

Network for the Advancement of Social and  
Political Studies (NASP)

**The Politicisation of Social Europe**

*Conflict dynamics in the post-crisis debate over EU social and employment policies*

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*To my brother, Alessandro*

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# Introduction

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The bulk of the literature on ‘Social Europe’ has described the latest development of the social dimensions of the European Union (EU) in negative terms by referring to the absorption, the displacement, the decline and the marginalisation of European Union (EU) social policies. Notably, the ruling of the European Court of Justice (ECJ) and the new post-crisis governance of the Economic and Monetary Union have contributed to increasing the centrality of social issues in the European public debate, exacerbating the conflicts between political actors on EU social and employment policy and mounting the dissensus towards the European integration process. Against this background, the lack of political willingness, or the political incapacity, to propose and pursue a fully-fledged social agenda, on the one hand, and the absence of a legal and institutional framework that prevents or compensates the negative externalities of the economic integration process on the well-functioning and maintenance of flourishing national welfare states, on the other, has contributed to what can be called the ‘politicisation of Social Europe’.

While academic literature has broadly focused on the mobilisation of political parties in defence of national welfare states against EU ‘intrusiveness’ into domestic decision-making and on the heightened politicisation of EU affairs at the domestic level, less attention has been paid to the ‘politics of Social Europe’, namely, to the configuration of the political conflicts over social integration at the EU level. Against this background, the objective of this thesis is to fill this gap, in particular, by focusing on the new conflict constellations that emerged in the field of social and employment policy in the aftermath of the Euro crisis. To do so, it investigates the conflict dynamics that characterise the EU-level political debate on social and employment policies during the Juncker Commission both in the European Parliament and the Council of the EU. In so doing, it pursues a double objective. On the one hand, by tracing how Members of the European Parliament and Ministers in the Council position themselves and vote on social and employment policies, its first goal is descriptive. On the other hand, the second objective of this thesis consists of advancing hypotheses on how the juxtaposition and interdependence of these political divides lead to the opening of windows of opportunity for policy change, or instead, turn into a political stalemate.

Two main research questions underpin this research. Firstly, what influences the positioning of Members of the European Parliament on social and employment issues: European political group membership, national party group membership or national affiliation? Secondly,

what shapes governments' positioning on social and employment issues: national interests or decision-makers' political affiliation?

The traditional literature on party politics and voting behaviour both in the European Parliament and in the Council argues that the political conflict is mainly one- or bi-dimensional and tends to neglect or to diminish the territorial dimension of conflict. In so doing, however, scholars do not consider the recent multiple integration crises that have affected the EU, which instead seem to suggest that a more complex conflict configuration at the EU level might have emerged in recent years. This is particularly true when it comes to the interaction between the economic and social dimension of the EU. By contrast, in this thesis, drawing on Ferrera's 'clash syndrome' theory (Ferrera, 2017), we argue that the post-crisis political debate on EU social and employment policies is characterised by four lines of conflict, which are not independent, but partly intersect and overlap with each other, creating policy dilemmas and mounting political turbulence. In this respect, the first consequence of the crisis is that it has significantly exacerbated and increased the salience and meaning of traditional political divides. Notably, the Euro crisis has reinvigorated the traditional left versus right conflict over the degree and type of public intervention in the economy and has exacerbated the divide between advocates of 'more power to Brussels' vis-à-vis defenders of domestic models and practices. Besides the exacerbation of traditional lines of conflict, the crisis has brought out other political divides, with a specific territorial nature. Notably, in the case of the Economic and Monetary Union, a third divide emerged between supporters and opponents of fiscal stability and cross-national transfers (creditor-debtor conflict). Similarly, in the case of labour and intra-EU mobility, a fourth divide emerged, notably around the issues of access to domestic welfare for other EU nationals and social dumping, which generate a further tension which exhibits a clear territorial connotation by separating high-wage/high-welfare countries from low-wage/low-welfare ones.

As mentioned above, these four tensions do not overshadow each other, but rather, they criss-cross. The combination of these overlapping divides mainly rests on four factors: the arena in which the debate takes place; the actors involved; the specific issue under discussion; and the rules of the game. Notably, we expect functional divides to prevail in the parliamentary arena, while territorial tensions characterise the political confrontation in the Council. We then expect pro-European, left-wing MEPs and ministers to be more in favour of further EU social integration than Eurosceptic and right-wing MEPs and ministers. Thirdly, we expect MEPs and ministers to divide on the basis of their territorial provenance – most likely on cross-national redistribution and fiscal stability policies, labour mobility and access to domestic welfare for other EU nationals. Finally, we expect the rules of the game, namely, whether the debated policy

issue is a directive or a regulation, to affect the conflict constellation over EU social and employment policy.

To empirically investigate the positioning of deputies in the European Parliament and ministers in the Council and to test the clash syndrome theory, this thesis proposes a collection of four articles that focus on four initiatives debated under the Juncker Commission. Firstly, we investigate the political debate in the European Parliament on the European Pillar of Social Rights. Secondly, we focus on two initiatives which were debated under the Juncker Commission, namely, the revision of the posting of workers and the proposal to create a common fiscal capacity for the EMU, notably, in the form of a European Unemployment Benefit Scheme (EUBS). Finally, the fourth selected case study investigates the role of politics, and especially of the Juncker Commission, in the orientation of the social country-specific recommendation addressed to Member States in the framework of the European Semester (for more details, see Chapter 1)

From a methodological point of view, the thesis adopts a qualitative approach. The research design is largely built on a criticism of the many quantitative studies (mainly based on the analysis of a large-n set of roll call votes) that have already been conducted on party politics in the European Parliament and in the Council. Moving from the European Parliament, the strategy adopted in this thesis to investigate the political conflict within the EP consists of carrying out qualitative analysis of the amendments tabled in the parliamentary committee in charge of a certain report. While scholars who have studied the parliamentary activity in the EP committees have mostly focused on the topic of membership of EP committees and the assignment of leadership positions and rapporteurship, few studies have researched the extent to which national parties use the committees' system to further their policy goals, and no research has been conducted on the amendments tabled by MEPs in EP committees, which are, however, a unique source of information to investigate political positioning in the EP. The empirical findings were triangulated with elite and expert semi-structured interviews with key decision makers involved in the policy-making process. Moving to the Council, this thesis relies on a combination of multiple, complementary sources of information to unveil the national governments' position on the policy proposals under discussion. Firstly, it qualitatively analyses the records of the public sessions of the Council's meetings. Notably, the records of the ministers' or their delegates' speeches during the debate are transcribed and classified according to their positioning vis-à-vis the proposed text of the Commission or the compromise text created by the presidency. The second source of information we use to trace the positioning of Member States in the Council is – where available – reasoned opinions, sent by national parliaments when

they deem that a Commission's proposal violates the principle of subsidiarity, or national position papers. Finally, the empirical findings are triangulated with elite and expert semi-structured interviews with key decision makers involved in the policy-making process.

This thesis is composed of seven chapters. Chapter 1 presents the research design. It illustrates the puzzle and the object of the research. It then presents the traditional literature on party politics and voting behaviour in the European Parliament and in the Council, while showing the substantial and methodological limitations of scholars in this area. We then present the theoretical framework and the broad hypotheses that derive from it. Accordingly, Chapter 1 presents the selected case studies and the research strategy adopted to investigate them.

Chapter 2 present the European Pillar of Social Rights. The aim is to provide the reader who is not familiar with the Social Pillar the necessary information on the genesis and implementation of this initiative. We present how the Pillar has been conceived within the European Commission, which objectives it was supposed to fulfil and how it was received by institutional actors, social partner and NGOs. An analysis of the legal structure of this initiative will be also provided. Moreover, the Social Pillar will be compared with the previous strategy adopted under the Barroso Commission in the field of EU social and employment policy, namely, the Social Investment Package (SIP), with the aim of understanding differences and similarities. Finally, we provide an overall description of the main deliverables of the Social Pillar in three different fields: EU legislation, EU policy coordination and EU redistributive policy.

The remaining chapters are dedicated to the empirical analysis of the four selected case studies. Again, it is important to stress that each of these chapters was initially conceived as an independent article. This is the reason why each chapter briefly recalls the theoretical framework and the methodology adopted. The reader can deliberately choose whether to read it again or skip these sections. At the beginning of each chapter, a footnote is added with the reference to the original article/working paper.<sup>1</sup>

Chapter 3 is dedicated to the analysis of the conflict dynamics in the European Parliament's debate on the Social Pillar. Firstly, we will present the draft report prepared by MEP Maria João Rodrigues, which constitutes the basis of the debate in the EP. We then analyse in the detail the amendments tabled in the Employment and Social Affairs committee (EMPL), with the aim to identify the policy issues on which European deputies are divided, and consequently where tensions emerge. Position papers of parliamentary groups and final voting

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<sup>1</sup> The version of the article/working paper presented in this thesis is longer than the original. The decision to write a collection of articles was agreed with my supervisor and was approved by the Members of the Coordination Council of the Doctorate.

behaviour in the roll call vote are analysed both within the EMPL committee and in the plenary session. Overall, the chapter provides empirical evidence of the existence of a complex clash syndrome in European social and employment policies which results from the combination of vertical and horizontal forms of Euroscepticism.

Chapter 4 focuses on the political debate around the Posting of Workers Directive (PWD). We will first introduce the controversial issues at stake when we deal with posting of workers, with the aim of identifying possible dimensions of conflict. We then explore and compare the political conditions that led to the failure of the Monti II regulation in 2012, the adoption of the Enforcement Directive in 2014 and the revision of the PWD in 2018. The main argument is that again, a complex interplay of multiple lines of conflict characterises the debate over the revision of the PWD. However, the combination of multiple divides varies significantly between the Parliament and the Council. While in the former, the functional divide between left and right overlaps and partially trumps the territorial cleavage between high-welfare and low-welfare Member States, in the Council, the geographical divide prevails over the left-right split. Both in the Council and the Parliament, a third divide emerges: between advocates of further EU integration and supporters of national social sovereignty.

Chapter 5 reconstructs the post-crisis debate over the possibility of establishing EUBS. Notably, the objective of this chapter is to investigate the reasons why the proposal for EUBS has not yet never taken place in the EU. Since a legislative proposal on the establishment of EUBS has never been put forward by the Commission, the analysis of the debate on the EUBS will be carried in the broader framework of the debate on the possibility of creating a fiscal capacity for the EMU. In this respect, the focus is on the debate in the European Parliament on the report on a budgetary capacity for the EU and the debate in the Council on the Five Presidents' Report and the Commission's Reflection Paper on deepening the EMU. While traditional political economy literature explains political conflict over the possible implementation of EUBS by looking at the divide between creditor countries and debtor Member States, this chapter provides empirical evidence of the existence of a complex clash syndrome. As in the case of the PWD, however, the combination of multiple divides varies significantly between the Parliament and the Council. In the Parliament, the left vs right conflict intersects and partially trumps the territorial divide between creditors and debtors, while in the Council latter prevails over the former.

Chapter 6 analyses the evolution of the social dimension of the European Semester, by focusing on how politics played a decisive role in re-orienting the social policy prescriptions addressed to Member States. Notably, the chapter investigates the 'possibility spaces' that have

been opened up by the introduction of the Social Pillar and have led to a further socialisation of the Semester. While focusing on how the European Semester dealt with national social policies in the period of 2011–2019, this chapter highlights the role of politics and, especially, the interaction between the political and expertise agentic factors within the Semester. The main findings show that the share of prescriptions aimed at promoting social-protection measures and rights has increased, with a peak in the 2018 and 2019 Semester cycles.

Finally, Chapter 7 summarises the main findings of the thesis and analyses them in light of the ‘clash syndrome’ theory and the hypotheses advanced in Chapter 1. Subsequently, we present the research questions that emerge from the thesis and that can be subject to further academic investigation. Finally, we conclude with some considerations on the future of Social Europe and the possible scenario that might emerge in the next five-year Commission term.

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# Chapter 1. EU integration and the nation-based welfare state

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## 1.1 The social deficit of the European Union

Cohesion and social progress feature as prominent objectives in the EU Treaties. In the preamble to the Treaty on the European Union (TEU), explicit reference is made to the Turin European Social Charter (1961), the Community Charter of the Fundamental Social Rights of Workers (1989) and to the social rights defined in the EU Charter of Fundamental Rights (2000). In Article 3 of the TEU, the Union is conceptualised as a ‘social market economy’, aimed at full employment and social progress, committed to combatting social exclusion and discrimination and promoting social justice and protection. Article 9 in the Treaty on the Functioning of the European Union (TFEU) further specifies that ‘in defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health’. Finally, Title X in the TFEU (NB: Articles 153-155) is entirely dedicated to the social objectives of the EU: it defines the competences of the EU vis-à-vis Member States in the social domain, and it grants to policy-makers the legal basis to pursue those policies, which then result in the so-called *EU social acquis*. Notably, among the policy areas where the EU shall support and complement the activities of Member States, we observe: worker health and safety; working conditions; social security; protection of workers where their employment contract is terminated; information and consultation of workers; employment conditions for third-country nationals; re-integration of persons excluded from the labour market; employment gender equality; combating social exclusion; and modernisation of social protection systems. By contrast, the more sensitive issues, such as wage-setting, collective action and the right to strike have been excluded from any action under the Social Title.

