10 Social Policy: Is the EU Doing Enough to Tackle Inequalities?

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10.1 Introduction

The objective of social policy is to limit inequalities in resource distribution within societies. On the one hand, it consists in regulating markets and working conditions; on the other, it uses redistributive mechanisms (i.e. cash transfers and services) to offset contrast in income distribution and tackle poverty. The EU exhibits the lowest level of inequalities compared to countries around the globe, including the United States. However, recent studies also show that, in some respects, the EU falls short of its promise of welfare and social cohesion for all. While general levels of income have been rising continuously over the past decades, inequalities among individuals have only declined slowly. When looking at the Gini coefficient, the most common indicator for measuring inequalities, it appears that the decrease of inequalities has come to a stalemate in the EU-27, with the euro area even displaying an increase of the index since 2008 (while the US has known a sharper increase of inequalities, starting from a significantly higher level). Moreover, the catch-up process of the poorest regions in terms of living standards has not taken place to the expected extent. In some regions of Southern and Eastern Europe or the Baltic countries, the recession has meant a severe degradation of welfare for many people. Today, the EU still exhibits a clear contrast between a wealthy core of Continental and Northern countries versus the poorest peripheries in the south and east of the continent (see chapter 17).

It is argued in this chapter that the weak and fragmented governance applying to social policy at a European scale has done little to help tackle social inequalities. Today, the EU runs the risk of seeming too intrusive by prescribing welfare state reforms which, more often than not, lead to retrenchment while, at the same time, remaining powerless and ineffective in the face of persisting stark inequalities. The absence of political will to match the strong monetary and economic interdependence within the euro area with adequate social policy instruments is particularly problematic.

What is often called 'social Europe' takes the form of a patchwork made of various policy areas,[1] modes of governance[2] and diverse national welfare state

[1] Free circulation, labour law, employment and training, struggle against discrimination, healthcare, fight against poverty and social exclusion.

[2] Essentially the Community method and soft coordination. The intergovernmental method has been rather marginal in the field of social policy.

models. Historically, an implicit understanding among European decision makers has prevailed whereby the EU should promote the integration of markets, and upward social convergence would result automatically from economic growth. While Article 3 TFEU stipulates that the EU should have a 'highly competitive social market economy', the extent to which social justice should be a main policy goal of the EU remains controversial.

The continuous decline of social democracy and the rise of conservatism and far-right Euroscepticism have made political agreements over pan-European social policy increasingly difficult. At the same time, the enlargement to the Baltic states and Central and Eastern Europe in 2004–7 has resulted in a much wider spectrum of preferences and interests. Countries from the ex-communist bloc tend to display significantly lower levels of wealth and social protection, thus relying on low taxation of capital to attract foreign investment as well as on the export of cheap labour. Meanwhile, the reforms of national welfare states have been piecemeal and uneven, depending on national resources and politics.

Against this background, the financial crisis and the subsequent debt crisis in the EU (2008–10) have only exacerbated pre-existing trends. Public resources for social policy have shrunk at a time where unemployment and poverty levels where on the rise. This has been especially dramatic in countries such as Greece, Ireland, Italy, Portugal or Spain which were hit by skyrocketing debt levels and have been submitted to conditionality mechanisms requiring social retrenchment in exchange for financial support. As of November 2014, the European Commission headed by Jean-Claude Juncker sought to go beyond 'austeritarianism' (Hyman, 2015). Yet, a truly pan-European agenda promoting social investment (see Box 10.4) remains elusive, while many citizens witness socially regressive policy-making at national level.

10.2 Historical Overview

From the point of view of social policy, three periods can roughly be distinguished in the history of EU integration (see Box 10.1).[3] From the origins and the original impetus for European integration up to the end of the 1980s, social policy remained residual as the emphasis lay on the economic imperative. The social provisions included in the Treaty of Rome from 1957 aimed to accompany the building of a common market through the liberalisation of trade within the EEC. Political elites trusted that postwar reconstruction and increased output and wealth would automatically lead to a rise in living standards and social welfare. The treaty therefore spelled out broad objectives such as the improvement of

[3] For a more in-depth historical overview see Geyer (2000).

living conditions and the preservation of wage levels against the background of intensified competition among workers. The ESF was created to implement compensation measures for workers laid off as a result of industrial restructuration and promote an economic catch-up process for the poorest regions. While very active on the European stage, trade unions voiced criticism of the liberal turn operated by the Treaty of Rome and concerns about possible social dumping (see Box 10.4).

In this period, the Court of Justice of the European Union (CJEU) asserted itself as the main driving force of social Europe, and its jurisprudence paved the way for social regulation. This is, for instance, the case with the coordination of national social security systems for mobile workers or the principle of equal pay for men and women, which the court famously anchored into EU law with three decisions on the case *Defrenne* in 1971, 1976 and 1978.

