



Institute for European Integration Research

Working Paper Series

European Integration and the Welfare State(s) in Europe¹

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Working Paper No. 03/2009

July 2009

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Abstract

This paper summarizes the state-of-the-art on European social policy integration. It summarises the controversy over the ‘social dimension of European integration’, which has been ongoing ever since the founding fathers of European integration in 1957 agreed that the economies should be integrated basically without social regulation to counterbalance liberalisation effects. It presents the historical development of EU social policy as well as criteria for evaluating the state of “social Europe” and finally discusses how the EU is impacting on different types of welfare states. The argument is that the EU contributes to framework conditions that promote more ‘bounded varieties of welfare’ in Europe. In other words, it is held that there will be a more restricted variety, oscillating within limits that are directly or indirectly imposed or reinforced by European integration.

Keywords: *EU, social policy, varieties of welfare in Europe, Europeanisation in the member states.*

General note:

*Opinions expressed in this paper are those of the author
and not necessarily those of the Institute.*

¹ An abridged version is forthcoming in: Herbert Obinger, Christopher Pierson, Francis G. Castles, Stephan Leibfried, Jane Lewis (eds.), *Handbook for Comparative Welfare States*, OUP 2010. Thanks to the editors for helpful comments.

Contents

| | |
|---|-----------|
| 1. Introduction | 4 |
| 2. Evidence on the development of the EU’s social dimension..... | 5 |
| 3. Debates on the “social dimension of European integration” | 9 |
| 4. Evaluating the EU activities in the social realm..... | 12 |
| 5. The impact of the EU on different “families” of welfare states: variegated and differential | 17 |
| 6. References..... | 23 |

List of Tables

| | |
|---|----|
| Table 1: Forms of EU social policy (in very broadest sense; for details, see the next section) .. | 14 |
| Table 2: Impact of European integration on national social spending | 15 |

1. INTRODUCTION

This chapter discusses the European Union (EU) and its impact on the welfare states in Europe. For decades, the individual European states and their welfare systems have been compared and categorised in different ‘worlds of welfare’ (Esping-Andersen 1990, Ferrera 1998). At the same time, they themselves form part of a quasi-federalist quasi-state that has some features of a welfare state, the supra-national EU. For understanding welfare developments in Europe it is therefore indispensable to take into consideration the joint promises and pressures that European integration represents.

Section 1 looks at the ways in which European Social Policy has evolved, including

- regulation (in fields such as labour law and working conditions, health and safety at the workplace, gender equality and anti-discrimination policies);
- distributive action (e.g. via the European Social Fund) and the initiation of discourse and
- mutual surveillance among national policy makers (“open method of coordination”).

Section 2 then summarizes the controversy over the ‘social dimension of European integration’, which has been ongoing ever since the founding fathers of European integration in 1957 agreed that economic issues should be in the centre of the joint project without social regulation to counterbalance liberalisation effects. Section 3 presents criteria for evaluating the state of “social Europe”. Finally, the concluding Section 4 will discuss how the EU is impacting on different types of welfare states and contributing to framework conditions that promote more ‘bounded varieties of welfare’ in the EU, that is, a more restricted variety within limits that are directly or indirectly imposed or reinforced by European integration.

2. EVIDENCE ON THE DEVELOPMENT OF THE EU'S SOCIAL DIMENSION

EU social policy integration started rather slowly but later developed at a higher speed. During the early years of European integration, social policy consisted almost exclusively of efforts to secure the free movement of workers. National social security systems were coordinated with a view to improving the status of internationally mobile workers and their families. During the late 1960s, however, the political climate gradually became more favourable to a wider range of European social policy measures. At their 1972 Paris summit, the Community Heads of State and Government declared that economic expansion should not be an end in itself but should lead to improvements in more general living and working conditions. They agreed on a catalogue of EU social policy measures that were to be elaborated on by the European Commission (the institution initiating EU policies), the Social Action Programme 1974. This was confirmation that governments now perceived social policy intervention as an integral part of European integration. Several of the legislative measures proposed in the Action Program were adopted by the EU's decisive Council of Ministers in the years that ensued, and further Social Action Programs followed the first one. From the mid-1970s onwards, the development of EU social policy was rather impressive — at least, from a purely quantitative perspective.