Despite the set of objectives and principles of a social nature contained in the Treaties – and the ensemble of those supranational policies that have an explicit social purpose and constitute the so-called *EU social acquis* – the European Union has been harshly criticised because of its ‘social deficit’ (Copeland, 2015). A number of recent studies describe the development of the EU social dimension in negative terms by referring to the debasing (Crespy & Menz, 2015), decline (Graziano & Hartlapp, 2018) and dismantling (Degryse & Pochet, 2018) of Social Europe. Notably, these studies criticise the lack of a European social policy agenda, and especially so starting from the early

2000s. Graziano and Hartlapp (2018), for instance, criticise the progressive decrease of legislative initiatives proposed by the European Commission and the fact that an increasing number of legislative outputs are simply revisions of existing acts. According to the authors, this denotes a lack of capacity or willingness to address genuine new issues. In this respect, Crespy and Menz claim that – especially after 2004 – the Commission has acted as a neoliberal entrepreneur, by actively promoting a policy agenda focused on liberal market building at the expense of socially minded regulation. Finally, Degryse and Pochet (2018) claim that since the outbreak of the financial crisis, the EU legislative activity in the social domain has significantly declined and the scope of the ‘social domain’ has been reduced, primarily with regards to issues concerning the movement of workers.

While the aforementioned studies have focused on the EU social agenda *stricto sensu* (Muir, 2018), another part of the literature has described the EU social deficit, by looking at the effects of the EU integration process on national social policy arenas. In this respect, Garben (2017) argues that the real core of the EU ‘social (deficit) question’ regards the effects of non-social EU policies on national social spheres, rather than the volume of the EU social agenda *per se*. Indeed, as claimed by Costamagna (2018), the EU *social acquis* has been developed because of the necessity to halt the negative externalities and the dangerous race to the bottom, which may derive from the European economic integration process. In fact, although the EU construction has been initially built on the so-called ‘original compromise’<sup>2</sup> (Costamagna, 2018), aimed at guaranteeing social order and economic growth and maintaining stable national welfare states through Europeanisation, an intrinsic and problematic tension soon stemmed from the blossoming pressures linked to European economic integration and the closure foundations of the nation-based welfare state (Ferrera, 2005), which made the compromise soon unsustainable. In this context, the European social agenda was developed in light of the necessity to cushion the negative externalities on the stability of national welfare systems deriving from the process of economic integration. As stressed by Ferrera, while acting as a *boundary re-shuffler*, the ‘opening’ dimension of the EU has weakened and weakens the ‘spatial demarcations and closure practices that the nation states have built to protect themselves’ (Ferrera, 2005).

Pierson and Leibfried (1992; 1995) are among the pioneers of the studies on the consequences of the European integration process on the stability of national social systems. They argue that national welfare systems have been gradually transformed into ‘semi-sovereign welfare states’, namely, parts of a multi-tiered system of social policy, losing their autonomy because of the increasing ‘infiltration’ of the EU internal market rules into the national social policy sphere. In

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<sup>2</sup> The Treaty of Rome (1957) prohibited the European Economic Community (EEC) from intervening in the social field, the only exception being for those powers necessary to ensure the functioning of the internal market (e.g. coordination of social security systems).

particular, the authors focus the completion of the internal market, following the adoption of the Single European Act (SEA) in 1986, and argue that the necessity to assure ‘free movement of goods, services, capital and labour’ has created negative spillover effects on national social sovereignty spaces, thus rendering the separation between EU market-building policy and national social agenda no longer sustainable. Indeed, the SEA significantly transformed the relationship between internal market rules and national labour rights, with the progressive loss of autonomy of national systems to the advantage of the dictates of the new economic rationality, embodied by the principle of mutual recognition and the ban on the introduction of non-discriminatory obstacles to the free movement of productive factors (Giubboni, 2018). The risks connected to the opening pressures of the Single Market had already emerged by the early 1990s, but they explicitly materialised, after the Eastern enlargement, with the (in)famous ruling of the ECJ on the Viking, Laval and Ruffert cases. On those occasions, the ECJ, for the first time, gave explicit preference to market freedoms at the expense of social objectives, by qualifying all national legislation applicable to foreign companies (as well as collective agreement and collective action by workers) as *restriction* to the freedom to conduct business. In so doing, the ECJ fundamentally altered the balance between the economic and the social in the context of the internal market, by giving primacy to economic freedoms over social rights, thus widening the interpretation of potential restrictions and narrowing the scope for social justification (Garben, 2017).

The intrusiveness of the EU into national social spheres further deepened with the creation of the Economic and Monetary Union (EMU), which – by increasing Member States’ economic interdependence – ‘reduced the room for independent policy manoeuvre and amplify the cross-border effects of developments originating in each member country’ (Delors Report, 1989). Notably, the Stability and Growth Pact (SGP), adopted in 1997, defined tight budgetary constraints for the EMU Member States concerning public debt and deficit, while only a soft mechanism for the coordination of social and employment policies was adopted under the framework of the European Employment Strategy (EES) and formalised within the voluntary mechanism known as Open Method of Coordination (OMC).<sup>3</sup>

In the immediate aftermath of the outbreak of the Euro crisis, both the preventive and corrective arms of the SGP were strengthened, with the adoption of the so-called Six Pack, then followed by the Two Pack, which gave to the European institutions more power to control national budgets, included social expenditure. An Excessive Deficit Procedure (EDP) and a Macroeconomic Imbalance Procedure (MIP) were created with the aim to strictly control and punish national public

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<sup>3</sup> For an example of how Maastricht convergence criteria were used to pursue national policies aimed at cutting public spending and privatising the public sector, see Eklund, 2018, on the Swedish case.

expenditure. Finally, the European Semester, a new, hybrid policy-coordination framework, was established, thus further increasing the EU interference in domestic decision-making processes. Indeed, the adoption of *country-specific* recommendations, the threat of financial penalties, and ‘back and forth’ scrutiny and intervention in the management of national budgets are rather important novelties that, despite the progressive ‘socialisation’ of the Semester (Zeitlin & Vanhercke, 2018), have strongly increased the level of EU ‘intrusiveness’ in domestic social-policy spaces. This is especially true of those Member States in the euro area that are more exposed to the pressures of international financial markets and the risk of being put under the strict surveillance of EU institutions (Costamagna, 2018).

Against this background, the lack of political willingness or incapacity to propose and pursue a fully-fledged social agenda and the absence of a legal and institutional framework that prevents or compensates the negative externalities of the economic integration process on the proper functioning and maintenance of flourishing national welfare states contributed to what Kilpatrick (2018) calls the ‘displacement of Social Europe’. This refers to the process of dismantling, weakening and making vulnerable national social and labour protection systems because of the European integration process. Such displacement manifests itself across a range of four dimensions: firstly, *policy displacement*, namely pursuing social policies through different frames, such as alongside the rise of EMU and the internal market; secondly, *membership displacement*, which is linked to EU enlargement and the conflict it produces between free movement and national systems of social protection and industrial relations; thirdly, *institutional displacement*, which refers to the role of different institutions in defining EU social policies, such as the ECJ; and lastly, *governance displacement*, which refers to the shift of EU social policies from traditional hard legislative measures to coordination governance tool (EES, OMC, Semester etc.).

## 1.2 The politicisation of Social Europe

The displacement of Social Europe, which occurred in the past three decades, contributed to the mounting dissensus towards the Union. By imposing increasing challenges to the institutional foundations of nation states, the new post-crisis economic governance further exacerbated what Ferrera calls the ‘sovereignty contest’ over the bounding rules that govern social sharing practices and thus define ‘who has access to what forms of protection’ (Ferrera, 2017). The clash between nation-based social protection needs and EMU-induced austerity and spending cuts has rapidly escalated and has entered the electoral arena, where it is generating a new, turbulent split between pro- and anti-EU actor coalitions (Hutter & Kriesi, 2019). In this regard, several scholars have focused on the mobilisation of political parties in defence of national welfare states against the ‘intrusiveness’

of the EU in domestic decision-making and on the heightened politicisation of EU affairs at the domestic level (Manow, Palier & Schwander, 2018; Hutter et al., 2016). In many Member States, especially in the so-called debtor countries, the social consequences of the Euro crisis have often been perceived as a cost inflicted by the EU, since most of the austerity measures implemented at the national level have been adopted under the ‘shadow of hierarchy’ of the new EU economic governance rules (Dawson, 2018). The crisis, however, not only exacerbated the existing conflict over social sovereignty, it also activated a (more or less) latent distributive divide between richer, ‘paying’ Member States and poorer, ‘receiving’ Member States: the issue of a ‘Transfer Union’ has gained increasing political salience. At the same time, the crisis brought to the surface existing conflicts on intra-EU labour mobility and access to welfare systems. This tension, which is strictly linked to the Eastern enlargement, exhibits a clear territorial connotation by separating high-wage countries from low-wage ones.

The increasing centrality of social issues in the European public debate, the rising conflicts between political actors and the mounting dissensus towards the European intrusiveness is the result of what can be called the ‘politicisation of Social Europe’. Drawing on de Wilde and Zürn (2012), politicisation is here defined as an increase in polarisation of political actors’ opinions, interests or values and the extent to which they are publicly advanced towards policy formulation within the EU. Notably, three indicators measure the degree of politicisation: issue salience, public mobilisation and political polarisation. Issue salience refers to the greater interest and engagement of citizens in EU affairs. Public mobilisation refers to an increase over time in the amount of resources spent in conflict on EU issues and the number of political actors engaged. Finally, polarisation refers to the co-occurrence of conflicting demands for collective goods. Against this background, politicisation of Social Europe refers to the increasing salience of social issues, the polarisation of European actors on these issues and their capacity to mobilise public masses accordingly.

The debate on the politicisation of European integration (including Social Europe) is a relatively recent phenomenon. As observed by Ferrera (2019), although the contradiction between the dynamics of EU-building and the preservation of the cultural, redistributive and political capacities of national governments is structural, it was only during the past three decades that such incompatibility was brought to surface. Notably, it was when the European integration process moved beyond its market integration traditional rationale and touched on core resources of sovereign governments that decisions made by the EU institutions increasingly became objects of public debate and political polarisation. As observed above in the case of contestation over Social Europe, the contradiction between the EU integration process and national sovereignty spaces has always been latent, but it emerged for the first time with the creation of the Single Market and the EMU and

exacerbated in the last decade. In this period, in fact, simultaneous crises (Euro crisis, refugees crisis, Brexit) have been affecting multiple policy domains, including social and employment policies. As argued by Genschel and Jachtenfuch (2017), the outbreak of these multiple EU crises significantly increased the functional demand for supranational policy coordination to tackle the problems deriving from Member States' interdependence, integration-related negative externalities and spillover effects. However, by moving beyond traditional market integration rationale and touching on core state powers, such a demand soon collided with the 'tight political constraints on supply' (Genschel & Jachtenfuch, 2017), namely, with the limited competencies of the EU in core state powers and with Member States' lack of willingness to cede sovereignty in these policy areas. Indeed, while market integration requires regulatory unification in order to harmonise trade-impeding national regulations, it does not imply delegation of administrative, fiscal or coercive capacities to the EU, thereby keeping integration comparatively non-intrusive. Moreover, by keeping aside distributive and identity interests, market integration has largely left mass publics disinterested, thus allowing for the emergence of the so-called permissive consensus (Hooghe & Marks, 2009). By contrast, the integration of national core resources of sovereign government (e.g. fiscal policy) at the supranational level requires high convergence and a substantial investment of fiscal, administrative and coercive capacity of Member States, who, however, are not always equally equipped to comply with the requests deriving from integration and willing to cede part of their sovereignty. Finally, as core state powers have a distributive function, mass publics are usually highly attentive on how resources are distributed, thereby creating conflicts between collective net-contributors versus collective net-recipients.

Therefore, the outbreak EU's *polycrisis* (Juncker, 2016) exacerbated the politicisation of the debate on EU integration and, by encroaching upon core state powers, brought to the surface new and simultaneous tensions both between and within Member States, which add up to traditional lines of conflict between left and right (Kriesi, 2016), thereby creating what Zeitlin and colleagues (2019) call the EU *polycleavage*. The emergence of this new conflict constellation put an end to the aforementioned *permissive consensus* and led to the so-called *constraining dissensus*, as decision-making on European integration 'entered the contentious world of party competition, elections, and referendums' (Hooghe & Marks, 2009, p. 7). At the national level, in fact, the EU became object of increasingly polarised debates, divided electorates and volatile party competition.<sup>4</sup> Political debate shifted therefore from *politics without policy* to *politics against policy* or even *politics against policy*

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<sup>4</sup> Three interrelated phenomena describe the concept of politicisation at the national level: (i) European issues increasingly get political salience in national public sphere; (ii) mainstream (centre-left and centre-right) parties lose public consensus and have difficulties in coping with increasing divides; (iii) rise of populist and Eurosceptic parties that give voice to discontent.

(e.g. Brexit). At the same time, national party politics – by increasing the contestation in the interactions among EU actors – entered into the political debate at the European level, where a shift occurred from *policy without politics* to *policy with politics* (Schmidt 2019). Indeed, politics of nationally partisan governments soon infected the decisions of the Council of the EU, while newly elected Eurosceptic members of the European Parliament influenced the parliamentary agenda. Similarly, independent institutions, such as the Commission and the ECB, were also indirectly affected by the increasing politicisation (Peterson, 2016). As argued by Schmidt (2019), however, politicisation at the EU level goes beyond direct national linkages and invaded the inter-institutional dynamics of EU-level decision-making. With the deepening of the European integration, in fact, EU actors became more inter-dependent and intensified their interaction in political struggles, not only over interest-based power, but also over which policy ideas are deemed most effective and legitimate.

To sum up, the politicisation of the debate over European integration led to increasing contestation and the emergence of new political divides. The re-structuring of party competition at European and national levels around new divides and the pervasiveness of conflict dynamics at all political levels increase the difficulties in finding compromises for the adoption of new policies at the EU level. Indeed, the co-existence of multiple, multilevel conflict dynamics may become a source of political deadlock, whereby a blocking minority or criss-cross vetoes may hamper the capacity of the EU institution to solve urgent problems or advance common progress on a salient contested issue. Such a *politics trap* (Zeitlin et al., 2019) can explain the incapacity of EU actors to propose and pursue a social agenda and to agree on a legal and institutional framework that could prevent or compensate the negative externalities of the economic integration process on the proper functioning and maintenance of national welfare states.