When EU integration was relaunched in the 1980s, the political climate was dominated by economic liberalism, notably under the influence of Margaret Thatcher in power in the United Kingdom, which had accessed the EEC in 1973. The SEA, signed in 1986, aimed mainly at advancing the single market by stimulating free trade. But it also introduced a key institutional innovation, namely the introduction of decision by qualified majority in the Council. This de facto element removed any veto possibility from one single country and had important implications for social policy-making.

The decade from the late 1980s to the late 1990s is considered by many as the golden age of social Europe, a period which was strongly marked by the Commission presidency of Jacques Delors, a French socialist from the liberal wing of the party, from 1985 until 1994. In that period, he endeavoured to flank the single market with effective social policy mechanisms, including a form of supranational corporatism for involving the social partners. The objective was to tackle the negative effects of competition on the weaker territories or social groups. Thus, the European Commission strategically used QMV in order to pass new regulations aimed at the improvement of workers' health and security at work, or strengthening the rights of mobile workers. Meanwhile, social democratic parties had rallied the EU integration project; but there was also an awareness that the creation of a monetary union would have detrimental social consequences and hence fuel resentment among their electorate (Geyer, 2000).

While launching the common currency, the Treaty of Maastricht opened new possibilities for social policy with a Social Protocol appended to the treaty (due to the objection of the UK, which did want to sign it). The Social Protocol included the Community Charter of Workers' Fundamental Rights signed in 1989, which proclaimed a number of social rights in the EEC such as decent remuneration and the improvement of living and working conditions. Moreover, it considerably strengthened the European social dialogue with a new procedure whereby the agreements negotiated by the social partners could be turned into binding legislation. Some specific institutional reforms included in the treaty were also favourable to social integration such as the extension of QMV on social matters and the strengthening of legislative powers of the EP, then more favourable to social regulation.

BOX 10.1 Key dates

1957. Treaty of Rome, creation of the ESF.
1971. Decision *Defrenne* of the CJEU, which anchors the principle of equal pay for men and women into EU law.
1992. Creation of the European social dialogue procedure for binding agreements between social partners in the Treaty of Maastricht (Social Protocol).
1997. A European Employment Strategy is included in the Treaty of Amsterdam.
2000–1. Adoption of the Lisbon strategy: extension of the method of open coordination to social protection, social inclusion and pensions.
~~2018~~. Proclamation of the European Pillar of Social Rights.

The Treaty of Amsterdam signed in 1997 did not introduce any major transfer of social competences to Brussels but confirmed the progressive climate of the 1990s. The role of the EU in the field of anti-discrimination was strengthened, and a new chapter for the coordination of employment policies was introduced at a time where many European countries were struggling with high unemployment levels. The extent of developments in social policy must nevertheless be put into perspective. While ten out of fifteen EU member states were governed by social democrats, this period did not witness any substantial modification of the rules, competences or resources dedicated to social policy. Rather, many decision makers embraced, under the influence of British Prime Minister Tony Blair, the ‘third way’, that is a neoliberal agenda for conducting socio-economic policies and reforming welfare states.

The 2000s witnessed a neoliberal turn, thus opening a third period characterised by the decline of social integration in Europe. Often seen as an institutional innovation, new mechanisms for coordinating domestic social policies without legal constraint have reflected the absence of political agreement on what should be done at the EU level. Both social regulation in the internal market and the European social dialogue have lost momentum. At the same time, social democracy saw the beginning of a long electoral decline, while conservative and far-right forces were gaining ground in all EU institutions. The Lisbon Strategy adopted in 2000, which should have put Europe on the path towards modern knowledge economies and progressive welfare state reforms, has meanwhile been widely seen as a failure. The 2008–10 financial and debt crises have exacerbated the subordination of social policy to economic imperatives. The dominant conception of competitiveness relies heavily on the containment of labour costs, and austerity policies have even led to a deterioration of working and living conditions for millions of Europeans. While the necessity to approach welfare state reforms through social investment (see Box 10.4) has gained ground, the EU has so far not developed a coherent discourse or tangible policy instruments for promoting its implementation (De la Porte and Palier, forthcoming).

10.3 Main Features of the Current Institutional Framework

The EU was given both *shared* and *supporting* social policy competences in the treaty. This means that in the first case, the EU can legislate to complement national policies; in the second, it can only foster a soft coordination of national policies via the Open Method of Coordination (OMC). Far from being a European welfare state, the EU has weak redistributive capacities (through transfers or services), relying heavily on regulatory policies. It is possible to distinguish four constitutive areas of EU social policy-making: social regulation, redistribution via cohesion policy, neo-corporatism via the European social dialogue and the soft coordination of national welfare states (see Box 10.4).