EU Social Regulation

In 2009, approximately 80 binding norms existed in the three main fields of EU social regulation: health and safety, other working conditions, and equality at the workplace and beyond (Falkner 2010). Additionally, approximately 90 amendments and geographical extensions to such binding norms have been adopted (e.g. to new member states). On top of these binding EU social norms come approximately 120 non-binding policy outputs, e.g. soft recommendations to the member states.

With regard to equality, one of three major fields of EU activity in the field, matters such as equal pay for work of equal value, the equal treatment of men and women regarding working conditions and social security, and even the issue of burden of proof in discrimination law suits were, over time, regulated at the EU level (Hoskyns 1996, Ostner and

Lewis 1995). Since the EU's 1997 Treaty of Amsterdam (new Article 13), a more general equality policy has been developed, targeting discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Bell 2004).

In the field of working conditions, a number of rules were adopted during the late 1970s, for example on protection of workers in cases of collective redundancy, on the transfer of undertakings, and on employer insolvency. Many more followed suit during the 1990s and thereafter, including those on worker information, on conditions of work contracts, on the equal treatment of atypical (such as shift, temporary agency, or part-time) workers, and on parental leave.

Regarding health and safety at work, finally, regulation was based on a number of specific Action Programmes. Directives (norms specified by the EU but to be specified in national laws) include the protection of workers exposed to emissions (or pollutants) and responsible for heavy loads, as well as protection against risks of chemical, physical, and biological agents at work (such as lead or asbestos). These are the three main areas of regulative EU action.

The distributive dimension of EU social policy (in a wider sense)

The 1957 Treaty had already provided for a 'European Social Fund' (ESF). Its goal was to simplify the employment of workers, to increase their geographical and occupational mobility within the Community, and to facilitate their adaptation to change, particularly through vocational training and retraining. Initially, the ESF reimbursed member states for some of the costs involved in introducing and implementing such measures. The first major reform of the ESF in 1971 involved the definition of target groups and the co-funding of only those domestic projects considered appropriate from a Community perspective. After a number of further reforms, the ESF now co-finances projects for young people seeking employment, for the long-term unemployed, for disadvantaged groups, and for promoting gender equality on the labour market. The aim is to improve people's 'employability' through strategic long-term programmes (particularly in regions lagging behind), to upgrade and modernise workforce skills, and to foster entrepreneurial initiative.

In addition to the Social Fund, other EU Funds also seek to combat regional and social disparities (Allen 2005, Bache 2007). These are the European Regional Development Fund, the European Agricultural Guidance and Guarantee Fund (Guarantee Section), and the Financial Instrument for Fisheries Guidance. Additionally, the Cohesion Fund finances environmental projects and trans-European infrastructure networks in member states whose gross domestic product is less than 90 per cent of the EU average. Finally, the European Adjustment Fund for Globalization aims to help workers made redundant as a result of changing global trade patterns to find another job as quickly as possible. It became operational in 2007 with €500 million a year at its disposal, but at least during the initial period, the member states' authorities made fewer applications than expected.

In sum, the EU's social dimension is less regulatory than is often assumed. For 2006, the financial perspective heading for "structural operations" claimed 31.6 per cent of the of EU's general budget (Commission 1999: 50). The steering effect of the EU's labour market policy may be somewhat stronger than the ESF figures indicate. The latter display only the EU's part of the overall project budgets, but the actual impact of the EU's criteria for project selection is greater than this, for national authorities often also apply them bearing the prospect of European co-funding in mind. On top of this now come the 2009 economic recovery spending programs.

The open method of co-ordination

In addition to the regulative and the redistributive level of EU social policy, the last decade has also seen a new instrument being developed, the "open method of coordination" (OMC). It is an explicitly non-regulatory strategy based on discourse and promotion of mutual learning e.g. via benchmarking. Although similar kinds of practices have existed in other supranational/international organisations (Schäfer 2006), this development has rushed a wave of political and academic statements expecting harmonisation of domestic policies without the imperative of binding EU law.