Against this background, the objective of this thesis is to analyse the conflict dynamics that characterise the post-crisis debate on European integration in the field of social and employment policy. This might be helpful both to understand the reasons that have so far prevented the adoption of a comprehensive and ambitious social agenda and, at the same time, identify the margin for manoeuvre or the spaces for the adoption of supranational policy in this area. Notably, we will look at the conflict dynamics that characterise the political debate at the supranational level, thus focusing on the positions assumed within the European Commission, Parliament and Council.

### 1.3 Conflict dynamics in EU decision-making: An analysis of the literature

How to interpret conflict dynamics at the supranational level has been an important topic for a sizeable part of the literature on EU integration (Costello & Thomson, 2014; Crespy & Gajewska, 2010; Kriesi, 2016; McElroy & Benoit, 2012; Hix et al., 2007). Academic debate has raged on the

question of whether territorial or functional divides structure supranational politics. Earlier attention has been paid to the conflict dynamics within the European Parliament, while more recently, attention has been paid to the governments' positioning in the Council. This is because of the accessibility of parliamentary documents by the 1990s, while publication of certain voting records and certain minutes from ministerial meetings of the Council occurred only after the 2000s.

### *1.3.1 Voting behaviour in the European Parliament*

The European Parliament represents a privileged *locus* to investigate political divides at the supranational level for at least two reasons. The first reason lies in the full access to parliamentary documents: draft reports; opinion reports; amendments tabled by MEPs; final compromise texts; records of the debates in parliamentary committees and in plenary; and roll call votes on each final vote on a resolution and, upon request of MEPs, also on single amendments. The second reason lies in the fact of the status of MEPs. Indeed, MEPs belong to the European Parliament Group (EPG), their national party delegation and their country of origin. This threefold agency makes MEPs respondents to different principals (and consequently different interests and values) and renders their positioning unique in order to grasp both functional and territorial divides over European issues.

Since the 1990s, several studies have focused on conflict dynamics and MEP positioning on European issues (Hix & Lord, 1997; Hooghe et al., 2002; Hix et al., 2007; McElroy & Benoit 2012; Crespy & Gajewska 2010; Hix & Høyland, 2013; Bakker et al., 2015; Bowler & McElroy, 2015; Yordanova & Mühlböck, 2015; Whitaker et al., 2017). Among the most renowned scholars, Hix and colleagues have consistently argued that, in the EP, the conflict is crystallising mainly into two functional divides, while national interests barely play a role in the actual voting. The first is 'classical' left-right divide, which mainly revolves around parties' positioning on economic issues. Parties on the economic left want government to play an active role in the economy. Parties on the economic right emphasise a reduced economic role for government: privatisation, lower taxes, less regulation, less government spending and a leaner welfare state (Bakker et al., 2015). The second line of conflict is 'pro- versus against further European integration'. In this respect, scholars argue that such a divide presents an inverted-U shape: party groups at both extremes are less favourable towards continued expansion of the competencies and authority of EU authority compared with 'centrist' parties, which are more in favour of centralisation of national competencies. According to the first model elaborated by Hix and Lord (1997), positions on further European integration and left-right contestation are independent of each other. While the former engages national sovereignty and mobilises territorial groups, which compete on where authority should be located, the latter involves

the allocation of values among functional interests. Hence, party positioning on domestic issues and party positioning on European issues are orthogonal to each other.

A different position has been advanced by Hooghe and colleagues (2002) and recently also by Hix (Hix & Høyland, 2013). While recognising left/right and pro/against European integration as key dimensions in shaping the political debate at the EU level, Hooghe and colleagues (2002) argue that these two dimensions shape positioning on EU policies, but only in a limited subset of issues that are concerned with redistribution and regulating capitalism. Hence, the centre-left supports European integration in cohesion policy, social policy and environmental regulation, whereas the right supports market integration but opposes European re-regulation. In other policy areas, such as democratic freedoms and rights, other political divides explain the positioning of political parties. Notably, Hooghe and colleagues (2002) have highlighted the existence of a third line of conflict, which can be referred to as the distinction between GAL (Green, Alternative, and Libertarian) and TAN (Traditionalism, Authoritarian, and Nationalism) political factions. On the one hand, 'Libertarian' or 'postmaterialist' parties are in favour of the expansion of personal freedoms, for example, access to abortion, active euthanasia, same-sex marriage or greater democratic participation. On the other hand, 'Traditional' or 'authoritarian' parties often reject these ideas: they value order, tradition and stability, and believe that the government should be a firm moral authority on social and cultural issues. As argued by Hooghe and colleagues (2002), this new line of conflict (GAL-TAN) does not overlap but rather overshadows the existing left-right divide. Notably, in Western and Southern European countries, left-wing and liberal parties are usually associated with the GAL position, while right-wing parties are associated with TAN positions. By contrast, in the Central Eastern European countries, left-wing parties are TAN-oriented, because of their post-communist authoritarian nature, while right-wing parties are GAL-oriented (Bakker et al., 2015; Marks & Edwards, 2007).

Finally, more recently, Crespy and Gajewska (2010) have proposed a fourth meta-cleavage to interpret MEP positioning. Notably, by focusing on conflict dynamics in the EP over the Services Directive, the authors unveil how national preferences (East vs West) played a significant role in shaping MEP positioning on the liberalisation of intra-European services. According to the authors, the Eastern enlargement has indeed changed the composition and ideological cohesiveness of European political groups so that the socio-economic issues, which have traditionally been associated with the left-right conflict, have become contentious issues on a territorial basis. At the same time, Crespy and Gajewska (2010) note how left-right orientation indeed plays a relevant role in shaping the position of MEPs. Therefore, they argue that the left-right divide and the East-West divide are not alternative vis-à-vis each other, but are instead combined and can be subsumed as a new liberals-

versus-regulators cleavage, which combines contrasting economic interests and ideological positions and cross-cuts European parliamentary groups as well as country of origin.

Despite several differences, two main characteristics are shared by these divides (left versus right, pro versus against EU integration, GAL versus TAN and liberals versus regulators): on the one hand, they depict the EU's political space as mainly one- or bi-dimensional and, on the other hand, they tend to neglect or to diminish the territorial dimension of conflict.<sup>5</sup> In so doing, however, they do not consider the recent multiple integration crises that have affected the EU, which instead seem to suggest that a more complex conflict configuration at the EU level might have emerged in recent years (Hooghe & Marks, 2018; Hutter et al., 2016; Kriesi, 2016). In this regard, more recent studies on the new configuration of party politics on European issues at the national level showed how the politicisation of Europe in the national electoral arena has significantly changed in recent years. For instance, in their analysis, Hutter and Kriesi (2019) show how the inverted U-curve that explains extreme left-right parties' high contestation against EU integration is affected by a marked regional variety. Namely, contestation in Southern Europe mainly comes from extreme left parties against the austerity measures imposed by the new EU economic governance, while in North-West and Centre-Eastern Europe, extreme right political formations oppose any proposal for reform of the Schengen system after the refugee crises. At the same time, they argue that traditional left-right positioning has been re-structured by the emergence of the immigration and Euro crises, most notably in Southern and North-Western European countries, while no significant changes concerned the Centre-Eastern European political space. These results suggest that also at the level of the EP, a more complex conflict dimensionality might emerge from the post-crisis political debate, included in the field of social and employment policy.

In this respect, a reason that may explain why the traditional literature does not identify such a complexity of the political conflict over EU integration is methodological. Indeed, a large part of the aforementioned literature on conflict dynamics over European integration, with the exception of the work of Crespy and Gajewska (2010), relies on the quantitative analysis of roll call votes on final compromise texts voted in plenary (Bakker et al., 2015; Bakker et al., 2010; Hix et al., 2003; McElroy & Benoit, 2012; Whitaker et al., 2017). This approach has shed light on the main divides which emerge from the voting behaviour within the EP, as well as the level of cohesion within the EPGs. Nevertheless, the RCV analysis presents several shortcomings. Firstly, it considers only the final step, i.e. the outcome, of the parliamentary debate, namely, the compromise proposal that is the result of months or even years of negotiations in the parliamentary committees, consultations with

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<sup>5</sup> Except for Crespy and Gajewska (2010).

stakeholders and inter- and intra-institutional bargaining. Secondly, it overlooks the political rationale that accompanies voting behaviour in a case-specific circumstance, namely, it often does not distinguish RCV according to the policy issue under discussion (Finke, 2012; Hug, 2016; Yordanova & Mühlböck, 2015). Thirdly, RCV ignores the impact of certain factors, such as leadership or expertise, on party group cohesion (Bailer et al., 2009; Ringe 2010). Finally, quantitative RCV analysis usually focuses on legislative resolutions voted in plenary, *de facto* ignoring all the other initiatives of the EP (e.g. parliamentary-initiative reports – so-called INI reports).

### *1.3.2 Voting behaviour in the Council*

As mentioned above, the academic literature on voting behaviour in the Council of the European Union is quite recent, as documents related to the Council's meetings have been not accessible for long, thereby making the Council an opaque institution. Although a large part of the decision-making still takes place behind closed doors, starting from the late 1990s and especially after the Lisbon Treaty, roll call votes, records, minutes of some meetings and issued statements of objections on Council final votes are now accessible and public. On the basis of the available documents and mainly relying on expert and elite interviews, several scholars have thus investigated the decision-making of the Council with the aim of understanding whether it is characterised only by territorial or also functional divides (Mattila, 2004; Hagemann & Høyland, 2008; Veen, 2011; Mühlböck, 2013; Toshkov, 2017; Wratil & Hobolt, 2019).

Mattila (2004) argues that traditional left–right and independence versus integration cleavages shape the political debate in the Council. Notably, while relying on voting records (roll call vote, RCV) of the Council, he argues that left-wing governments tend to vote less against the Council majority than their right-wing counterparts. However, ‘if the government is a strong supporter of increased integration, its position on the left-right dimension does not matter much’ (Mattila, 2004). Similarly, Hagemann and Høyland (2008) argue that voting patterns of governments and coalition formation in the Council are affected by the ideological affiliation of the incumbent government. Notably, they show that most of the governments tend to vote with other governments of the same or similar political affiliation and when governments change, the new coalition tends to find a coalition partner with governments with the closest political positions.

Not all scholars, however, agree on recognising the importance of ideological cleavages as explaining factors of government positioning within the Council. Using expert interviews, Thomson and colleagues (2004) reveal that coalitions among governments correspond with the partisan divide on only five out of 174 controversial issues. This is supported by Zimmer and colleagues (2005), who show that this dimension only offers ‘very weak support to the hypothesis that party lines or ideology

determine the preference structure in the Council'. In this respect, by analysing the positions of governments relying on roll call votes, the analyses by Mattila (2004) and Hogeman and Høyland (2008) seem to suffer from an initial bias. This is because decision-making in the Council is still shaped by the so-called 'culture of consensus' (Heisenberg 2005). National ministers tend to find a compromise on which everyone can agree, and 'no' votes are only justified if ministers can claim that the legislation at hand still significantly violates their interests. As argued by Hosli and colleagues (2007), the consequence of this is that only a limited number of oppositional voices are recorded in the minutes and the probability of a country voting 'no' is very low.

In order to overcome the shortcomings of the studies based only on roll call votes analyses, scholars have recently proposed to focus also on country position papers and the content of party platforms for EP elections (Veen, 2011); records and minutes of the Council meetings (Wrátil & Hobolt, 2019); and governments' policy statements (Hageman et al., 2019). From these studies, it emerges that the conflict in the Council is redistributive rather than ideological and mainly pits net-receivers against net-payers of the EU budget. For instance, Veen (2011) argues that with the Eastern enlargement, a shift occurred from North-South to an East-West divide, but this did not change the dimensionality and nature of conflict in the Council, which remains mainly redistributive. Similarly, by examining the extent to which Member States' structural attributes explain the conflict within the Council of Ministers, Bailer and colleagues (2015) show that country-level redistributive interests shape the interactions considerably. On the contrary, the impact of ideological variables (e.g. left-right) remain marginal. Likewise, Wrátil and Hobolt (2019), while relying on a new dataset that contains all the recorded minutes of the ECOFIN meetings from 2010 to 2015, demonstrate the existence of a divide between net-receivers and net-payers on the size of the EU budget and a divide between debtor and creditor countries on how to reform the Eurozone.

#### 1.4 Theoretical framework

The analysis of the existing literature on EU-level conflict dynamics unveiled some shortcomings that must be considered while elaborating our theoretical framework to investigate the specific political debate over Social Europe. Firstly, scholars describe the EU political space as mainly one- or bi-dimensional. Secondly, little attention has been paid to the context-specific dynamics, namely, to the political tensions and divides that might emerge in relation to a specific policy area. Against this background, an analysis of the conflict dynamics that characterise the debate on Social Europe must necessarily move from a context-specific analysis of the political obstacles, which has so far hampered the possibility to find an agreement on how to reform the EU towards a

more social-sensitive agenda, while taking into account the recent developments related to the EU crises.

In this regard, Maurizio Ferrera (2017) observes that the increasing difficulties of reconciling the social and economic dimensions of the European integration process have led to the emergence of a ‘clash syndrome’ in which old but exacerbated political divides overlap or intersect with new ones. Indeed, the multiple crises that affected the EU in recent years have generated new, durable dimensions of conflict, which mainly revolve around the defence of national political, social and economic ways of life. These crises acted as a critical juncture that transformed the pressures that have built up in past decades into political divisions around which political actors have re-positioned themselves. However, contrary to Hooghe and Marks (2018), who describe the party system’s reaction against ‘external forces’, such as the Euro crisis and the migration crisis, by referring to the creation of a new ‘transnational cleavage’ that subsumes the existing ones, Ferrera’s ‘clash syndrome’ is the result of the combination of old and new political divides, which do not overshadow one another, but rather, combine and criss-cross. Notably, Ferrera argues that the political debate over EU social integration has been significantly affected by the EU polycleavage, which exacerbated existing tensions, which combined with existing tensions to result in an overlapping of four lines of conflict of a functional, normative and territorial nature:

- Market-making versus market-correcting priorities of the European (Monetary) Union;
- National social sovereignty/discretion versus EU law/conditionality;
- Intra-EU ‘systemic competition’ between high-wage/high-welfare EU countries and low-wage/low-welfare EU countries (‘old versus new’ or ‘Western versus Central and Eastern’ Member States); and
- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict).