10.3.1 Social Regulation in the Internal Market

Social regulation is adopted through the ordinary legislative procedure via the *Community method* (see Box 10.2 and Chapter 3). The main area relates to *workers' rights* either in the context of mobility (portability of social security entitlements) or at their workplace (security, safety, information, etc.) (Article 153 TFUE). According to the European Trade Union Institute, the corpus of EU law on *workers' mobility and labour law* as of 1957 consists of 135 acts (Pochet and Degryse, 2017). In addition to labour law, the EU is also entitled to regulate over *discriminations* in order to ensure the principle of equal pay for men and women (Article 157 TFUE) and to fight all discriminations based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 TFUE). A third field of EU action is *public health* (Article 168 TFUE). Here, the EU has adopted common quality and safety norms relating to organs and substances of human origin (blood), veterinary and phytosanitary standards, as well as medicinal products and devices for medical use. Most importantly, there is a common EU procedure for authorising the marketing of medicines. The EU competences also include the fight against drugs and abuse (including tobacco and alcohol).

BOX 10.2 Legal base

Article 153 TFEU. The EU can adopt regulation in the following areas:

(a) Improvement in particular of the working environment to protect workers' health and safety.
(b) Working conditions.
(c) Social security and social protection of workers.
(d) Protection of workers where their employment contract is terminated.
(e) Information and consultation of workers.
(f) Representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5.
(g) Conditions of employment for third-country nationals legally residing in Union territory.
(h) Integration of persons excluded from the labour market.
(i) Equality between men and women with regard to labour market opportunities and treatment at work.

Liberalisation policies have also had an important impact on regulation and deregulation in the social realm (Crespy, 2016). In EU law, most public services have been redefined as economic *services of general interest*, which are submitted to the rules of EU competition law. In many sectors (including energy distribution, postal services, transport, social services and healthcare) liberalisation directives were adopted through the 1990s and 2000s which have abolished former public monopolies. In some sectors, the emergence of (semi-)competitive markets has created issues regarding the accessibility and/or affordability of services. The rampant marketisation of healthcare, for instance, raises acute issues regarding social cohesion. A new Article 19 has been introduced into the Treaty of Lisbon, which allows the EU to adopt legislation on services of general interest. However, there is no political will to adopt pan-European rules for the functioning and funding of such services.

The Court of Justice of the EU has had a tremendous impact on the development of EU social law. Its jurisprudence has often been aggressive and contributed to the extension of social rights, e.g. for mobile citizens or discriminated groups. However, a linear, continuously progressive trend should not be taken for granted. Over the past ten years, it has proved more cautious in making certain social rights included in the EU Charter of Fundamental Rights effective.

10.3.2 Neo-corporatism and the European Social Dialogue

The *European social dialogue* tries to replicate neo-corporatism at the EU level (see Box 10.4), that is the adoption by workers' and employers' unions of rules on working conditions (bipartite concertation), often under the auspices of political authorities (tripartite concertation). Like industrial relations at the national level, the European social dialogue takes place both at the sectoral level and at the interprofessional level (across sectors). The key institutional innovation was introduced by the Social Protocol appended to the Treaty of Maastricht, which can lead to delegation of the legislative/regulatory competence to the social partners. According to Article 154 TFEU, the European Commission has the obligation to consult social partners on most social policy proposals (see Box 10.3); if the latter want, they can negotiate an agreement among themselves, which can then be turned into a legally binding text (directive) through a Council decision. If the social partners do not succeed in finding an agreement, the Commission can take over and launch the ordinary legislative procedure. So far, three of these so-called statutory agreements have been adopted at the interprofessional level, namely framework agreements on parental leave in 1996, on part-time work in 1997 and on fixed-term contracts in 1999. Seven have been adopted in various sectors, most of them dealing with working time (in the fishery industry, civil aviation or fluvial transportation). Most observers have noted that the political impulse of the Commission was key in securing effective negotiations.

In addition to statutory, legally binding agreements, the social partners have the possibility to adopt so-called autonomous agreements negotiated independently of the legislative procedure and without Commission involvement. Instead of being integrated into the EU social legal *acquis*, they can be implemented according to the practices and procedures existing in the various national realms. Thus, the nine autonomous agreements[4] adopted since 2002 have led to very uneven levels of implementation, ranging from constraining collective agreements to a total absence of information on the matter at stake.

BOX 10.3 Key actors

The Council:

The Council for Employment, Social Policy, Health and Consumer Affairs.

At the committee level, the Employment Committee and the Social Policy Committee prepare the work of the Council.

[4] At an interprofessional scale, agreements were concluded on distance work in 2002, on stress at work in 2004, on harassment and violence at work in 2007 and on inclusive labour markets in 2010.

BOX 10.3 (Cont.)

The Commission:

Especially the Directorate-General for Employment, Social Affairs and Inclusion (EMPL), the Directorate-General for the Internal Market, Industry, Entrepreneurship and SMEs (GROW), the Directorate-General for Economic and Financial Affairs, and the Secretariat-General as far as the European Semester is concerned.