The main features of the OMC were developed in the field of EU employment policy. This happened initially without a Treaty basis, as a follow-up to the Essen European Council of

1994. The 1997 Amsterdam Treaty's employment chapter later formalised these proceedings and the EU has since adopted employment policy guidelines on an annual basis. Their specification and implementation is left to national-level actors so that the domestic situation and party political preferences can be taken into consideration. The bottom line is that EU member states must regularly present reports on how they have dealt with the guidelines, and why they have chosen particular strategies in their 'National Action Plans'. They have to defend their decisions at the European level in regular debates, so that peer pressure comes into play and has, at least potentially, a harmonising effect on social policies in Europe (de la Porte and Pochet 2002, Goetschy 2002, Mosher and Trubek 2003, Jacobsson 2004). Over the years, the open method of coordination has been extended to new fields, including e.g. health, pension reform (Natali 2009, Eckardt 2005), equal opportunities (Braams 2007), and social inclusion (Schelkle 2003, Daly 2006).

Its success is still hard to judge due to the lack of reliable data on its practical effects in the member states (but see Zeitlin and Pochet 2005, O'Connor 2005, Kröger 2009) and will always be difficult to measure since there is no counter-factual basis of comparison at the researchers' disposal. It seems plausible to expect that joint policy learning and mutual adaptation will have some effects on national policies, and that EU-level obligations, however loosely defined, will help governments to justify reforms domestically that they might otherwise not have dared to enforce for fear of electoral losses. Where national governments are not ready for policy change, however, the National Action Plans may do no more than either restate pre-existing domestic policies or perform a symbolic function (Scharpf 2002).

3. DEBATES ON THE “SOCIAL DIMENSION OF EUROPEAN INTEGRATION”

Ever since the inception of what later became the European Union, the debates on whether or not a “social dimension of European integration” was either present at all, or needed, were lively. The early writings focused on the scarce legal foundations for EU social activities (see in more detail Falkner 2007) and were mostly written by legal scholars (for later discussions on EU social policy from a mainly, though not exclusively legal point of view, see the editions by Shaw 2000, De Búrca *et al.* 2005). Social policy competences were expected to remain a largely national affair in Europe since the dominant philosophy of the 1957 Treaty was that improvements in welfare would be provided by the economic growth arising as a consequence of the liberalisation of the European market, and not from regulatory and distributive forms of EU public policy.

However, the Treaty contained a small number of concessions for the more 'interventionist' delegations (most importantly, the French). These were mainly the provisions on equal pay for both sexes and the establishment of the European Social Fund. This legal situation accounts for a number of specificities of social policy among all EU policies: for a long time the EU possessed no explicit competence provision empowering the European Commission to draft legislative proposals for later adoption by the EU's Council of Ministers and the European Parliament (this would be the common decision-making procedure at the EU level). It was only due to the existence of so-called 'subsidiary competence provisions' that intervention in the social policy field was – implicitly – made possible, but only if it was considered functional for market integration. It is crucial to note that from the 1970s onwards, these provisions were used for social policy harmonisation at the EU level. The quorum, however, constituted high thresholds for joint action since action by the Council of Ministers needed unanimous approval. This state of affairs existed basically until the 1992

Treaty of Maastricht², and in some fields, unanimity would even be required if the pending Lisbon Treaty ever comes into force.

This was criticized also in the famous concept of the “joint-decision trap” in (quasi-)federalist systems (Scharpf 1988). Where the constituent governments' consent is needed for federal legislation, and decisions have to be unanimous or nearly unanimous, a 'pathology of interlocking politics' (ibid.: 254) results. Competences are shared (not divided) but at the same time, the institutional self-interests of the lower level governments to preserve their veto position and hence their sovereignty are not filtered by a representation principle. Stalemate and sub-optimal outcomes can be expected from such systems (ibid.: 267).