The first two lines of conflict stem from the traditional divides between ‘left versus right’ and ‘pro versus against (further) European integration’. However, their meaning and salience have been deeply affected by the recent legitimacy crises of the EU. Notably, the Euro crisis has reinvigorated the traditional left versus right conflict over the degree and type of public intervention in the economy. This divide rests on different visions and programmatic ideas about the overall mission of the EU and pits the supporters of a neoliberal project, centred on market-making, against a market-correcting oriented project, focused on a stronger social EU regulation. In this respect, many scholars have argued that the progressive weakening of market-correcting ‘power resources’ in the past three

decades is to be interpreted as one of the main obstacles to the emergence of a strong social agenda at the EU level. For instance, Pierson and Leibfried argued as early as 1993 that the weaknesses of social democratic forces (left-wing parties and trade unions) during the reinvigoration phase of the European Community (end of the 1980s and beginning of the 1990s) created space for what they call the ‘anti-Social-Democratic consensus’ in economic policy. Conversely, Corti and Vesan (2019) argue that the small window of the ‘social-democratic return’ at the turn of the 1990s, early 2000s, when the majority of the Member States’ governments were ruled by social-democratic forces, gave a strong impulse to the relaunch of the EU social agenda. In 1997, the EES was launched, and the Amsterdam Treaty included a new Title on Employment and incorporated the Social Protocol. In 2000, the European Commission, the Parliament and the Council adopted a solemn proclamation on the European Charter of Fundamental Rights. Moreover, in the same year, the European Council launched the so-called Lisbon Agenda, which aimed to transform the EU into the most competitive and dynamic ‘knowledge-based economy’.<sup>6</sup>

The second line of conflict identified by Ferrera (2017) refers to the divide between advocates of ‘more power to Brussels’ vis-à-vis defenders of domestic models and practices. The opposition between supranational centralisation and national sovereignty, more versus less integration, has long been a salient and constitutive dimension of the EU political space. At the core of this divide, there is what Pierson and Leibfried (1993) call the ‘pre-emptive role of national welfare states’. As argued by Ferrera (2005), social policies are a polity-building factor – namely, they contribute to the definition of national boundaries, the creation of strong institutional bonding and the maintenance of national social legitimacy. Therefore, the transfer of social authority to the supranational level would imply changes of the boundaries at national, regional and local levels, depending on the multi-level organisation of each Member State. Clearly, the Commission and the Court are eager to extend their influence on social issues, because they see state-building opportunities in the struggle over a social dimension. However, against the possibility to re-shuffle boundaries and bonding relationships between multi-level authorities and their citizens, Member States have several concerns and manifest their resistance. In this respect, Eurosceptic parties represent the epitome of the conflict between European integration and national (social) sovereignty, which turns into a conflict over the EU *qua* polity.

While the first two divides have a markedly functional nature, the third and fourth divides have a territorial one. Notably, the third line of conflict concerns the tensions around the issues of

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<sup>6</sup> In this period, new modes of governance based on the so-called Open Method of Coordination were introduced, thus extending the potential influence of the EU institutions in the domain of employment and social policies, beyond the strict EU legislative competences (Zeitlin et al., 2005).

access to domestic welfare for other EU nationals, as well as labour mobility and social dumping. This tension is mainly linked to the Eastern enlargement and therefore exhibits a clear territorial connotation by separating high-wage/high-welfare countries (old Member States, mainly Northern core countries) from low-wage/low-welfare ones (new Member States, mainly Central and Eastern European (CEE)). A highly debated issue in this respect is, for instance, the posting of workers in the context of the provisions of services. On the one hand, old high-welfare Member States argue in favour of the protection of their domestic market from unfair competition and social dumping, and in defence of the autonomy in organising national labour and welfare systems. On the other hand, new low-welfare Member States support the freedom to access foreign markets for their service providers and argue in favour of the social protection of their posted workers. In this respect, Rasnača (2018) identifies four sets of interests when it comes to the debate over the posting of workers: (1) the old Member States' economic interests (i.e. protection of their domestic market from competition by foreign service providers); (2) the old Member States' social interests (i.e. autonomy in organising national labour and welfare systems); (3) the new Member States' economic interest (i.e. access to foreign markets for their service providers); and (4) the new Member States' social interests (i.e. protection of their posted workers).

Finally, the fourth divide identified by Ferrera (2017) concerns the tensions around the issues of fiscal discipline and cross-national economic redistribution (fiscal transfer) and is linked to a potential conflict on solidarity and reciprocity that may concern issues ranging from anti-cyclical policy proposals to structural reforms of the EU's economic governance (Hutter et al., 2016). The major divide here sets core Member States against peripheral Member States; is rooted in both economic interests (creditors versus debtors) and highly entrenched cultural worldviews; and mainly runs from North to South. Notably, the advocates of fiscal discipline argue that violations of debt rules risks destabilising the EMU and, therefore, call for strict fiscal supervision. On the other hand, supporters of fiscal transfers identify in the structure of the EMU itself the cause of the crisis and therefore call for a permanent and comprehensive fiscal transfer system. As argued by Lehner and Wasserfallen (2019), the divide between fiscal transfers' supporters and advocates of fiscal discipline can be one-dimensional or bi-dimensional. In the first case, the divide tends to show a territorial characterisation based on the distinction between two potentially conflicting sub-groups of countries: the creditor nations, mainly (old) Northern Member States (Germany *in primis*), versus the debtor nations, mainly Mediterranean Member States (Johnston & Regan, 2016; Laffan, 2016). In the second case, the authors present the two dimensions of fiscal transfer and discipline as distinct, yet related. Namely, it is possible to support fiscal discipline without fiscal transfer (austerity: stabilisation through fiscal consolidation); fiscal transfer without fiscal discipline (un-conditionality: stabilisation

through transfer); but also fiscal discipline and fiscal transfer (conditionality: compensating discipline with transfer); or neither of them (no fiscal commitments: integration sceptical) (Lehner & Wasserfallen, 2019).

While the emergence of the third and fourth divides is strongly related to the crises that affected the EU after the Eastern enlargement and the Great Recession, the roots of these conflicts are deeper. At the core of both divides there is what can be called the heterogeneity of socio-economic and cultural developments and national welfare systems within the Union, which makes any attempt to harmonise or integrate employment and social policies ‘impractical’. For instance, the wage differential, notably between Western and Eastern countries, represents a relevant problem in the Single Market, whereby labour cost becomes a competitive advantage factor for certain Member States. Therefore, generous social programmes that raise workers’ ‘reservation wages’ would be seen as a threat to economic development. On the other hand, the possibility of creating a European scheme for fiscal transfer, for instance, in case of a sudden rise in the unemployment rate of a Member State, would be opposed by those countries who experience a lower structural level of unemployment and would fear the risk of a permanent transfer Union.

The difficulty in harmonising and coordinating heterogeneous socio-economic systems, together with the unwillingness of Member States to cede part of their social sovereignty, have been translated in the lack of an EU-level institutional framework to decide on social and employment issues. By 1993, Pierson and Leibfried had identified the fragmentation of political institutions as one of the main obstacles for the development of Social Europe. Notably, the authors argued that because most of the EU decisions in the field of social policy are adopted under the unanimity rule, the opposition of one member of the Council is enough to block any proposal, thus restricting the room for manoeuvre for the EU to the ‘lowest common denominator’ strategy. Across the years, this obstacle has been partially removed. Now, in fact, more EU decisions in the field of social policy are adopted under qualified majority voting and the ordinary legislative procedure, for instance, in labour mobility (included social security coordination), occupational health and safety and (partially) labour law and non-discrimination legislation. However, in several areas of social policies, decisions are still taken by the unanimity voting rule, such as, for instance, the harmonisation of national legislation in the field of social security and social protection. This institutional fragmentation has therefore further contributed to emphasising what can be called – paraphrasing the expression from Zeitlin and colleagues (2019) – the ‘politics trap of Social Europe’, namely, the political deadlock created by the activation of overlapping multiple splits on social and employment policies in the EU.

To sum up, the academic literature has long investigated the tensions between the EU economic integration process and the spaces of national social sovereignty, and numerous scholars

have studied the development of the EU social policy agenda, mass mobilisation against the EU intrusiveness in the national social domain and the political conflict re-structuring at national level in the aftermath of EU crises. However, there are no empirical studies on the EU-level political debate around social and employment policies and how it has been re-structured in the aftermath of the EU *polycrisis*. In this respect, Ferrera's 'clash syndrome' theory (2017) provides an interesting analytical perspective from which to grasp the still unexplored tensions in a policy area that has so far been under-investigated.

### 1.5 Research questions and hypotheses

As anticipated in the introduction, two main research questions guide our analysis.

As regards the European Parliament, the question is whether affiliation to an EPG or national affiliation shape MEPs' voting on social and employment issues, and whether it is possible to distinguish between the line of national party delegations and that of the entire group of MEPs from the same country, no matter the EPG nor where the MEP comes from. Put differently, the first research question reads as follows: what influences the positioning of MEPs on social and employment issues – European political group membership, national party group membership or national affiliation?

This central question can be further disaggregated in a variety of sub-questions. For instance, are EPG membership and national affiliation two factors competing in defining the logic of voting behaviour, or do they identify the same voting patterns? If they compete, why do MEPs decide to position against their party group colleagues? And in that case, is that something that can be addressed to national party delegations in the EP or to national affiliation *tout court*? By answering these questions, we will be able to understand which conflict dynamics characterise political debate over EU social and employment policy in the EP. For instance, if the EPG affiliation prevails, we then can expect the emergence of a left-right or pro vs against (further) European integration divide, while, if the national membership prevails, we might expect the emergence of cross-party territorial divides.

As regards the Council of the EU, the question is whether Member State positioning on social and employment issues is influenced by national interests, governments' political affiliations to European political parties or their attitude towards the European integration. In this respect, the second research question reads as follows: how do national interests and European political parties' affiliations shape governments' positioning on social and employment issues? Do they follow their national interests, their political affiliation or their attitude towards the European integration process?

Also, in this case, this central question can be further disaggregated into a variety of sub-questions. For instance, is national government political affiliation affecting national interests in

social and employment issues? Do European party groups play a role in shaping position of their members before Council meetings? By answering these questions, we will be able to understand which conflict dynamics characterise political debate over EU social and employment policy in the Council. For instance, if the attitude towards the European integration prevails, we might expect a Member State to adopt a consensual approach and be more likely to accept a compromise. By contrast, if the national interest prevails, we might expect that a territorial conflict emerge whenever a controversial issue that directly touches upon national interests is discussed.

Drawing on the clash syndrome theory advanced by Ferrera (2017), we expect the political conflict over EU social and employment policies at the EU level to be characterised by four lines of conflict of functional and territorial nature. Such lines of conflict do not overshadow one another, but instead, they combine – and their combination can either turn into a political deadlock (what we called the ‘politics trap of Social Europe’), which blocks any further progress in the European integration process in the field of social and employment policy, or open up the possibility for the emergence of new cross-party coalitions that might facilitate the adoption of new policy measures. Against this background, the salient questions are how these four lines of conflict combine, and which factors might determine the prevalence of one or the other.

Based on the traditional literature on voting behaviour in the Parliament and the Council, we expect that the combination of these political divides depends on four main factors: the arena where the debate takes place; the actors involved; the issues under discussion; and the rules of the game.

Scholars who have investigated the EU as a bicameral political system have demonstrated that voting behaviour might differ significantly between EU institutions (Farrell & Héritier, 2004; Hagemann & Høyland, 2010). Indeed, ministers and MEPs are subject to different constraints within their respective institutions. On the one hand, ministers are subject to the logic of consensus (Heisenberg 2005), whereby decisions, even when they are subject to qualified majority vote, tend to be adopted with the consensus of everyone. During the negotiations, concessions are granted to Member States, which are then expected to vote in favour of compromises. No-votes are only justified if ministers can claim that the legislation at hand still significantly violates their national interests. On the other hand, MEPs are mainly influenced by their parliamentary group (Hix et al., 2007) and tend to divide along functional tensions. As stressed by Mühlböck (2013), the different constraints to which MEPs and ministers are subject might lead to divergence in voting their behaviour. For instance, if the transnational group differs from the Council consensus, a minister, who has to seek compromise within the Council, and a MEP, who is acting as a loyal member of his/her transnational EP group, will be tempted to diverge from each other. Against this background, we hypothesise that voting behaviour on EU social and employment policy also differ according to the political arena

where the debate takes place, as MEPs and ministers are subject to different constraints. More specifically, we might expect political divides in the Council – when they emerge – to be mainly driven by territorial factors rather than functional divides. By contrast, we expect transnational functional divides to prevail in the EP debate.