The Court of Justice of the European Union:

Rules over conflicts in the implementation of social regulation

The social partners:

The European Trade Union Confederation.
Confederation of European Business (BusinessEurope).
European Centre of Employers and Enterprises providing Public services.
European Association of Craft, Small and Medium Sized Enterprises (UEAPME).
The social partners take part in formal and informal consultation, and can agree on legally binding or non-binding agreements.

10.3.3 Redistribution via the ESF

The main EU instrument for redistribution in the EU is the ESF, which is now part of all ESIF accounts for approximately 10 per cent of the total EU budget. Unlike in national welfare states, the EU does not operate redistribution among individuals, but across regions according to their level of socio-economic development (measured against the mean GDP per capita in the EU). Historically, it was conceived as a tool for compensating the detrimental effects of economic competition in the internal market on weaker territories and groups. Nowadays, it is rather used as an investment tool. Funding aims at enhancing workers' adaptability through the acquisition of new skills, vocational training and lifelong learning. The purpose is to increase employment levels especially among young people and women. The ESF also funds social inclusion programmes to help disadvantaged groups (such as ex-offenders, recovering drug abusers, ethnic minorities such as the Roma and recent immigrants with poor language skills) to access the labour market.

The implementation of the ESF relies on multilevel governance. Policy objectives, as well as the global budget of the ESF, are decided together for each financing period (e.g. 2014–20). Subsequently, operational programmes are negotiated between national authorities and the Commission to set more specific policy objectives for each region. Funding rests on the co-financing principle, whereby the ESF funding stands for 50 to 85 per cent of a programme's budget and has to be complemented by national or regional money. Implementation on the ground is managed by regional agencies and is project based. Thus, a variety of public, semi-public or private organisations are in competition as they have to submit project proposals, which are then selected by regional authorities to receive funding. Although 'partnership' among all levels of government is the key principle, the capacity for regional authorities, private stakeholders and local operators to shape the policy objectives and operational workings of the ESF remains fairly limited. In turn, they have had to adapt to the increasingly heavy and bureaucratic functioning of EU cohesion policy. Evaluating the capacity of EU funds to improve territorial and social cohesion remains challenging and is hotly debated among experts (see Chapters 6 and 17).

10.3.4 The Soft Coordination of National Welfare States

In 2000, European decision makers decided at the Lisbon Council to apply the OMC to social matters where the EU does not have hard law competences such as employment, the fight against poverty and social exclusion or the reform of social security (especially pensions). This new mode of governance relied on what had already been used within the context of European Employment Strategy since 1997, namely a voluntary coordination of national policies according to common guidelines decided at EU level and a set of indicators and benchmarks allowing for regular reporting and comparison of national performance. Around 2005, various OMC processes in different areas were integrated into one single 'social OMC'. While often considered as a form of innovative 'experimentalist governance' (Sabel and Zeitlin, 2010), the OMC has brought about changes in ways of thinking about social policies and in some practices at the national level (Zeitlin et al., 2014), but has mostly fallen short in terms of implementation and tangible policy change (Radaelli and Borras, 2010).

Since 2011, the coordination of national social policies takes place in the framework of the European Semester. The European Semester is a broad, hybrid governance framework which coordinates budget and fiscal policy based on hard law, macroeconomic policies and social policy. The adoption of country-specific recommendations for socio-economic reforms represents the climax of the coordination process. The European Commission first formulates these recommendations on the basis of a pan-European study of the economic situation (the Annual Growth Survey), on the one hand, and on the other hand after months of exchanges with national authorities on the country report drafted for every member state which identifies country-specific problems to tackle. The recommendations formulated by the Commission are also discussed in the committees of the Council preparing the ministerial meetings; namely, the Economic Policy Committee, the Employment Committee and the Social Protection Committee. This serves to foster an exchange on practices among national governments and multilateral surveillance. Country-specific recommendations can be amended by the Council through the so-called 'reverse qualified majority procedure'. This means that the recommendations are adopted as proposed by the Commission, unless a qualified majority can be gathered to adopt modifications. Therefore, the recommendations suggested by the Commission are not often modified – and if so, only on the margins.

The European Semester is at the centre of critical discussions, notably from the point of view of governance and democracy. Recent research shows that it remains a top-down bureaucratic exercise of surveillance which offers no framework for democratic debate over the nature of reforms advocated and possible policy alternatives (Vanheuverzwijn and Crespy, 2018). National administrations have the opportunity to provide expertise and input through a continuous dialogue with the European Commission (mainly the Secretariat-General, DG ECFIN and DG EMPL). Social partners are asked to provide input, too, but they cannot contest the underpinning logic of flexicurity nor alternative paradigms for policy change (see Box 10.4). National parliaments are the least involved actors. National MPs are often not aware of what the European Semester is, and there are very few incentives for them to invest time in following a non-binding process. They do not necessarily perceive the indirect and diffuse constraint exerted by the EU through policy coordination.