When looking at the field of EU social policy, Scharpf's analysis seemed certainly accurate by the time of the famous article's publication and far beyond. Nevertheless, a few counter-dynamics were detected in the ensuing years, and a proper debate on 'social Europe' began to flourish during the 1990s when a prominent edited volume (Leibfried and Pierson 1995) provided the first encompassing discussion on EU social policy, its development and its relationship with national policy. The volume investigated the dynamics of social policy integration by examining, and comparing, the evolution of EU social policy in several areas. In overall terms, Pierson and Leibfried saw a "system of shared political authority over social policy" emerging (Pierson and Leibfried 1995b: 4). In this system, the power of the member states was not only pooled, but also to an increasing extent constrained (ibid.: 7). "What is emerging is a multileveled, highly fragmented system in which policy 'develops' but is beyond the firm control of any single political authority." (Pierson and Leibfried 1995a: 433)

However, Leibfried and Pierson also detected a specific dynamic leading beyond the joint-decision trap. They highlighted that the EU institutions were not simply tools of the member states, but that member state power was actually restrained by the autonomous activity of EU institutions and, in addition, by three further limitations: the impact of previous policy

² The EC Treaty provisions have been adapted with the Single European Act (that introduced qualified majority voting for issues related to worker health and safety in 1986), the Maastricht Treaty (in that the then eleven member states agreed far-reaching additional competences and procedural reforms, including significant extension of qualified majority voting, with a passing exception for the UK in 1992), the Amsterdam Treaty (that ended the UK opt-out and inserted an employment co-ordination chapter into the EC Treaty in 1997) and finally the Nice Treaty of 2001 (that however only contained very minor reforms in the social realm, such as unanimous decisions that qualified majority suffices thereafter).

commitments at the EU level; the growth of issue density; and the activity of non-state actors. Their book also showed that, at least in some fields, EU social policy initiatives had surpassed the lowest common denominator of member state preferences (Pierson and Leibfried 1995a: 458).

Whether the multi-level system of shared political authority of social policy (Leibfried and Pierson 1995b) did in fact create not only more social activities on the supra-national level than previously expected, but also ones that were sufficient to build a functional counterweight to the intensified market forces, has always been, and still is, a matter of debate. A prominent example for this kind of scholarly controversy was framed around the “half full glasses” analogy (Ross 1994, Streeck 1994, Goetschy 1994).

4. EVALUATING THE EU ACTIVITIES IN THE SOCIAL REALM

Most texts on EU social policy qualify their subject, though surprisingly few do this in a fully explicit manner, laying out the yardsticks, the operationalisation and the measurement methods. On the basis of an extensive literature review, it seems plausible that at least four different evaluation criteria are worth considering (Falkner 2000). First, a major task for EU social policy (Barnard 2000) has been closing a number of legal gaps in labour law that were introduced or widened by the EU's Internal Market Programme and its liberalising effect across national boundaries. New rules were needed, most importantly in the realm of posted workers' rights in the host country and on the level of European works councils that needed a trans-national setup in order to meet the conditions of the enlarged operational basis for their enterprises. According to this indicator, the EU performed better than most experts expected during the early 1990s, and all important gaps that had been discussed at the time have meanwhile been closed.³ However, more recent further steps of liberalisation in the EU's common market have created additional need for labour law clarification, most importantly in relation to the cross-border competition of service providers. With the benefit of hindsight, the closing of labour law gaps might be an issue of lasting concern because the European Union continues to first instigate market-making projects that will eventually require re-regulation in the labour law and/or social spheres as well (Mabbett and Schelkle 2009).

Secondly, a somewhat more far-reaching criterion for judging EU social law is the differential between Commission proposals and Council legislation (note that the European Commission initiates all legislative projects on the EU-level, while the Council of Ministers is the major decision-taker, nowadays jointly with the European Parliament). There was a huge gap between what the Commission presented as potential EU social policy and what was actually adopted, during the late 1980s and early 1990s. However, this gap was later almost completely filled. Even some of the most controversial projects, on e.g. sexual harassment in

³ It should be mentioned that some recent judgements by the European Court of Justice have highlighted areas where even on the basis of EU directives explicitly wanting to close such gaps, the effects of market integration on domestic labour laws might need further debate and further legal action (see section 3).

the workplace and on employee consultation in the European Company Statute, have been adopted.