The second factor that affects the conflict constellations over EU social and employment policy are the actors involved in the decision-making. As regards the EP, several scholars have investigated the political cohesion of EPGs and demonstrated that it has significantly increased over the years (Hix et al., 2007; Yordanova & Mühlböck, 2015). Still, the influence of transnational groups on voting behaviour of their MEPs vary significantly from group to group. For instance, Bressanelli and colleagues (2015) show that centrist parties (i.e. the European People's Party (EPP), the Socialists and Democrats (S&D) and the Alliance of Liberals and Democrats for Europe (ALDE)) invest more – and more successfully – in discipline, in coordination or in both. The reason why the EPP, the S&D and the ALDE invest more than other EPGs in coordination and discipline is twofold. On the one hand, they need to signal credibility, since they traditionally form the 'grand coalition' in the EP which supports the Commission. On the other hand, all three EPGs have 'counterparts' from their party families in the Council (Hix & Høyland, 2013). By contrast, far left-wing and far right-wing parties, who do not take part to the 'Grand Coalition' and rarely have their counterpart in the Council, invest less resources in discipline and internal coordination. Against this background, we might also expect more cohesion among centrist parties on the debate over EU social and employment policy, while potential divides might emerge in the other parliamentary groups. Moving to the Council, actors involved in the political debate do affect the formation of supporting or opposing coalitions for further European integration. In this respect, Mattila (2004) demonstrates that pro-European governments tend to align with the majority in the Council, even when the final compromise agreement does not fully reflect their national interests. This is particularly true when it comes to smaller countries, whose weight in the Council-qualified majority vote is not sufficient to change the balance of power and political equilibria. Against this background, we can expect that on EU social and employment policy, pro-European governments are also more likely to align with the position of the majority in the Council, while Eurosceptic ministers are more likely to follow their national interests.

The third factor that affects the combination of political divides is the issue under discussion. In this respect, several scholars have argued that the dimensionality of conflict varies according to the policy proposal under debate. As regards the Parliament, for instance, Hooghe and colleagues (2002) show that centre-left parliamentary groups are more likely to support further European integration in cohesion, social policy and employment policy, whereas the centre-right groups support a market-building integration approach, with less regulation at the European level. Similarly, in the

Council, despite the dominating logic of consensus, tensions are expected to emerge on most controversial policy proposals. As argued by Veen (2011), Member States tend to divide mainly on redistributive and integration (subsidiarity) issues. For instance, Lehner and Wasserfallen (2019) show that the political contestation over policies that concern the reform of the Eurozone is mainly territorial, pitting creditor countries against debtor countries. Against this background, we might expect that also in the case of EU social and employment policy, the political contestation may vary according to the specific issue under debate. Overall, we expect left-wing MEPs and ministers to be more supportive of further EU social integration, while right-wing MEPs and ministers to be less supportive of those issues. At the same time, we expect that when it comes to controversial issues, such as cross-national redistribution of resources or labour mobility and access to domestic welfare for other EU nationals, MEPs and ministers split on the basis of their territorial provenance.

Finally, the last factor that can affect the combination of political debate over EU social and employment policy regards the so-called ‘rules of the game’. In this respect, we might expect that different conflict dynamics can emerge depending on whether the debated policy proposal is a directive or a regulation. Indeed, while a directive requires Member States to achieve a certain result without dictating the means of achieving it, a regulation is a directly enforceable legal act. Therefore, we can hypothesise a higher resistance from Member States vis-à-vis the proposal to adopt a regulation than a directive in the field of social and employment policy, and therefore the emergence of a conflict between national social sovereignty versus EU law conditionality.

To sum up, based on the ‘clash syndrome’ theory and building on the traditional literature on voting behaviour in the Parliament and in the Council, we expect that the political conflict over EU social and employment policy is characterised by the overlapping of four lines of conflicts of territorial and functional nature, which crisscross each other. Moreover, we hypothesise that the overlapping of such tensions mainly depends on four factors: the arena in which the debate takes place; the actors involved; the issue under discussion; and the rules of the game. Notably, we expect functional divides to prevail in the parliamentary arena, and territorial tensions to characterise the political confrontation in the Council. We then expect pro-European, left-wing MEPs and ministers to be more in favour of further EU social integration than Eurosceptic and right-wing MEPs and ministers. Thirdly, we expect MEPs and ministers to divide on the basis of their territorial provenance, most likely on cross-national redistribution and fiscal stability policies, labour mobility and access to domestic welfare for other EU nationals. Finally, we expect the rules of the game, namely, whether the debated policy issue is a directive or a regulation, to affect the conflict constellation over EU social and employment policy.

## 1.6 Case selection

In September 2015, during the annual State of the Union speech, Jean Claude Juncker, the president of the EC, announced the adoption of the European Pillar of Social Rights (EPSR).<sup>7</sup> The stated aim of this political initiative was to strengthen the *social acquis* of the European Union and foster a new upward convergence of social and employment rights primarily within the Eurozone. In particular, the Commission presented the EPSR as a reference framework intended to address the gaps in existing EU employment and social policy legislation and to rebalance the asymmetry between the economic and social dimension in the EMU. To this end, the Commission identified twenty common principles and rights divided into three main categories: (i) equal opportunities and access to the labour market; (ii) fair working conditions; and (iii) social protection and inclusion.<sup>8</sup>

According to the Commission's documents, the Social Pillar fulfils a twofold objective. As a political strategy, the Pillar seeks a renewed consensus on EU, strongly delegitimised by the migrant and sovereign debt crises, the EU-induced austerity and its severe social consequences at the national level. As a policy initiative, the EPSR mainly serves to restate certain principles and rights already enshrined in the EU Treaties and secondary legislation, update the so-called 'social acquis', reinforce the monitoring and coordination of social and employment issues in the context of the European Semester and strengthen the redistributive dimension of the EU budget. Put differently, the Social Pillar's 'strategy' is essentially based on a threefold approach: firstly, where possible, the enactment of secondary legislation in order to set certain standards in the field of working conditions or social protection (*regulatory area*); secondly, the use of the existing instruments for macroeconomic convergence in order to ensure the application of the necessary measures (*coordination area*); and thirdly, financial support through the use of available EU funds (*redistributive area*) (for further details on each initiative, see Chapter 2).

As a comprehensive initiative which touches upon several policy areas with the explicit aim of updating the EU social acquis and relaunching the EU social dimension, the Social Pillar therefore offers a unique opportunity to investigate the EU-level political conflict in the field of social and employment policy after the outbreak of the EU *polycrisis*. Indeed, in the framework of the Social Pillar, as we will see in Chapter 2, several initiatives have been adopted in the areas of EU legislation, social policy coordination and the EU budget. This provides access to invaluable material to trace the political debate and the dynamics of the conflict on EU social integration. Against this backdrop, this thesis proposes a collection of four articles, which focus on four initiatives related to the Social Pillar,

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<sup>7</sup> In this thesis, we will refer to the European Pillar of Social Rights by its acronym – EPSR – and its shorter names: 'Social Pillar', or simply 'the Pillar'.

<sup>8</sup> The 20 principles are accompanied by various types of legislative and non-legislative initiatives. For further details on the EPSR, see Chapter 2.

which I consider as extremely interesting case studies to investigate what can be called the **politics of Social Europe**.

Firstly, we investigate the political debate in the European Parliament on the resolution on the Social Pillar prepared by MEP Maria João Rodrigues. The aim of this chapter is to offer an overview of the multiple conflict dynamics that emerge on the Social Pillar, as an umbrella initiative that touches upon different social policy areas: legislative, coordination and redistributive. Indeed, as we will see more in detail in chapter 3, the parliamentary report prepared by the S&D vice president Rodrigues is the only comprehensive text that contains all the legislative proposal that the Commission presented to implement the Pillar and goes even further by proposing new concrete measures, which were not in the Social Pillar's implementation roadmap of the Commission. A focus on the EP debate and vote will offer the unique possibility to empirically test the validity of all four lines of conflict identified in the theoretical framework, by looking at the positioning of MEPs on multiple policy issues in the field of EU social and employment policy, at the same time identifying the most salient and controversial issue on which EPG cohesion holds or breaks. Moreover, by touching upon multiple issues, the debate on the EP report on the Social Pillar will allow us not only to trace the political divides that emerge on each issue but also to understand which divides prevails in the MEPs final vote. In so doing, we will be able to understand the complex political constellation that emerges in the European Parliament arena, between parliamentary actors (MEPs) on an exhaustive range of policy issues in the EU social and employment field.

Once analysed the conflict dynamics in the European Parliament on the Social Pillar, we focus on two initiatives, which were debated under the Juncker Commission, namely the revision of the posting of workers and the proposal to create a common fiscal capacity for the EMU, notably in the form of a European Unemployment Benefit Scheme. The selection of these two initiatives is related to the fact that they touch upon the most controversial issues which we identified in our theoretical framework and where we expect the emergence of territorial divides both in the Parliament and in the Council. Notably, as argued above, the logic of consensus that prevails in the Council does not hold when ministers and national representatives debate on controversial issues that directly touch upon their interests. Therefore, by selecting these two case studies, the objective is to investigate the conflict constellation on two policy proposals that directly relate to the issues of labour mobility/access to domestic welfare and cross-national redistribution/fiscal stability, where we expect the emergence of territorial divides.

On the one hand, the focus on the revision of the posting of workers directive will allow us to analyse more in detail the conflict dynamics that emerge on issues concerning labour mobility, social dumping and fair competition. By focusing on this initiative, we'll be able to better grasp the specific

political divide between high-wage/high-welfare and low-wage/low-welfare EU countries and how this political tension relates to other dimensions of political conflict. Notably, we trace the positioning in the European Parliament and in the EPSCO Council. Moreover, we compare the debate over the revision of the posting of workers with the debate over the Monti II Regulation and the Enforcement directive, with the aim to understand whether and how the positioning of the European Commission and the switch in the rules of the game (from the proposal for a regulation to a revision of a directive) affect the positioning of political actors and influence the coalition formation.

On the other hand, the analysis of the political debate on the proposal for a European Unemployment Benefit Scheme (EUBS), and more in general on the proposal to create a common fiscal capacity instrument to absorb asymmetric shocks at the EU level, will allow us to better grasp the conflict dynamics over issues concerning cross-national redistribution and fiscal stability, thus focusing on the second new lines of conflict that emerged in the aftermath of the Euro crisis, namely the divide between supporters and opponents of fiscal stability and cross-national transfers. As in the case of the posting of workers, we will compare the positioning of the Parliament and the Council, vis-à-vis the proposal advanced by the European Commission.

Finally, the fourth selected case study investigates the role of politics in the orientation of the Country specific recommendation addressed to Member States in the framework of the European Semester. Notably, we analyse whether and how the Juncker Commission contributed to the so-called socialisation of the Semester. Contrary to the previous three case study, here the focus will be mostly on the role played by the Commission and on how its position determines the orientation of the Semester. While certainly this case study only partially fits with the rest of thesis, a focus on the socialisation of the Semester represents nonetheless an important contribution to understand the role of the Commission in the rebalancing of the economic and social dimension of the EU and re-addressing the so-called EU social deficit.

## 1.7 Research strategy

To investigate the first three case studies, this thesis adopts a primarily qualitative approach. The research design is largely built on a criticism of the many quantitative studies that have already been conducted in this area. Moving from the European Parliament, as argued in section 3 of this chapter, the traditional literature on voting behaviour in the EP has relied on quantitative analysis of a large-n set of roll call votes. This approach, however, presents several shortcomings, the most significant being its incapacity to grasp the rationale behind MEPs' political positioning (see Cicchi, 2016). Indeed, by focusing on the final vote, this literature completely bypasses the dynamics of conflict and is not capable of identifying the issues on which tensions emerge. Moreover, it ignores

the real political parliamentary debate which does not happen in the plenary where final RCV takes place, but rather, in the Parliamentary committees. Indeed, EP committees are the arena in which MEPs discuss policy proposals (Whitaker, 2011). The committees of the European Parliament have three main functions: to draw up, amend and adopt both legislative proposals and reports proposed on their own initiative. Each report is first debated in the committee, and, after a formal vote, it then goes to the Plenary for the approval of the final position. Reports are compiled by a rapporteur, who is indicated by the chairman of the committee, after consultation between and within EPGs (see Yordanova, 2011). The rapporteur is responsible for preparing the report and presenting it on behalf of the EP and the committee during the negotiations with the Council and the Commission. After the rapporteur presents the draft report, each MEP of the committee is entitled to table amendments to the draft text proposed. Amendments can be presented by an MEP, by a group of MEPs or by one MEP on behalf of a political group. Usually, the third kind of amendments are tabled by the so-called shadow rapporteurs.<sup>9</sup> Finally, it is important to stress that amendments in parliamentary committees are not tabled on the whole report, but rather, on each single part of the report. Notably, we can identify three main components of an EP report: citations, recitals and articles. Citations are the first part of the report where there are the references to the legal basis of the text. Recitals consist of general assessment and premises that justify the following articles. Articles are the core of the report, where we find concrete statements on the policies to be adopted. Each article focuses its attention on a particular policy issue. This means that within a single parliamentary report, we can find more sub-issues, on which MEPs can have different positions.

Scholars who have studied the parliamentary activity in the EP committees have mostly focused on the topic of membership of EP committees (Westlake, 1994) and the assignment of leadership positions and rapporteurship (Bowler & Farrell, 1995; Benedetto, 2005). Some studies have researched the extent to which national parties use the committees' system to further their policy goals (Whitaker, 2011). Other scholars have analysed the amendments tabled by MEPs on the final compromise text voted on in a committee and presented in plenary (Crespy & Gajewska, 2010; Yordanaova, 2011).

While all these studies shed light on specific aspects of the parliamentary activities in EP committees, none of them has investigated political conflicts within the EP committees. Most of these studies, indeed, have analysed the parliamentary activities in the EP committees, *ex ante*, in assignment of roles or rapporteurship, or *ex post*, in relation to MEPs' positioning on final vote.

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<sup>9</sup> Shadow-rapporteurs are MEPs selected from each political group (one shadow rapporteur per group) and have the task to follow the report prepared by the rapporteur and table amendments on behalf of their group. Clearly, there is no shadow rapporteur for the EPG to which the rapporteur belongs (for instance, on the EP report on the Social Pillar S&D MEP Maria João Rodrigues was the rapporteur. Therefore, the S&D did not have any shadow rapporteur).

