria.

These debates focus on the clash between free movement of citizens and national autonomy. In his chapter, Crum proposed that a first underlying principle of a new social Union should be 'the "positive" duty to provide each other with full and equal access to each other's (national) economic domain and the opportunities it offers, including the duty to forego any form of 'nationality-based discrimination'. However, this principle can, in different ways, clash with the third duty identified, namely the 'negative' duty to respect each other's political autonomy in defining one's social policy arrangements nationally. This is not so because mobility is bound to be, in times of crisis, the victim of nationalist and populist politics. Politicization of mobility issues before the crisis has shown that the idea of policy autonomy necessarily relies on a degree of closure of welfare systems as they are rooted in and legitimized by the national community. Against this background, free movement and non-discrimination in the access to social benefits is bound to be disruptive of national arrangements and likely financially unsustainable, causing either collapse or dramatic cutbacks to welfare benefits for *all*. One could imagine compensatory and transnational mechanisms for reconciling free movement and national autonomy, but for now the basic consensus on the desirability of increased mobility and non-discrimination – though often taken for granted by the EU institutions – seems particularly fragile at the national level, not helped by the premature admission of deeply impoverished and politically corrupt countries in South-Eastern Europe.

A further problematic aspect of post-crisis social policy emerges from the new rules for economic governance. The question to what extent, how and with what political circumstances the member states will comply or not with the exhortations coming out of the European semester will surely need to be scrutinized by academic researchers in due course. A first area concerns the targets for deficit reduction, which can now trigger sanction (unless a qualified majority of member states in the Council oppose the sanctions). France, for example, is currently in the middle of highly contested debates about its future macroeconomic and budgetary course. At stake is the contentious issue of deficit reduction and the ultimately limited room for manoeuvre the government enjoys, given just how unpopular cuts to social spending, welfare state provisions and wage restraint are at the grassroots level and among unions. Similar pushback awaits Greek and Italian governments, present and future, should they attempt to implement Hartz-style modifications of the welfare state. A further aspect concerns the country specific recommendations issued by the EU Commission and to what extent they can shape reform in the member states. While Scandinavian countries are urged to implement more flexibility and wage restraint (Chapter 5), Germany has been asked to raise the level of wages (Bekker, 2014, p. 14). As the Commission's recommendations have to be endorsed by the Council, debates can emerge over the wording and the specific nature of demands regarding the means vs the ends for achieving policy objectives. The Belgian case offers a good illustration of the potentially contentious nature of the recommendation. Since the first European semester in 2011, the Commission has insisted that, in order to achieve a better match between labour cost and competitiveness, the Belgian government should 'reform' the mechanism for indexation of wages in inflation. So far, it has repeatedly refused to do so but certainly political pressure remains and the issue is likely to be reconsidered by the new right-wing federal government. In countries where financial assistance has been coupled with drastic social retrenchment and neoliberalization, the efficiency as well as the legitimacy of such conditionality has triggered popular protest and expert debates.

Crum notes how the conditions under which macroeconomic governance has been carried out in the post-crisis era have created a clash between what he calls the second duty that should link member states in a Social Europe, namely 'the "positive" duty to support each other in the sustenance of stable political and economic institutions' on the one hand and the principle of autonomy of national social arrangements on the other. The problem stems from the fact that, if interdependency brings about financial assistance, the latter seems to go hand-in-hand with a right to scrutinize and intervene into the ways the money is spent by recipients. In the world of the EU realpolitik, he who pays the piper calls the tune. In the name of interdependence, Vandenbroucke and Vanhercke for example advocate more 'enhanced compliance in exchange for more solidarity' (2014, p. 91). If the direction of the journey is indeed towards a federal superstate, it might well turn out to be a fairly dysfunctional one.

9. Conclusion

Through a broad perspective on socio-economic developments in Europe since the 1990s, this book offers important insights about the past developments, current state, and prospects of Social Europe. The overarching objective was to determine where the new constellation which has emerged in response to the financial and debt crisis over the past years leaves the EU with regard to the building of a supranational social market economy. In doing so, the ambition was also to make a contribution to ongoing (theoretical) debates about Social Europe. Three sets of findings are provided across the various chapters. First, we find that Social Europe has not been path dependent in the ways predicted by many students of social policy in the late 1990s and early 2000s. In spite of significant regulatory activity and innovations (such as the OMC), broader structural trends have heavily shaped the contours of – and eventually precluded – Social Europe. The trends relate essentially to the transnationalization of capital, the ideological shift towards neoliberalism, and the change in the nature and composition of the union itself, notably due to successive enlargements. Secondly, social policy, we argued, has not been 'left to the Court and the markets'. While regulation and case law have shaped social policy in many ways, the fundamental *political* driving forces must be brought to the fore. The role of the Commission and the ECJ have only been in tune with a deliberate choice among the national government to opt for negative integration through the market, which has allowed them (only in the short run, though) to maintain the illusion of preserving their autonomy in the realm of social policy. Thirdly, when considering the new constellation of power and governance for Social Europe, our findings lead us to pinpoint a striking paradox. Following the era of Scandinavian flexicurity, Germany has – even only reluctantly – asserted itself as the ultimate model of austerity-based competitiveness. Against this backdrop, the brutal (uneven) polarization of debtor-countries versus creditor-countries is now mediated by a supranational institutions. While Germany has, over the past decade, obstructed a number of advances in social policy in the name of subsidiarity, it has now encouraged the set-up of a complex machinery for bureaucratic and stringent surveillance for steering not only economic but also social policy reform.

This is only likely to reduce national autonomy in the medium and long run. While driving the EU further away from Social Europe than ever, the new EU socio-economic governance thus combines the worst of both worlds: adversarial intergovernmental politics and functional integration by stealth.

Different contributors to the volume provide different views for finding a way out. Some call for a further transnationalization of contentious politics, others for a clearer curtailing of EU competences in national policy. In any event, the book sheds light on the new 'German question' for Europe in the 21st century. In this regard, it seems already clear today that the pursuit of a strategy based on an unrealistic 'one size fits all' model will also result in Social Europe in one country. When trying to identify the possible underlying normative principles for Social Europe in an enlarged union, we inevitably see the dilemmas of mobility and non-discrimination, solidarity and conditionality, and national autonomy. In this regard, we see a further of the already ongoing politicization of social policy as unescapable. The political strategy long adopted by national leaders which consists in brushing social issues under the carpet of economic integration has proved highly detrimental both from the standpoint of competitiveness and democratic politics. Only the end of the *pensée unique* regarding socio-economic integration can result in negotiated solutions which restore a sense of the common good and render the EU a friend rather than a foe of European societies and socio-economic cohesion.

Notes

1. José Manuel Barroso, at the European University Institute, Florence, 18 June 2010.
2. See European Commission, 'Employment, Social affairs and inclusion, Youth Guarantee', available at: http://ec.europa.eu/social/main.jsp?catId=1079

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