A third indicator of the scope of the EU's social dimension is action taken to prevent reductions in national social standards, potentially induced by the increased competitive pressures (sometimes called social dumping) of the single market and the Economic and Monetary Union. One possibility to prevent this from happening could have been to agree on fluctuation margins, which would have stopped one country from gaining competitive advantages by lowering social standards. In any case, such proposals were only thought worthwhile by a handful of academics and politicians in a small number of member states, notably in Belgium, France and Germany (Busch 1988, Dispersyn *et al.* 1990).

Finally, a fourth evaluation criterion might be the rather small extent to which the EU has forged a truly supranational social order. However, it needs mentioning that the EU as a quasi-federal system was set up when the member states already had fully-fledged welfare states. Therefore, policy pre-emption was in place (Obinger *et al.* 2005b: 556) and the functional need to replace the domestic systems was neither undisputable nor widely accepted.

In short, it seems that while the EU's welfare activities perform not too badly if compared to the more cautious demands, they clearly fall very short of the more far-reaching conceptions. What remains is the suspicion, shared by many authors, that "member governments have lost more control over national welfare policies ... than the EU has gained *de facto* in transferred authority" (Leibfried 2005: 243, see also Scharpf 1999, Ferrera 2005). Beyond this evaluation of the status quo, however, it is hard to see an easy way out of the situation. To simply add on to the EU's tasks exactly that what seems to have gotten lost on the national level seems impractical. As a basis for this thought experiment, one needs to consider the various forms of EU activities in the field.

Table 1: Forms of EU social policy (in very broadest sense; for details, see the next section)

| | ISSUE AREAS | MEMBER STATE / EU RELATIONS |
|--|---|---|
| A) REGULATION of social rights and standards | Mainly: Labour law, health and safety at the workplace, equal treatment policies. | Both share competence, EU became of increasing importance 1970s – 1990s. |
| B) SPENDING for social purposes | Mainly: European Social Fund, Globalisation Fund, Agricultural Fund, Regional Fund. | EU expenses minor if compared to national welfare systems, but within EU budget significant. |
| C) CO-ORDINATION to stimulate voluntary harmonisation in the social field | Mainly: Employment policy, pensions, social assistance, education. | EU impact depends on domestic willingness; hardly any information on de facto effects or proofs of causality. |
| D) LIBERALISATION of public utilities, including social ones, at large (in fact, part of the EU's economic policy) | Mainly: Employment services, energy, transport, postal services, but also parts of the health industry. In fact, economic policies touch the “outer ring” of social protection, in a wide sense, “the welfare state’s protective outer skins” (Leibfried 2005: 270). | Member states cannot discriminate private actors on the market or exclude them, outside a few narrowly defined and contentious core areas of public interest. |

It seems that only the fields B) and D) qualify for the argument that the EU should reunite the competences eroded on the domestic levels, since regulative competences in the social chapter of the EC Treaty are shared between the member states and the EU, and the open method of coordination takes no competences away from the governments, in any case. The thought experiment would then result in B) more significant spending for social programmes on the EU level, and D) counterbalancing the public utilities liberalisation. The latter could lead up to, e.g., a re-monopolisation of employment agencies on the EU level. It is an interesting topic for debate, but the fruitfulness is not undisputable in functional terms. Neither is a potential EU monopoly for local traffic, it seems. An additional argument to be raised is that the liberalisation of public utilities in the social realm at large, as far as it happened at all, was founded on the consideration that more competition would be beneficial overall. It seems doubtful that the EU-wide majority consensus in this direction has vanished. In other words: if there are broadly accepted arguments for liberalisation on the level of the

member states, these arguments will more often than not be valid on the European level as well. Therefore, the idea to let the EU take on board whatever was deleted in terms of sovereignty on the national level is hardly viable. One may question the arguments underpinning the liberalisation option (and one should discuss some obvious detrimental effects), but this would rather be an economic debate than one on appropriate levels of social policy.

Regarding more spending at EU-level, finally, the amount needed to counterbalance the pressures on the domestic level set up by various European integration measures is hard to determine. Again, we can differentiate between forms of EU impact (see details in next section).