10.4 Recent Policy Developments

Developments on the front of social regulation in EU law show that progress towards establishing pan-European social rights has somewhat stalled. The ability of member states to agree on social regulation has clearly declined over the past decade. While regulation has not necessarily decreased in quantitative terms, it has often been limited to revisions and technical adaptations. In contrast, there have been few new initiatives (Graziano and Hartlapp, 2018; Pochet and Degryse, 2017). Between 2007 and 2012, both the social partners (via the social dialogue) and the co-legislators failed to revise the contentious 2003 Working Time Directive as employers as well as several member states (including France, Italy and the UK) refused to suppress the *opt-out* from the forty-eight-hour weekly time limit. As for the revision of the 1992 Maternity Leave Directive, after seven years of disagreement between the Council and the Parliament it was withdrawn by the Commission. Thus, the revision of the Posted Workers Directive following highly contentious debate stands out as an exceptional success in passing social legislation (see Chapter 11). Similarly, the European social dialogue has lost momentum and, overall, borne relatively meagre fruit with only twelve binding agreements adopted since 1995.

BOX 10.4 Key concepts

Social investment emerged in the early 1990s as a paradigm prescribing reforms to adapt welfare states to new social risks such as ageing, single-parent families, flexible work contracts or rapid skill depletion due to technological progress. In order to ensure an adequate level of social protection for all, the emphasis is put on the need to invest ex ante in individuals' capabilities through services which foster inclusion (childcare, education and lifelong learning, targeted support for disadvantaged groups including women, etc.) rather than using cash transfers to compensate *ex post* for social exclusion.

Social dumping happens when firms exploit the comparatively low cost of labour in one place as an advantage to win markets over competitors. It also describes the practice consisting in weakening or not complying with social regulations (including fiscal and environmental norms) to use such an advantage.

Neo-corporatism refers to all forms of concertation and negotiations between employers and workers at local, sectoral or cross-sectoral levels. Often taking place under the auspices of the state (or political authorities), these discussions lead to agreements regulating industrial relations and the functioning of the economy (working conditions, pay, governance, etc.)

Flexicurity is a model for reforming labour markets which aims to combine a greater flexibility for employers (through the deregulation of working hours and contracts), on the one hand, with a ~~performance~~ system of social protection and training to prevent unemployment and social exclusion among workers, on the other hand.

The financial and debt crisis has brought about political tensions between various parts of the continent which have eroded the inclination to solidarity. Redistributive tools such as the ESF have been increasingly put under pressure for more control, surveillance and evaluation. Multiple modalities for conditionality have been made more systematic in order to condition the distribution of EU funds to certain objectives, principles and practices. When decision makers were discussing the next financial period in the heat of the crisis in 2012, creditor countries (led by Germany) sought to make the distribution of all structural funds conditional upon national governments abiding by the deficit and debt rules enshrined in the SGP and the European Semester. The proposal to use the suspension of funds as an automatic sanction against member states in excessive deficit has been watered down by the EP and debtor countries. Yet, the conditionality principle remains enshrined in the latest regulation defining the functioning of the funds, thus opening the possibility to exert political pressure for the enforcement of fiscal discipline using the EU's distributive policies (Coman and Sbaraglia, 2018; see Chapter 6).

Due to its complex and diffuse nature, the soft coordination of national policies and welfare state reforms is difficult to assess. Some scholars note a progressive 'socialisation' of EU socio-economic governance. Whereas social issues were not taken into account in the first cycles of the European Semester, social policy actors within the Council and the Commission have strengthened their position and imposed notably the inclusion of a social scoreboard for monitoring domestic policies (Zeitlin and Vanhercke, 2017). Other scholars argue that, when looking at the broader picture, it appears that the absorption of the social OMC into the European Semester has only accentuated the subordination of social policy to the imperatives of competitiveness and fiscal discipline (De la Porte and Heins, 2016; Crespy and Menz 2015; Copeland and Daly 2018). Objectives such as the EU poverty target, which aimed at reducing the number of poor people in Europe by 20 million by 2020, have been largely marginalised and thus remain wishful thinking (Copeland and Daly, 2014).

From the outset, the recommendations made by the Commission and the Council for implementing so-called 'structural reforms' displayed an ambivalence by advocating the decrease of public expenditure through social retrenchment, while at the same time urging governments to modernise their welfare states through social investment (Crespy and Vanheuverzwijn, 2017). As a matter of fact, many reforms have been conducted which were necessary to decrease public expenditure, especially pension reforms (De la Porte and Natali, 2014), reforms of unemployment benefits and labour markets, cost-containment measures in healthcare systems.