However, they all ignored the MEPs' positioning in the debate within the EP committees, after the assignment of rapporteurship and before the final vote on a report. In this respect, no research has been conducted, at least to my knowledge, on the amendments tabled by MEPs in EP committees. However, these amendments are the core of the EP committees' activity and are a unique source of information to investigate political positioning in the EP. Indeed, as explained above, each tabled amendment is signed by one or more MEPs or by a MEP on behalf of his/her political group. Amendments can either propose to further strengthen the proposed text, change the wording or delete certain parts or the entire text. A justification can also be added explaining the reason for an amendment. Finally, amendments can be tabled that also propose to add a new part to the report, if an MEP deems the draft text to be incomplete. The rapporteur is then in charge of scrutinising all the tabled amendments and proposing compromises that take into account the concerns and proposals raised by the other MEPs. Each compromise proposal is then voted on in the committee, while those amendments, which are not included in the rapporteurs' compromise text, are voted on separately. Votes on each compromise or single amendments are usually by a show of hands, unless an MEP on behalf of his/her EPG asks for an RCV. The vote on the final text is always conducted by RCV. Against this background, amendments tabled in the parliamentary committee are a unique source of information that show the detailed positioning of MEPs on policy proposals before compromises are advanced. Therefore, an analysis of these amendments can unveil information on MEPs' (actors) positioning and allow us to understand the reason underlying the political confrontation in the EP (arena)<sup>10</sup>. Moreover, since amendments are tabled on each specific part of a parliamentary report, we

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<sup>10</sup> This statement relies on an assumption that indeed needs clarification. The assumption is that the deputies of the European Parliament not members of the committee in charge of drafting and voting a certain parliamentary report will maintain the same position of their fellow colleagues when voting in plenary. Such assumption is theoretically and empirically justified by the work of Nils Ringe 'Who Decides and How? Preferences, Uncertainty, and Policy Choice in the European Parliament'. In his book, Ringe focuses on what he calls perceived preference coherence in MEPs' voting behaviour, while looking at MEPs' positioning in EP committees. According to Ringe, EPG cohesion in RCV voting is not to be explained neither in light of party discipline (Hix et al. 2007) nor legislators' shared preferences. On the contrary, Ringe argues that EPG and especially national parties' cohesion within the EP is to be explained in light of MEPs' lack of resources and expertise to make fully informed decisions on most policy proposals, which leads them adopting the positions of those expert colleagues in the responsible legislative committee whose preferences over policy outcomes they perceive to most closely match their own. Put it differently, non-expert MEPs (i.e. those not member of the committee in charge of a specific report) adopt the positions of their expert colleagues in the responsible committee whose preferences they believe most closely match their own. This is based on the assumption that these positions resemble what they would favor if they possessed the resources and expertise required to truly judge the content and likely implications of a specific policy proposal. Ringe labels this mechanism explaining *perceived preference coherence* (PPC). The reason why non-expert MEPs rely on their expert colleagues, is that it is highly unlikely that legislators have full content expertise (i.e., technical knowledge of the issues under negotiation) and preference information (i.e., knowledge of other actors' preferences and political constraints) on every single report discussed in the EP. Therefore, non-expert MEPs follow the preference of their fellow experts in the responsible committee. But who are those experts? Ringe argues that first expert are, firstly, fellow national party colleagues in the responsible committee and secondly colleagues from the same European parliamentary group. For instance, an Italian MEP of the Democratic party will firstly follow the line of his/her colleague(s) in the responsible committee of a certain report and, at the same time, if there are not within EPG divisions, he/she will also follow the line of the colleagues of his/her European parliamentary group. Since national delegations belonging to the same EPG do coordinate within EP committee before starting negotiations with other EPG

will be able to identify and distinguish amongst the proposals (issues) on which MEPs position themselves. By contrast, should we rely on RCV analysis alone, this would completely ignore the core of the committee’s political debate, and, most importantly, it would not allow us to understand the dynamics of the conflict underpinning the negotiations. Indeed, since the RCV is on the final (if any) compromise text, many MEPs will likely vote in favour.

Against this background, the strategy adopted in this thesis to investigate the political conflict within the EP consists of carrying out qualitative analysis of the amendments tabled in the committee in charge of a certain dossiers. Notably, we first present the initial draft text on which MEPs table their amendments. Secondly, we qualify each tabled amendment, by attributing to each of them the EPG membership and the national origin of the MEP(s) who tabled it. Thirdly, we classified the amendments by looking at how they proposed to change the original draft resolution. In detail, we distinguish the amendments in favour of the rapporteur's proposal (for example, introducing only minor changes or adding parts that reinforce the original proposal) and those against (such as deleting the original paragraph or changing some parts to weaken its original meaning). On this basis, we create a matrix with all the amendments tabled either in favour of or against each part of the report (citation, recital and article). Fourthly, we identify in the matrix each controversial part of the report (issue), where MEPs tabled amendments both in favour of or against the draft proposal and analyse what kind of divide emerges from the amendments’ content. Fifthly, we analyse – where possible – the compromises proposed by the rapporteur and the final RCV on the text both in the committee and in the plenary. The analysis is also accompanied by the presentation of the justification statements presented by MEPs and their declarations in the committee and plenary. Finally, the empirical findings were triangulated with elite and expert semi-structured interviews with key policy makers involved in the policy-making process. Table 1 presents how many amendments were analysed in each chapter and the interviews with the MEPs involved.

Table 1 Number of amendments and interviews per parliamentary report

Parliamentary report	Number of amendments tabled in EP committee	Number of interviews
Report on the European Pillar of Social Rights	1119 amendments	7
Report on Enforcement of the Posting of Workers Directive	883 amendments	-

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(each EP committee has a coordinator for each EPG), the position of national party delegation and related EPG position often coincides. This explains the high degree of cohesion within EPGs in EP committees which is then replicated also in the plenary vote. This said, this cohesion should not be taken as granted. As we will see in this thesis, national party delegations within the same EPG are not always able to find a compromise position within EP committees. When this happens, then, the same division is replicated also in the Plenary RCV. This further confirms that non-expert MEPs do vote according following the opinion of their expert colleagues, namely their national party colleagues, in responsible EP committees.

Report on the Revision of the Posting of Workers Directive	523 amendments	1
Report on Strengthening the social dimension of the Economic and Monetary Union (EMU)	124 amendments	1
Report on a budgetary capacity for the Eurozone (and establishment of European Unemployment Benefit Scheme)	836 amendments	1

In terms of the methodology adopted to understand Member State positioning in the Council, as stated in section 3 of this chapter, the traditional literature has mainly focused either on official voting records (Hagemann, 2007; Hagemann & Høyland, 2008; Mattila, 2004) or expert interviews (Thomson et al., 2006, 2012; Wasserfallen et al., 2019) to reconstruct political positioning. In the first case, however, given the ‘culture of consensus’ that characterises the Council voting behaviour (Heisenberg 2005), RCV analysis does not allow us to reconstruct the political debate that occurs in the Council configuration. National ministers, in fact, tend to find a compromise on which everyone can agree on, and ‘no’ votes are only justified if ministers can claim that the legislation at hand still significantly violates their interests, which implies that ‘no’ votes are very rare (Hosli et al., 2007). These consensual votes thus give relatively limited information about government positions during the negotiations. In the second case, the drawback of relying only on interviews is that these must be conducted in close temporal proximity to negotiations in the Council to reduce the potential problem of post-diction bias. Against this background, in order to reconstruct the position of national governments, we rely on a combination of multiple, complementary sources of information to unveil the national governments’ positions on the policy proposals under discussion. Firstly, we look at videos of public sessions of Council configurations. Indeed, in June 2006, the European Council decided to make a large proportion of its legislative deliberations in the Council open to the public. From then on, webcasts of the open deliberations were made available on the Council’s website ([video.consilium.europa.eu](http://video.consilium.europa.eu)). Since the adoption of the Lisbon Treaty in December 2009, when Council configurations deliberate or vote on draft legislative acts or discuss presidency work programmes and other questions of strategic relevance, they have to meet in public. At the beginning of each Council configuration’s meeting, the chairman (namely, the minister of the country that holds the presidency of the Council of the EU) illustrates the subject of discussions, and, if negotiations are already advanced, he/she illustrates the controversial issues on which Member States have still to find an agreement. One or more documents are usually circulated before the meeting among ministries. If the object of discussion is a legislative text, the presidency generally presents a proposal for a compromise text. If the object is a general debate on a non-legislative proposal (e.g. a Commission communication), the documents distributed usually contain questions for the debate. Once the

chairman has introduced the object of debate, the Commission takes the floor to explain its position. After that, Member States intervene to express their position and/or their declaration of vote, which can be also accompanied by an explanatory policy statement. The advantage of relying on records of Council meetings is that ministers' or their delegates' (actors) speeches during these meetings (arena) are technical and forthright, and allow us to understand in detail the proposals (issues) on which – and the reasons why – Member States are divided. Moreover, videos of public sessions of the Council are not affected by post-diction bias and can be analysed at any point in time. Finally, as stressed by Wratil and Hobolt, Council's videos 'also provide the most direct measurement of actor positions, free of any information filters applied by experts or officials' (2019, p. 514). To study the Council's video, we manually transcribe the records of the Ministers' or their delegates' speeches during the debate and qualitatively analyse them, by classifying them according to their positioning vis-à-vis the proposed text of the Commission or the compromise text offered by the presidency. Notably, we first list the controversial issues under debate. As stated above, the controversial issues are explicitly mentioned by the Council's presidency at the beginning of each meeting. Secondly, since in each intervention a minister touches upon several issues, we divide the speech into multiple parts and select only the statements that refer to the controversial issues identified above. Thirdly, we classified these statements by looking at how they proposed to change or maintain the compromise proposal. In detail, we distinguish the statements in favour of the presidency's or Commission's proposal and those against. On this basis, we create a matrix with all the ministers' statements on each policy issue and then identify the tensions that emerge.

The second source of information we use to trace the positioning of Member States in the Council are – where available – reasoned opinions sent by national parliaments when they deem that a Commission's proposal violates the principle of subsidiarity. These documents are extremely informative about the concerns that Member States have on certain issues and offer a detailed description of the reasons why a national parliament opposes a certain policy proposal.

The third source of information is – where available - national position papers. In this respect, the Commission, when launching a new initiative, may ask Member States to present national contributions to the debate. This is the case, for instance, of the consultation on the Five Presidents' Report on the reform of the Economic and Monetary Union. As we will argue in more detail in Chapter 5, each Member State was invited to submit a national contribution on the basis of a set of questions provided by the Commission and a draft text that identified the areas of intervention in the short and long term to reform the EMU. These documents are highly informative on the position of Member States and allow us to understand the underlying rationale behind each Member State's support or lack of support to any policy proposal.

Finally, the empirical findings were triangulated with elite and expert semi-structured interviews with key policy makers involved in the policy-making process. Table 2 summarises the sources of information used to trace the position of the Member States in the two case studies (revision of the posting of workers and creation of an unemployment benefit scheme), where we analysed the positioning of Member States in the Council.

Table 2 Documents analysed and interviews conducted per initiative

Initiative debated	Number of EPSCO or ECOFIN meetings	National Position Papers and or National parliament reasoned opinion	Interviews
Enforcement of the Posting of Workers directive/ Monti II Regulation	7 EPSCO	12 reasoned opinion	-
Revision of the Posting of Workers Directive	10 EPSCO	15 reasoned opinions	-
Communication on Social Dimension of EMU	2 EPSCO	-	4
Five Presidents' Report – Reform EMU Package	1 ECOFIN	42 position papers	2

Finally, from a methodological perspective, Chapter 6 is somewhat of an oddity in this thesis, since its objective is not to trace MEPs' and Member States' positioning, but rather, the impact of the political pressure exerted by the Commission to orient the social and employment country-specific recommendations (CSRs) in the European Semester and trace the evolution of social CSRs from the inception of the Semester until the 2019 cycle. In this respect, this chapter refers to another strand of literature according to different methodologies. Notably, as we will argue more in detail in Chapter 6, we adopt a qualitative approach to analyse the orientation of social and employment recommendations addressed to Member States, while proposing a new and original coding scheme to classify them. Drawing insights from Hemerijck's classification of welfare policy paradigms (Hemerijck, 2017), all social policy prescriptions were categorised into three groups: social-retrenchment; social-investment; and social-protection recommendations. A total of 1076 recommendations were classified. Finally, the empirical findings were triangulated, with 26 in-depth semi-structured interviews with experts and elites within the European Commission, the Parliament and the Council, and among social partners and non-governmental organisations.

# Chapter 2. The European Pillar of Social Rights

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## 2.1 The birth of the European Pillar of Social Rights<sup>11</sup>

On 15 July 2014, Juncker presented his political programme before the European Parliament, articulated into ten priorities. Concerns for social issues clearly stood among two of these priorities under the headings of a ‘Deeper and fairer internal market’ (priority n. 4) and ‘Economic and Monetary Union’ (priority n. 5). As regards the internal market, the EC President proposed to promote labour mobility as an opportunity and not a threat by reviewing the PWD.<sup>12</sup> Juncker also committed to the goals of the reform of the EMU governance by having ‘Europe’s social dimension in mind’ (Juncker 2014, 8).

Since the beginning of his political mandate, Juncker has therefore made clear his intention to link the relaunch of Social Europe in the reform of the EMU. This goal was reaffirmed in an important document released in July 2015, the so-called Five Presidents’ Report, whose official title – ‘Completing the European Monetary Union’ – clearly recalled the 1985 Delors Commission’s White Paper on the completion of the Single Market. As regards social policies, the document proposed a stronger ‘focus on employment and social performance’ by setting the goal of ‘earning a social triple A’ for Europe (Juncker, 2015).