Table 2: Impact of European integration on national social spending

| | EFFECT | EU POLICY | EVALUATIVE ARGUMENTS |
|-------------------------------|----------|---|---|
| Impact on EXPENSES | Direct | Opening borders and social security systems for citizens of other EU states: - social transfers no longer restricted to “own citizens” - no longer consumed within state territory. | a) From the member state perspective, this can be costly. But: Other countries’ situations are similar, reciprocity is possible. If not: ECJ provides for (some) protection of financial stability of the social security systems. b) From citizens’ perspective, this offers new social rights. |
| Impact on budgetary RESOURCES | Direct | EMU, convergence criteria limit deficit spending. | a) Short-term: restrictive effect on social expenses possible, although governments are in principle free to cut where they find useful, including outside the welfare area. b) Long-term: not limiting the budgetary deficits might have had an even more negative effect on social budgets due to the danger of debt payment overload. |
| | Indirect | Only partial tax harmonisation on EU level, hence room for tax competition between member states. | De facto pressure on nation states to lower their taxes (including social security contributions) on the mobile economic actors. But to be decided on national level. |

This table again shows that taking on board, at the EU level, simply whatever seems now outside the full sovereignty (in the widest sense) of the nation states will hardly be an easy option. Technically, in the field of welfare expenses, it would mean trying to establish the amount of welfare cuts that may have been enacted due to “dumping” processes. However, the causality of any cuts in national welfare is hard to establish since there are, beyond inner-EU tax competition, also many other potential reasons for specific cuts that may have taken place. At the same time, it is hard to set up any EU regime to spend exactly this amount of money in such a way as to counterweight this consequence of European integration.

5. THE IMPACT OF THE EU ON DIFFERENT “FAMILIES” OF WELFARE STATES: VARIEGATED AND DIFFERENTIAL

We have outlined how the EU’s social dimension has during the past 40 years been developed more strongly than originally anticipated by both politicians and academics. However, evaluations differ a lot regarding the success of the “social dimension” of European integration. This concluding section will discuss how the EU is impacting on welfare state policies overall, bringing about at least de facto significant pressures towards more bounded varieties of welfare. However, the ways are often indirect (below a) and the effects are differential (below b).

a) The prominent role of unintended and indirect effects

It has already been outlined that the domestic welfare states are nowadays restrained by European integration: Firstly, by having to guarantee free movement of labour within the integrated Europe and the related trans-national social security careers with the related EU co-ordination rules. Secondly, by having to execute the anti-discrimination policies imposed by EU law aimed to support women and minorities with regards to age, racial and ethnic origin, religion and belief, sexual orientation, and disability. Thirdly, by having to respect the minimum standards laid down in EU regulation for the fields of health and safety at the workplace and labour law. Fourthly, by respecting some procedural rules under the open method of coordination (see above) and hence by regularly reporting and justifying the domestic choices in many other fields of social policies. These are all direct effects of European integration.

However, the impact of European integration on domestic welfare states and social policy regimes goes far beyond ‘implementing’ such EU social norms (as problematic as that may be

in itself⁴) since many effects are ‘indirect’ ones, not triggered by explicit EU social policies but by secondary effects of economic integration, and/or by jurisprudence of the European Court of Justice in Luxembourg interpreting EU law in an extensive and sometimes unexpected way.

It has been outlined above that economic policies were given pre-eminent status in the 1957 Founding Treaty. To an extent that increased with liberalisation progress over time, competition in the enlarged market imposed pressures on raising taxes and social security contributions from mobile production forces. During the second half of the 1980s, the ‘Internal Market Programme’ revived the European integration process, involving liberalisation measures even in previously protected and partly even state-owned infrastructures and services of public interest (energy, telecommunications, transport, employment agencies etc.). Slowly but surely, what can be seen as the outer ring of welfare policies (Leibfried 2005) was touched on ever more intensively (Scharpf 2002). A landmark of indirect effects on social spending was the 1992 Maastricht Treaty with the commitment to set up Economic and Monetary Union. This eliminated national controls on monetary policy while in parallel, the Growth and Stability Pact imposed limits on budget deficits and hence created pressure for spending cuts (or tax raises, but see below), including in the social realm.