In an attempt to rebalance its approach to socio-economic issues, since 2013 the Commission has sought to promote social investment through its Social Investment Package (see Box 10.4). The Communication contained recommendations urging member states to simplify their social systems by targeting specific groups, pursue activation and social inclusion policies (including closing the gender pay gap) and to invest especially in children, school leavers and young people. The Commission pointed to a number of available EU resources, notably the redirection of ESF budget lines and other more specific resources to investment policy issues. The bulk of funding required for implementing social investment remains with national budgets (see Box 10.4). In this regard, a recent study shows that EU countries can roughly be clustered in three groups. Those which traditionally have a robust welfare state and still have sufficient resources to carry out social investment (nine countries from Continental and Northern Europe), those where the awareness towards social investment is increasing but reforms remain piecemeal (a group of nine countries where the UK sides with countries such as Poland, Spain, Hungary and Cyprus) and those where no tangible social investment approach could be detected (the remaining ten countries from the southern, eastern and Baltic peripheries) (Bouget et al., 2015). Thus, EU recommendations advocating more social investment have more often than not remained either poorly implemented or not implemented at all, especially in countries with less budgetary room for manoeuvre.

In contrast, a consensus has emerged among European and national decision makers alike on the need to make labour markets more flexible through deregulation measures such as allowing shorter contracts and easier conditions of hiring and firing, more adaptability of working hours, less taxation on labour and the decentralisation of collective bargaining making it easier to introduce ad hoc arrangements over pay and working time at the enterprise level. While the UK and Germany introduced such reforms as early as the 1990s and 2000s, the Italian Job Act of 2014 and the French *Loi Travail* adopted in 2017 are examples of more recent reforms. The European Semester focuses very strongly on labour market reforms: they account for the largest share (18–30 per cent) of all country-specific recommendations adopted through the European Semester since 2011 (Crespy and Vanheuverzwijn, 2017).

Such reforms had been depicted, in the debates from the mid-2000s, as a move towards the model of flexicurity in place in Scandinavia or the Netherlands (see Box 10.4). However, their implementation across the continent shows that, while resulting in a breakthrough in increasing labour market flexibility, progress in terms of new rights or security is meagre. Moreover, in these countries there is no evidence that (vocational) education and training systems, or unemployment services, have been significantly improved. As inequality is on the rise in most EU countries, it appears that (1) in-work poverty is becoming more prevalent as a result of part-time and temporary jobs (European Parliament Research Service, 2016: 11–12) and (2) the reforms of the welfare states through the prism of so-called active labour market policies 'operate mainly through the reduction of security for insiders, not by increasing job security for outsiders' (Arpe et al., 2015: 50). As a result, the target set by the Europe 2020 strategy, especially with regard to having 20 million fewer poor people at risk of poverty or social exclusion by 2020, barely has a chance of being met.

The latest initiative is the launch of the European Pillar of Social Rights, a catalogue of objectives and principles for fostering social progress which was adopted, proclaimed and endorsed by the EU Heads of States and Governments at the Social Summit in Gotenburg in October 2017. Enjoying strong support from Commission President Juncker, it was thought to materialise the plea made when he took office in 2014 that the EU should achieve a 'Social Triple A'. The pillar was presented as a set of twenty principles falling into three chapters on equal opportunities in accessing the labour market, working conditions and social protection and inclusion. It encompasses both existing law (the so-called social *acquis*) and broader principles which can only be attained through member state policy-making and voluntary coordination thereof, such as the right to 'quality and inclusive education' or the right to 'fair wages that provide for a decent standard of living'.

As evidence of the will to 'deliver' through constraining instruments, in 2017 the Commission put forward a proposal for a directive on the work–life balance of parents and carers, thus picking up again, among other things, on maternity leave. In the face of resistance from several member states (including Denmark and France) against improving paternity leave rights, the proposal was watered down by the Council in 2018, leaving the current situation little changed. In 2017, the EP adopted a resolution on the pillar, demanding new instruments such as a guarantee to support children at risk of poverty. As far as the soft coordination of national policy is concerned, many have called for implementing the pillar through the recommendations of the European Semester. While the Commission has started to take into account the principles of the pillar in its Annual Growth Survey, there is still a lack of consistency between the logic of rights of the pillar, the logic of soft coordination of the European Semester and the logic of investment of the ESF (Sabato and Corti, 2018). As a result, there is wide scepticism across the board as to whether, in the current political context, the European Pillar of Social Rights is not doomed to fall short of expectations.

10.5 Current Political and Academic Controversies

10.5.1 What are the Main Institutional Features of Today's EU Socio-economic Governance?

In 2005, Stefan Leibfried argued that EU social policy was 'left to courts and markets', thus pointing to the prominent role of the CJEU and the building of the single market. While the former still matter, the 2008–10 crisis has arguably placed the member states and domestic politics at the centre of the game. In several respects, as argued above, the CJEU has given way to a contentious politicisation of social matters and pressure from member states. This is powerfully exemplified by the way in which, with a series of decisions from 2013 to 2016, the court reversed its previous jurisprudence to grant the member states considerable leeway to refuse access of non-nationals to welfare benefits (such as unemployment or child-based benefits), in particular for non-working individuals. The most recent decision, which involved the British government and was taken one week before the referendum on Brexit, is a case in point.