Less than three months after the release of the Five Presidents’ Report, Juncker launched a new initiative, the so-called European Pillar of Social Rights, which was announced for the first time during the State of the Union Address on 9 September 2015. On that occasion, Juncker presented the Social Pillar as ‘a compass for the renewed convergence within the euro area’ that should complement the *social acquis*. This initiative was then discussed by the College of Commissioners at the beginning of October. While presenting the Social Pillar, Juncker highlighted that this initiative was part of broader action aimed to relaunch the debate on social policy in the EU. In this regard, the policy guidelines of the European Pillar of Social Rights were in line with the priorities identified in

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<sup>11</sup> This chapter is based on the already published works with other co-authors. See: Sabato, S. and Corti, F. (2018) “The Times They Are A-Changing”? The European Pillar Of Social Rights From Debates To Reality Check, in Vanhercke, B., Ghailani, D., Sabato, S. (eds), *Social Policy in the EU: state of play 2018*, Brussels: OSE and ETUI. Sabato, S., Corti, F., Vanhercke, B. and Spasova, S. (2019) *Integrating the European Pillar of Social Rights into the roadmap for deepening Europe’s Economic and Monetary Union*. Brussels: European Economic and Social Committee. Vesan, P. and Corti, F. (2017) “EU Pillar of Social Rights: what comes after Gothenburg?”, *Euvisions*, December 2017.

<sup>12</sup> One of Juncker’s political mottos, which has been stressed several times in his speeches, is that ‘the same work at the same place should be remunerated in the same manner’ (Juncker, 2014, p. 8) across the European Union.

the Five Presidents' Report, and they set the course for contributing to the deepening of the EMU and strengthening of the Euro area.

The Commission President's political priority and the State of the Union address helped Juncker in setting the Social Pillar at the centre of the EU agenda (Kassim et al., 2017). However, in order to increase the effectiveness of his action, Juncker accompanied the political emphasis with a concrete and pragmatic approach, through a precise division of tasks and responsibilities within the Commission (Peterson 2017). Namely, he assigned the coordination of the Social Pillar to Marianne Thyssen, European Commissioner for Employment and Social Affairs, and to Commissioner for 'Euro and Social dialogue' and EC Vice-President Valdis Dombrovskis. This choice should be interpreted in light of the deep reorganisation process of the Commission's functioning promoted by Juncker to contrast what he called 'silos mentalities', that is, the absence of coordinated and more comprehensive strategic views both at the political and administrative levels (Borchardt, 2016). To this end, he created seven 'project teams' coordinated by vice-presidents (VPs) and composed of different DGs and lead Commissioners (Kassim at al. 2017). As regards social priorities, the leading role was assigned to Valdis Dombrovskis and Marianna Thyssen.

In January 2016, Allan Larsson, former DG Employment General Director and one of the fathers of the EES (1997), was appointed as Special Adviser for the Social Pillar. In this period, as shown by the Commission's College minutes, Marianne Thyssen announced that DG EMPL was preparing background documents to develop the first proposal on the EPSR, which was presented on 8 March 2016. On that occasion, the European Commission presented a first draft of the EPSR. In its preliminary version, the Pillar was composed of twenty principles and rights, divided into three chapters dedicated to 'equal opportunities and access to the labour market'; 'fair working conditions'; and 'social protection and inclusion'. As regards the scope of the EPSR, it would go beyond the labour market's regulation of mobile workers and would also cover matters such as national social protection (e.g. housing, unemployment benefit, minimum income and healthcare) and social investment (e.g. education, training and life-long learning, ALMP). As regards the geographical scope of the initiative, President Juncker limited it to the Euro area Member States, with the possibility to be extended to the EU28.

### *2.1.1 The public consultation on the Social Pillar*

Together with the presentation of the first draft of the Social Pillar, the Commission also launched a broad public consultation, involving EU institutions, national governments and parliaments, experts and civil society, as well as social partners. The objective of the consultation was threefold: firstly, to evaluate the Union's current legislative *social acquis* and its implementation;

secondly, to enable an analysis of the new social trends and work patterns; and thirdly, to gather stakeholders' opinions on the proposed draft and on its role as a fundamental element of a fairer and sounder EMU.

According to the EC (2017c, p. 4), over 60 targeted events took place across Europe, involving more than 2,500 participants. Moreover, almost 16,500 replies were received to the online consultation questionnaire. The trade union movement has been especially active in this debate. In particular, besides presenting its position paper, the ETUC created a website<sup>13</sup> through which national trade unions' opinions on the Pillar and concrete proposals for improvement were collected. As claimed by one of the interviewees at the ETUC: '[During the consultation] we have moved the entire world'<sup>14</sup> (ETUC1). The same applies to EU-level social NGOs, which engaged heavily in the consultation process with proposals, opinions and remarks (Carella, 2018; Sabato & Vanhercke, 2017). Among institutional actors, striking activism was shown by the European Economic and Social Committee (EESC) and the European Parliament. The EESC engaged in awareness-raising activities in the Member States, also gathering concrete proposals for the content of the Pillar. Between September and November 2016, the EESC organised debates on the EPSR in all the Member States, bringing together employers' organisations, trade unionists and representatives of civil society organisations (Sabato et al., 2018). The results of those debates were summarised in national reports. The European Parliament equally engaged in an in-depth debate on the Pillar (Vesan & Corti, 2019; see Chapter 3), culminating in a common position (European Parliament, 2017c) and also putting forward specific proposals for implementation. The parliamentary position on the EPSR is of particular interest because it is the result of a highly politicised debate, characterised by a complex interweaving of traditional forms of 'vertical Euroscepticism', motivated by resistance to Union interference in national welfare systems, and new forms of 'horizontal Euroscepticism', due to mistrust between politicians of different Member States.

All in all, ownership of the Pillar by a number of institutional and social actors appears rather high. These actors also seem generally satisfied with the final contents of the Pillar and perceive that a number of their remarks have been, to some extent, taken into consideration by the Commission in its Pillar Recommendation (SP1).<sup>15</sup> Nobody considers the Pillar to be perfect, but it is considered at least as satisfactory, or, in any case, as the best result achievable in the current political situation (ETUC1).

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<sup>13</sup> <https://socialrightsfirst.eu/>

<sup>14</sup> According to the European Commission (2017g, p. 5) 'The vast majority of online replies [to the public consultation] (more than 15,500) were a standard text in a campaign launched by the European Trade Union Confederation [...]'.  
<sup>15</sup> For trade unions, see Sabato et al., 2018; for social NGOs, see Carella, 2018.

The relatively high level of ownership by key players is not a secondary aspect. Indeed, the lack of ownership (especially at the national and sub-national levels) was one of the key limitations of previous EU strategies (such as the Lisbon Treaty) and of ongoing strategies, such as Europe 2020. A high level of ownership reinforces the legitimacy of the initiative and contributed to realising one of the first objectives of the Social Pillar: revamping the EU social agenda and revitalising the EU social policy arena. In this respect, the public consultation contributed to reinforcing EU social priorities, relaunching existing debates and initiatives in the social domain and proposing new ones. In so doing, it created political momentum, allowing the social debate in the EU to advance and accelerate (ETUC1).

## 2.2 The Social Pillar in legal terms: Context, structure and nature

On 26 April 2017, after the end of the public consultation, the EC published a Recommendation on a EPSR (European Commission, 2017a), enumerating 20 principles and rights, structured around three categories (equal opportunities and access to the labour market, fair working conditions and social protection and inclusion), with the aim ‘to support fair and well-functioning labour markets and welfare systems, [...] for a renewed process of upward convergence towards better working and living conditions in Europe’ (European Commission, 2017a). Table 3 summarises the content of the Social Pillar.

Table 3. Social Pillar’s principles

Chapters	Rights
Chapter I: Equal opportunities and access to the labour market	1. Education, training and life-long learning 2. Gender equality 3. Equal opportunities 4. Active support to employment
Chapter II: Fair working conditions	5. Secure and adaptable employment 6. Wages 7. Information about employment conditions and protection in case of dismissals 8. Social dialogue and involvement of workers 9. Work-life balance 10. Healthy, safe and well-adapted work environment and data protection
Chapter III: Social protection and inclusion	11. Childcare and support to children 12. Social protection 13. Unemployment benefits 14. Minimum income 15. Old age income and pensions 16. Health care 17. Inclusion of people with disabilities 18. Long-term care 19. Housing and assistance for the homeless 20. Access to essential services

Alongside the Recommendation, the Commission presented a Proposal for an Interinstitutional Proclamation (European Commission, 2017d), of identical content, which formed the basis for the actual Proclamation that was formalised (with some minor amendments) on 17 November 2017 in Goteborg during the Summit for Fair Jobs and Growth (European Parliament et al., 2017).<sup>16</sup> The Recommendation is supplemented by a Communication (European Commission, 2017c) and a more detailed Working Document (European Commission, 2017j), further determining the content of the 20 principles and rights established in the main document and sketching out the basic guidelines for their implementation at the national and at the supra-national levels. Moreover, the Commission initiative included a Social Scoreboard (European Commission, 2017e), consisting of a set of indicators designed ‘to screen employment and social performances of participating Member States’ (European Commission, 2017e, p. 2), and therefore to monitor and measure the implementation of the rights and principles in the Pillar. Finally, the ‘Social Pillar package’ of 26 April also enclosed a Reflection Paper on the social dimension of Europe (European Commission, 2017b), and several actual policy instruments, including three legislative proposals (see below).

As it emerges from the Commission’s documents, the Social Pillar is founded on a holistic approach to social policy by the defined range of principles and openness of possible implementation. In practice, it aims, on the one hand, to bring under the same umbrella the principles and rights scattered within the EU legal *acquis* in the social and economic field. On the other hand, it sketches a strategy for their implementation by pointing to the existing tools at the national and at the EU levels.

At the EU level, in particular, such a strategy is essentially based on a threefold approach: firstly, where possible, the enactment of secondary legislation in order to set certain standards in the field of working conditions or social protection (*regulatory area*); secondly, the use of the existing instruments for macroeconomic convergence in order to ensure the application of the necessary measures (*coordination area*); and thirdly, financial support through the use of available EU funds (*redistributive area*) (European Commission, 2017c).

It is also important to remark that the EPSR has been initially conceived and presented as an instrument intended to address the existing imbalances within the EMU, rather than to offer a common ground for the attainment of social objectives throughout the EU as a whole. The idea behind the EPSR was, in fact, to partially counter the negative effects of the austerity policies imposed on the Euro area Member States at the outset of the crisis, hoping at the same time to put in place a mechanism capable of fostering convergence amongst the Eurozone countries. For this reason, in the

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<sup>16</sup> This Summit was the first high-level EU meeting entirely dedicated to employment and social issues, after the 1997 Luxembourg Summit.

2015 State of the Union address, the President of the Commission clearly stated his intention to ‘start with this initiative within the euro area, while allowing other EU Member States to join in if they want to do so’ (Juncker, 2015). However, the Recommendation issued in April 2017 (and then the Institutional Proclamation adopted the following November) expressly refers to the EPSR as an EU-28 instrument.

Despite such ambitious objectives, the ‘Pillar package’ does not confer, as such, new rights to EU workers and citizens, nor create new instruments or new competences for the European institutions (European Commission, 2017c). In short, from a legal point of view, we are not in the presence of a new autonomous structure (a new ‘pillar’) in the EU constitutional architecture. In fact, although the attempt at unifying and re-orienting the different initiatives in the field of social policy could have a distinctive political meaning and a significant material impact, from the constitutional point of view, the innovation appears to be almost insignificant.

However, taking a closer look, the Commission initiative does not appear to be entirely devoid of any legal relevance. The Recommendation on the EPSR is a soft law instrument adopted based on Article 292 of the TFEU: although it does not have legally binding force, it is capable, however, of producing certain legal effects, as it has been consistently recognised by the CJEU.<sup>17</sup> In general terms, in fact, the Court tends to frame soft law instruments as a sort of voluntary institutional commitment, which lacks legally binding force regarding third parties, but produces legal effects as regards the institution issuing it, in relation to the principles of legal certainty and of transparency of the administrative action (Rasnača, 2017). In this sense, it has been argued that soft law can serve as ‘swords or shields’ for litigants in cases before the competent courts (Stefan, 2014).

The same argument is valid *a fortiori* for the Institutional Proclamation signed by the presidents of the Commission, of the Parliament and of the Council on 17 November 2017 (Rasnača, 2017). As observed by Vesan and Corti (2018), the final text of the Proclamation reflects a compromise between the need to safeguard the autonomy of Members State against the risk of EU interference in national social-policy spheres, on the one hand, and, on the other, the need to avoid watering down the meaning of the inter-institutional Proclamation. Clear evidence of this compromise can be observed, for example, in the preamble of the Proclamation. Here, it is stated that the EPSR is devoid of binding legal force and ‘first requires’ the adoption of dedicated measures to be legally enforceable. Notably, recital 14 states that: ‘For them to be legally enforceable, the principles and rights first require dedicated measures or legislation to be adopted at the appropriate level’ (recital 14). Similarly, recital 19 reiterates the right of national governments to define the fundamental

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<sup>17</sup> See, for example, CJEU (2005) Alliance for natural health and others, C-154/04 and C-155/04, ECLI:EU:C:2005:449; CJEU (2013), Commission v Czech Republic, C-241/11, ECLI:EU:C:2013:423.

principles of their social security system and manage their public finances. Finally, recital 17 states that out of respect for the diversity of cultures and traditions of the peoples of Europe, the translation of the Pillar into concrete measures must take due account of different socio-economic environments and the diversity of national systems, including the role of social partners, in accordance with the principles of subsidiarity and proportionality.

As it is the case for the Commission's Recommendation on the EPSR, Zane Rasnača stressed that despite the lack of a clear, legally binding force, the ECJ could evoke the EPSR inter-institutional proclamation in its rulings, thus producing legal effects. The proclamation of the European Charter for Fundamental Rights, used by the ECJ even before its incorporation into the Treaties, is an excellent example of this. For this reason, although the extent of the legal obligations deriving from the Proclamation for the EU institutions is limited if compared to the significance of a constitutional document (Lörcher & Schömann, 2016), the EPSR is suitable to bind the institutions that signed and 'proclaimed' it to respect the principles it contains. In the appropriate context, this could contribute to re-orienting the action of the EU institutions towards social policy objectives (Rasnača, 2017).