It is a broadly accepted economic view that all this triggered additional growth that can be expected to have allowed for a greater cake to be shared between all Europeans, but at the same time authors agree that the open borders reinforced the powers of the more mobile production factors and seem to have rather hampered the bargaining power of worker representatives. In principle, the size and much of the form of redistribution was still left to the member states to decide, but the framework conditions of the decision were no longer the same. Welfare states, particularly in the EU, nowadays “remain internationally viable only if their systems of taxation and regulation do not reduce the competitiveness of their economies

⁴ It should be noted here that full evaluation of the success of existing European social law is restricted by the lack of knowledge about its practical effects in the member states. One comparative study of 90 cases of domestic adaptation performance across a range of EU social directives (Falkner, Treib, Hartlapp and Leiber 2005) has revealed that there are major implementation failures and that, to date, the European Commission has not been able to perform its control function adequately. While all countries are occasional non-compliers, some usually take their EU-related duties seriously. Others frequently privilege their domestic political concerns over the requirements of EU law. A further group of countries neglect these EU obligations almost as a matter of course. Extending this kind of analysis to new member states from Central and Eastern Europe shows that EU standards all too often remain ‘dead letter’ (Falkner, Treib and Holzleithner 2008).

in open product and capital markets – which implies that, by and large, redistribution must be achieved through public expenditures rather than through the regulation of employment relations, and that the costs of the welfare state have to be collected from the non-capital incomes and the consumption expenditures of the non-mobile population” (Scharpf and Schmidt 2000a: 336).

It is certainly difficult to establish the net effect of European integration on domestic social policy decisions. However, some accounts hold that the EU, if it was not the real source of change, has at least been used as an ‘external justifier’. Particularly, but not only, in Southern Europe, the convergence criteria for EMU seem to have served as welcome justification for welfare state reforms (Guillén and Álvarez 2001, Sbragia 2001, Martin and Ross 2004, Leibfried 2005: 270 with further references).

Next to indirect effects come unexpected direct effects. The EU’s Court of Justice (ECJ) has the final say in the interpretation of EU law. Since the 1970s, it has been influential on a number of social policy issues and, at times, has significantly increased the practical impact of EU law by its jurisprudence. The equal treatment of women at the workplace and the protection of worker interests when enterprises change hands are two important examples (Leibfried and Pierson 2000). A recent case of “spillover” from market integration to the realm of welfare is health care. Originally, this was domestic competence and if a patient requested to receive a publicly financed treatment in another EU country this needed advance authorisation by the competent healthcare institution. In 1998, the ECJ ruled that healthcare was a service and hence subject to the competition law provisions under EU law. National health policies were unexpectedly affected by the market freedoms prevailing in the EU’s so-called internal market more than politicians ever intended (Sindbjerg Martinsen 2009: 11). In fact, the European Commission has subsequently been using both the ECJ judgements and scientific evidence as authoritative inputs supporting its proposals to widen the regulatory competences of the EU in the field (ibid.).

In general, the field of services provision in the EU’s unified market has raised many discussions and from 2004 onwards even some mass demonstrations, following the “Services Directive”. Most importantly, because the latter creates inequality for those workers posted to

other member states to whom their (often cheaper) home country regulations apply (Schmidt 2009: 1). Most recently, further controversial ECJ cases whose consequences will only be visible in the years to come have touched the borderlines between market freedoms and basic social rights such as union action. A heated debate is ongoing as to their potential consequences in terms of domestic social and industrial relations systems, in particular concerning the minimum pay of workers and the right to strike if foreign companies that deliver services, e.g. in the building sector, do not (need to) apply the rules respected by employers (or at least the majority thereof) in the country of work (Scharpf 2009, Joerges and Rödl 2008).

b) The differential impact of European integration

Just like 'globalization' has no equal impact on the European welfare states (Sykes *et al.* 2001, Genschel 2004: presents a very similar argument), the effects of European integration also seem to touch all clusters of welfare states in Europe, though in various ways and degrees.

The original six EU founding states had welfare systems of the Bismarckian type of work-based social insurance. Differences were then much smaller not only in terms of structures but also of levels. Therefore, harmonization on the EU-level would initially have been easier than ever since – but this was 'a road not taken' (Scharpf 2002). After the first EU enlargement during the 1970s, Denmark, Britain and Ireland had already increased the heterogeneity of the EU dramatically. Now one Scandinavian and two Anglo-Saxon types of welfare state were within the EU. Plurality increased even further later on, with Southern, further Scandinavian and Continental, and then Eastern European reform states becoming members.