But more significantly, the developments of the past two decades seem to reflect the type of institutional dynamics described by the neo-intergovernmentalists (Bickerton et al., 2015). Instead of delegating more regulatory competences to the EU institutions, governments have strengthened the European constraints through voluntary coordination and multilateral surveillance on the part of the Council with the Commission playing a key steering role. In fact, the European Semester has advanced integration in the realm of social policy by making it more hybrid since it combines elements of intergovernmentalism (member states remain central), supranationalism (strengthened surveillance powers of the Commission) and voluntary coordination (non-binding recommendations) (see Chapter 5). As a result, EU governance is no longer confined to regulating the social aspects of the single market, but seeks to reach further into domestic welfare state reforms, though with poor results in terms of progressive modernisation.

10.5.2 Are We Going Towards More Social EU Integration?

Social policy offers a telling illustration of the paradox of today's EU politics. On the one hand, common problems and interdependence, e.g. youth unemployment, call for more integration and new instruments to tackle common problems Europe wide. The neo-functionalist logic of a spillover of economic integration towards social integration has set actors in motion and brought about initiatives such as the Youth Guarantee and the tighter coordination of labour market or pension reforms. On the other hand, the feeling is widespread that the EU and the way in which it works is a cause of today's acute social problems. Especially widespread is the feeling that the integration process has mainly favoured market building and actors (banks and large corporations) while ignoring workers' everyday problems, especially those who are less highly educated and not very mobile individuals who identify less with Europe. Following a postfunctionalist logic (Hooghe and Marks, 2009) emphasising the primacy of domestic politics, these feelings have fuelled support for nationalist parties which vigorously oppose any further involvement of the EU into the social realm. This being said, the idea that most citizens are against more Europe in the realm of social policy should not be taken for granted. Recent surveys show that social issues such as unemployment and poverty rate among the most important concerns of people across the EU, and that majorities can be found to support more EU action in these domains (Ferrera and Pellegata, 2017; Vandenbroucke et al., 2018).

From a normative point of view, requirements for the EU to generate social justice depend on how one conceives of the social relations binding European citizens. Many share the diagnosis that, depending on the country and type of socio-economic model which they belong to, not all citizens have benefited equally from European integration. Some authors claim that democracy and social justice can only truly be realised within the framework of the nation states and that, therefore, member states need to regain more autonomy vis-à-vis the EU.[5] In contrast, others

[5] Claus Offe, Fritz Scharpf or Wolfgang Streeck.

have argued that the EU needs to equip itself with tools to compensate for the inequalities stemming from competition and monetary integration.[6]

10.5.3 Which Instruments Could Serve to Advance Social Integration and Tackle Inequalities?

The recent recession has fuelled debates about the possible creation of new social policy instruments at the EU level which would help tackle social inequalities within as well as between member states. A group of scholars has called for a ‘European social union’, in which the role of the EU should be to create a ‘holding’ environment for national welfare states through, for instance, automatic stabilisers (in the form of an unemployment insurance fund), common standards for upward convergence, or wage coordination (Vandenbroucke et al., 2016).

The idea of a European unemployment benefits scheme was much discussed among researchers and policymakers. The most realistic options do not involve direct transfers from the EU to unemployed individuals. Rather, the prevailing design being promoted is a sort of insurance fund which would flow into national schemes. The funds could be activated by those countries most affected by external shocks, thus tackling the problems of collective coordination and reduced national budgets in times of crisis. Although the idea has been much discussed and has been on the European agenda at least since 2013, the time does not yet seem ripe for the European Commission to make such a bold proposal, as it cannot yet rely on the support of a strong enough majority of member states. Especially among the richer, creditor countries, there are concerns that such a European unemployment insurance fund would act as a de facto mechanism for organising permanent financial transfers towards the more vulnerable EU countries with high unemployment figures and thus reduce their willingness to adopt efficient policies.

The creation of a European minimum wage has been discussed since the mid-2000 onwards as a means to tackle social dumping and promote convergence in living standards (see Box 10.4). Supported by some trade unions, it has remained contentious within the workers’ movement with notable resistance from the powerful Deutscher Gewerkschaftsbund as well as other confederations in countries where various minimum wages are being negotiated autonomously and in a decentralised manner by the unions as opposed to a legal minimum wage (Dufresne, 2015). In 2012, however, an agreement was found on the idea of a ‘wage floor’ inspired by the international benchmark for fair wages from the Council of Europe set at 50–60 per cent of the national median wage. With median wages in the EU ranging from €2 per hour in Bulgaria to €14.1 per hour in Luxembourg, setting a minimum floor could lead to an increase in several countries. Yet, a non-regression

[6] Andea Sangiovanni, Franck Vandenbroucke, Jürgen Habermas or Philippe Van Parijs.

clause would have to be adopted to avoid a possible downward pressure in countries with higher minimum wage levels.

Both the unemployment insurance fund and a common standard for minimum wages were mentioned in the French-German roadmap for reforming the euro area issued in June 2018. However, there has been a blatant lack of political will to move forwards on these matters, as the European Council meeting of December 2018 only agreed on rather technical measures relating to the banking union and the ESM. Both a framework for minimum wages and a European Unemployment Re-insurance Scheme have been included in the work programme of the European Commission chaired by Ursula von der Leyen since October 2019. As the Commission launched a consultation of the social partners on minimum wages in January 2020, the initiative met strong resistance from decision makers and unions, particularly from Denmark and Sweden, who claim that wages is not an EU competence under the TFEU and that such an EU framework could damage wage setting systems which work well.

Finally, a number of academics have argued that a European basic income, in the form of an amount of money distributed unconditionally to all Europeans and funded through taxation, would be an efficient tool for tackling poverty, imbalances within the euro area and the changing structures of labour markets with the rise of part-time and independent work (e.g. Van Parijs and Vanderborght, 2017).

10.6 Analysis of a Paradigmatic Case Study

The implementation of the Youth Guarantee is a good example of the issues currently facing the EU when trying to develop new policy instruments for tackling social problems.

Adopted in 2013 upon a proposal of the European Commission, the aim of the Youth Guarantee is to tackle the high level of unemployment among young people in Europe, which on average in the EU increased from 15.9 per cent in 2007 to 22.2 per cent in 2014. While it had been significantly high in many countries in the past, it skyrocketed in those countries most hit by the debt explosion and economic recession.

The aim of the guarantee is to ensure that all young people under twenty-five receive a quality job, internship or education offer within four months of finishing school or becoming unemployed. The initiative was adopted in 2013 as a Council recommendation. This means that, while it has been negotiated and adopted through the ordinary legislative procedure, unlike directives or regulations it is without legal force. This reflects the fact that the funding of the policies needed to achieve these goals relies mainly on national resources complemented by EU funds.

In December 2016, the European Commission presented a report on the implementation of the Youth Guarantee showing that implementation has been slow and uneven across the EU. Alongside funding from the ESF, a further €6.4 billion was earmarked for the Youth Employment Initiative, bringing total funding up to €12.7 billion for the period 2014–20. A substantial part of the money was used to advance funds and help member states speed up implementation. Three years on, the Commission pointed to some encouraging results, notably a three -point drop in youth unemployment,[7] and reported that the guarantee benefited some fourteen million young Europeans. However, fifteen EU countries still have youth unemployment rates above 15 per cent, with peaks of around 45 per cent for Spain and Greece (OECD data). Moreover, 12 per cent of young Europeans are still 'not in employment, education or training'.

The Youth Guarantee scheme has been criticised by MEPs and the European Trade Union Confederation for failing to tackle the full scale of the problem and often leading young people into precarious jobs. One main problem detected is that young people exiting a youth guarantee scheme may take up a job offer, but often only on a temporary basis, thus returning them to a youth guarantee scheme soon afterwards. Both the EP and the International Labour Organisation reckoned that approximately €20 billion was needed to properly address youth unemployment (ILO, 2012). Furthermore, the Commission and the EP assessed that the actual implementation was still at an early stage as of 2016 and that only one in five member states had achieved full implementation of the various measures planned within the framework of the Youth Guarantee (European Parliament, 2017).

Thus, the Youth Guarantee seems to be paradigmatic of the weaknesses of the EU's social policy for tacking severe and urgent social issues. The first main issue is the non-binding nature of the policy, which leaves the EU with little means to oblige national governments to act for implementation. The second issue relates to the weakness of the available resources to fund such policies. On the one hand, the budget of the EU represents around 1 per cent of the EU's GDP. Its means to conduct redistributive policies are therefore nowhere near what can be done at the national level through the welfare state. On the other hand, member states' resources have been reduced as a result of the debt crisis, the bail out of banks in crisis and the economic recession since 2009. The fiscal orthodoxy of the EU, which limits deficit and debt levels under the SGP, exerts considerable constraints for those member states which have slow economic growth and therefore lower fiscal resources, high debt and thus almost no room for manoeuvre in their budget for modern and progressive social policies such as the Youth Guarantee or social investment more generally.

[7] It must be underlined, though, that there is no way to prove that the improvement in the situation was causally due to the implementation of the Youth Guarantee rather than simply an improvement in the overall economy.

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GROUP DISCUSSIONS

Is there something like a European social model?

Should the competences of the EU in the social realm be strengthened? Why and how?

TOPICS FOR INDIVIDUAL RESEARCH

Is there a convergence of European social models with regard to labour market regulation?

How can the dynamics of social regulation in the internal market since 2000 be explained?

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