The variety of welfare provision concerning both the funding (employer or/and employee contributions, direct/indirect taxes on various sources and groups) and the spending sides (universalistic versus occupation-related welfare systems; only basic social benefits with means-testing and/or also income-sustaining transfers even from public system sources and/or service provision in the private realm such as childcare), plus the differential normative assumptions and value judgements involved, made joint EU-level welfare policies much more difficult. At the same time, the feedback effects of European integration into the

member states were ever more differential, too. Large-scale comparative studies that systematically take into consideration all roots of EU impact outlined above, for all kinds of welfare systems and for all countries, in turn, are lacking and would be extremely demanding to coordinate. The basic mechanisms at play for pensions, health care, social assistance and migration, however, have been illuminated in Ferrera's outstanding account of redrawing the boundaries of welfare in Europe (Ferrera 2005).

In overall terms, it seems that the Continental systems are most adversely affected by the internationalisation processes inside and outside the EU because their sources of income are partly no longer viable. When mobile production forces can easily migrate and flee high employers' contributions to social security, shifting the burden elsewhere will be hard to prevent (Scharpf 2002). Tax-based systems seem less adversely affected, as long as the citizens accept the immediate financial burden in exchange for more social security (*ibid.*). An exception may be Denmark with its largely VAT-based social system, which has also come under pressure via the EU's tax harmonisation efforts (Leibfried 2005).

What stands to be expected as a likely future trend? Will the EU's impact be such that all pre-existing differences will soon be eroded? This could, in principle, be the case, firstly, regarding the expenditures and, secondly, concerning differences in the types of welfare system. However, empirical data suggest otherwise. Concerning the level of overall welfare spending, various empirical studies concluded that a 'race to the bottom thesis' is supported neither by spending patterns nor by structural changes, be it on a global level or in Europe (Starke *et al.* 2008, Obinger *et al.* 2005a: 161, Leibfried 2005: 269-70 with further references, Scharpf and Schmidt 2000b). Regarding the development of the welfare regimes (Esping-Andersen 1990), a 'blurring' has been found, e.g. in a study of four open economies over the last 30 years (Obinger *et al.* 2005a: with further references), since some common policy routes were pursued everywhere (i.e. activation and workfare in labour market policy, enhanced co-payments in health insurance, more emphasis on family policy). A similar state characterises the specific realm of healthcare systems, with a tendency of convergence from distinct types towards mixed types (Rothgang *et al.* 2005: 187).

A full convergence is neither functionally needed nor politically probable, for adaptation seems to generally happen ‘in national colours’ (Risse *et al.* 2001, Héritier *et al.* 2001). In the medium run, it seems therefore likely that the various direct and indirect effects of European integration will result in what can be called ‘bounded varieties of welfare’ in Europe.

Regarding likely future trends in EU-level social policy, it seems that deep political and economic cleavages prevent a ‘qualitative leap’ towards “major social transfer programmes at the European tier with a view to enhancing output legitimation and deepening social cohesion” (Obinger *et al.* 2005b: 546) and, taken together with the dynamics of ‘social Europe’ outlined above, it will most probably bring about continued incrementalism (Ferrera 2005) – possibly with comparatively more judicial than strictly regulatory impact, after the enlargements and the Lisbon Treaty.

However, discontinuous development with even a breakdown and replacement of institutions is not impossible in times of abrupt changes (Streeck and Thelen 2005: 9), such as we are right now witnessing in the financial market and economic crisis. The EU was not the main source for these problems so detrimental to the societies and the welfare systems worldwide (although it could probably have done much more to prevent them) but it is a crucial actor with at least the potential to win the struggle for the containment of its consequences. At the time of writing, it is unclear what the dimensions and consequences of the crisis will be in the long run, but one insight from the development of social policy in national federal states comes to mind: “major breakthroughs in the reallocation of powers were only achieved through severe external shocks” (Obinger *et al.* 2005b: 564).

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