To sum up, despite the possibility that the legal consequences unfold from the Recommendation or the Inter-institutional proclamation, the European Pillar of Social Rights remains conceived primarily as a political initiative, which requires further binding acts in order to be implemented. In this respect, as proposed by Sabato and Corti (2018), the Social Pillar can be interpreted as a new *EU social policy framework*, that is, a policy infrastructure putting together in a coherent manner the various elements of a public policy, from agenda-setting to implementation. In this respect, as mentioned above, the Commission identified three main areas for the implementation of the Social Pillar: the regulatory, the coordinative and the redistributive. The regulatory area includes the EU secondary legislation, the so-called *social acquis*. The coordination area refers to the European Semester, which is the main vehicle to steer Member States' social policies in the direction of EU orientations and recommendations. Finally, the redistributive area refers to the social expenditure and programmes within the Multiannual Financial Framework.

Before proceeding with the presentation of the main developments and the novelties that were proposed by the Juncker's Commission in each of these policy areas, in the following section, we will provide a comparison between Juncker's social policy framework, the EPSR and the Social Investment Package, which was the initiative launched by the former Commission in 2013.

### 2.3 The Social Pillar and the Social Investment Package

In this section, the European Pillar of Social Rights is compared with the previous EU social policy framework, namely the Social Investment Package (SIP) (European Commission, 2013a). This

comparison is important in order to identify the strengths of the EPSR compared to previous initiatives and, by ‘learning from the past’, address its weaknesses. Moreover, through this comparison, one can clarify the relationship between the two policy frameworks: *is there continuity or, rather, discontinuity? Are the two frameworks rivals, or do they complement each other?* As the scope of the EPSR is broader than the SIP, with the latter essentially concerning social protection and inclusion policies, the comparison concerns only policies that are addressed in both the frameworks, notably, the Pillar’s chapter on ‘Social protection and social inclusion’ (Chapter III) and on ‘Equal opportunities and access to the labour market’ (Chapter I).

The starting point of the analysis is the observation that since the announcement of the EPSR, the attention paid to the SIP has drastically decreased, a circumstance highlighted in many contributions to the EPSR consultation. What is more, the SIP and, more generally, the notion of social investment is not even mentioned in key documents related to the 2017 Pillar Recommendation. Against this backdrop, and before assessing how the two frameworks perform alongside the three functions listed above, a question should be answered: *has the social investment approach really been ‘forgotten’ – thus marking a clear-cut break between the SIP and the EPSR – or is there (concealed) continuity/complementarity between the two policy frameworks?*

### *2.3.1 Comparing the SIP and the EPSR: Procedural and substantive differences*

A comparison between the SIP and the EPSR should include two aspects: the *process* leading to the elaboration of the two frameworks and *substantial* aspects.

As for the process, the *genesis* of the two frameworks differ significantly. The SIP was an attempt by the Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) – and, in particular, by then-Social Affairs Commissioner László Andor – to raise the profile of the importance of social policies in a period of ‘fiscal consolidation’, making clear that, if framed as ‘social investment’, social policies can contribute to growth, jobs and competitiveness. In order to justify this claim, the SIP identifies policy areas and measures that are particularly linked to the ‘investment function’ of social policy and provides scientific evidence of their effectiveness. In this sense, the SIP can be understood as a ‘*technical*’ *policy framework* aiming to indicate how social policies can be reformed in a social investment direction and why this should be done. Significantly, such an initiative was undertaken by DG EMPL in relative insulation not only from other parts of the Commission and other EU institutions, but also from social stakeholders. Indeed, both EU institutions and bodies and social stakeholders reacted with comments and proposals only after the publication of the Communication on the SIP, having hardly been consulted before (Sabato & Vanhercke, 2014).

*A posteriori*, one can say that this was a political mistake, entailing a limited ownership of the Package by social, institutional and political actors, thus limiting its legitimacy.

The situation is completely different when it comes to the creation of the EPSR. Firstly, the initiative was personally announced by Commission President Juncker in his discourse on the State of the Union in September 2015. Consequently, the Juncker cabinet and the Secretary General (SG) took the lead in the creation of the Pillar and in raising its ambitions, with DG EMPL remaining to some extent in the background (EMPL5). In other words, it was the President of the Commission himself who acted as a policy entrepreneur pushing for the EPSR, a circumstance that increased the political weight of the initiative. Secondly, in great contrast to the SIP, the consultation process around the Pillar was broad, and the EPSR received endorsement from a wide range of institutional and political actors, such as the Commission, the European Parliament and national governments in the Council, who solemnly proclaimed the Pillar. While the consultation process increased the ownership of the Pillar among social and institutional players, the Proclamation represents a strong political legitimisation of the EPSR. Finally, the SIP was enacted in a rather difficult period for social policies, in a context characterised by the crisis and fiscal consolidation measures. Conversely, the EPSR has been established in a context where the future of Social Europe is an integral part of the high-level political debate on the future of the EU after Brexit.<sup>18</sup>

All this taken into account, the EPSR appears to be a *political framework* endowed with a greater political *legitimacy* than the SIP.

Coming to more ‘substantial’ aspects, the different political weights and ambitions of the initiative are also exemplified by the *objectives* and *discourse* of the two policy frameworks. As for the SIP, its primary objective was to enhance the effectiveness and efficiency of social policies, thus ensuring their fiscal sustainability, underpinning and emphasising the aspects of social policies that could contribute to economic objectives. The EPSR aims to ‘deliver new and more effective rights to citizens’ (European Commission, 2017c, p. 4): explicit references to ‘social policy as a productive factor’, on which the social investment approach relies,<sup>19</sup> have disappeared.<sup>20</sup> In terms of *discourses*, while the contents of the SIP are framed in terms of principles and concrete measures, the EPSR explicitly uses the language of ‘rights’.

Summing up, looking at the nature, legitimacy, objectives and discourses of the two policy frameworks, we find a number of fundamental differences between them. On this basis, one could

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<sup>18</sup> See the Rome Declaration, the White Paper on the Future of Europe (European Commission, 2017k) and the Reflection Paper on the social dimension of Europe (European Commission, 2017b).

<sup>19</sup> c.f. Morel et al., 2012.

<sup>20</sup> While this notion was explicitly recalled in the 2016 Commission Communication on the Pillar, it cannot be found in the 2017 Recommendation and related documents (European Commission, 2017a, 2017c, 2017j).

(too) easily conclude that there is a complete discontinuity between the SIP and the EPSR. However, the situation is more complex, since links and complementarities between the two policy frameworks emerge when considering the issue areas included and the approach followed by the two frameworks.

### 2.3.2 Comparing the SIP and the EPSR: Complementarities and continuity after all

As for the *issue areas*, the SIP, coherently with the social investment approach, prioritises policies ‘preparing’ people to cope with challenges arising at various stages of their lives (rather than simply ‘repairing’ the consequences of adverse circumstances). Consequently, in the SIP, the European Commission (2013a, p. 6) identifies an array of policy priority with a higher social investment orientation, including policies targeted at children, active labour market policies, education, training and lifelong education, housing support, rehabilitation, healthcare and long-term care services. However, while insisting on the ‘investment function’ of welfare states, the SIP also recognises that social policies also have a ‘protective function’ and act as a stabiliser of the economy (EC, 2013a). Consequently, minimum income and unemployment benefits are part of the Package, even though the emphasis is on activation. The same policy areas are included in the EPSR (Chapters I and III). However, the latter gives a greater emphasis to social protection.<sup>21</sup> In a certain sense, this correspondence means that while the SIP had already identified the social policy issues on which to focus in order to modernise social protection systems, the EPSR has given to them the status of ‘rights’ for all EU citizens. Moreover, when it comes to defining the constitutive elements of these rights and how concrete policy measures should be designed in order to ensure their implementation, the social investment approach taken in the SIP (implicitly) reappears in the EPSR, thus attenuating the risk that the latter is a simple declaration of rights without any practical implication. Table 4 provides several examples of this.

Table 4. A comparison between the SIP and the EPSR: ‘Rights in practice’

Issue area	SIP	EPSR
<b>Childcare and support to children</b> (Pillar principle n.11)	The Commission urges the Member States to implement the Recommendation on 'Investing in Children: breaking the cycle of disadvantage' in an integrated way through a combination of cash and in kind benefits, and <b>access to quality early education, health and social services</b> . Address childhood inequalities through eliminating school segregation and the misuse of special needs	Children have the right to <b>affordable early childhood education and care of good quality</b> . Children have the <b>right to protection from poverty</b> . Children from disadvantaged backgrounds have the right to specific measures to enhance equal opportunities.

<sup>21</sup> In this respect, a consideration of the ‘boundaries’ of social investment is needed. On the one hand, some scholars enlarge this notion by also including policy areas and measures related to the protection function of the welfare state (see, for instance, the notion of ‘buffers’ proposed by Hemereijck, 2014).

	education. <b>Make early childhood education and care (ECEC) more visible and available</b> [...]	
<b>Unemployment benefits</b> (Pillar principle n.13)	In assessing <b>adequate income support</b> , it is important to distinguish between two levels of safety net for the working age population. The first level of safety net is mainly represented by the <b>unemployment benefit system</b> . [It ] is reviewed regarding the coverage, <b>adequacy and labour market friendliness</b> (presence/absence of financial disincentives) of benefits	The unemployed have the right to <b>adequate activation support</b> from public employment services to <b>(re)integrate in the labour market</b> and <b>adequate unemployment benefits</b> of reasonable duration, in line with their contributions and national eligibility rules. Such benefits shall not constitute a disincentive for a quick return to employment.
<b>Minimum income</b> (Pillar principle n. 14)	The Commission urges the Member States to fully implement the Commission Recommendation on Active Inclusion (2008) without further delay [...] integrating its three pillars: <b>adequate income support, inclusive labour markets and enabling services</b> .	Everyone lacking sufficient resources has the right to <b>adequate minimum income benefits</b> ensuring a life in dignity at all stages of life, and <b>effective access to enabling goods and services</b> . For those who can work, minimum income benefits should be combined with <b>incentives to (re)integrate into the labour market</b> .

**Note:** In bold, the common orientations and wording between the two policy frameworks

**Source:** Sabato & Corti (2018).

With the reference to the notion of ‘rights’, the EPSR potentially contributes to attenuating some of the risks of the social investment approach: its strong emphasis on the view of social policy as a productive factor instrumental to the objectives of economic growth and competitiveness and a marked ‘work first’ approach. As for the latter, for instance, the principles of the Pillar related to labour market participation and activation should be read in relation to the rights and principles of Chapter II, ‘Fair working conditions’. Thus, the focus should not simply be on jobs, but instead, on good quality jobs: secure, though ‘adaptable’ jobs (e.g. encouraging open-ended contracts); fair wages (to ensure a ‘decent standard of living’); adequate protection in case of dismissal; and healthy, safe and well-adapted work environments.

All this considered, in terms of *policy approach*,<sup>22</sup> the EPSR displays neither a pure social investment approach, relying on the notion of social policy as a productive factor and stressing the

<sup>22</sup> Armstrong (2010:75) identifies two policy paradigms coexisting under the Social OMC: a citizenship paradigm and a social policy as a productive factor one. Hemerijck (2013) refers to social investment as a policy paradigm. Conversely, Vandenbroucke (2017) maintains that social investment cannot be considered as a fully fledged policy paradigm. Referring to ‘paradigms’ has relevant implications and would require a different kind of analysis than the one performed here. For this reason, we prefer to use the notion of ‘policy approach’.

contribution of social policies to growth, jobs and competitiveness, nor a pure (ideal) rights-based approach based on de-commodification and prioritising the promotion of social rights irrespective of their economic and fiscal implications.

The EPSR mixes the two approaches. Such a hybrid approach can be defined as a *rights-based social investment*: the primary objective is the promotion of social rights, but when it comes to the actual measures and policy orientations through which these rights should be made effective, the reference point is social investment.

A final element of comparison concerns the governance arrangements through which the two EU social policy frameworks should be implemented. These basically include, in social protection and inclusion policies, the European Semester and other soft governance instruments and EU funds.

To sum up, the comparison between the EPSR and the SIP reveals that there is overall continuity between the two frameworks with regard to their contents (in terms of issues and policy areas included) and with regard to the governance arrangements for their implementation. Three elements of discontinuity, however, appear potentially fundamental for the future of the Pillar: its political nature; the high degree of legitimacy; and the introduction of a rights-based discourse. All these elements are likely to increase the ‘political weight’ of the EPSR when compared to the SIP, thus potentially facilitating its implementation. When it comes to the policy approach taken in the two frameworks, we find a situation of ‘continuity in discontinuity’: the EPSR takes a hybrid policy approach that we have defined as one of ‘rights-based social investment’.

Table 5 sums up the comparison between the SIP and the EPSR on the seven dimensions identified above.

Table 5. The SIP and the EPSR (selected principles): A comparison

<b>DIMENSION</b>	<b>SIP</b>	<b>EPSR</b>
<b>Nature</b>	Technical	Political
<b>Legitimacy</b>	Low	High
<b>Objectives</b>	Effectiveness and efficiency of Member States’ social policy	Delivering new and more effective rights for citizens
<b>Discourse</b>	Social investment	Social rights
<b>Contents</b>	Social inclusion/social protection/ Equal opportunities and access to the labour market	Social inclusion/social protection/ equal opportunities and access to the labour market
<b>Approach</b>	Social investment	Rights-based social investment
<b>Governance arrangements</b>	European Semester + soft governance instruments + financial instruments	European Semester + soft governance instruments + financial instruments

Source: Sabato & Corti (2018)

In the next section, we will present the concrete deliverables of the Social Pillar, notably, by distinguishing between the three implementation areas identified by the Commission: regulatory, coordination and re-distribution.

## 2.4 The implementation of the Social Pillar

### 2.4.1 Towards a revival of European social legislation?

As is stated in the Reflection Paper on the Social Dimension of Europe, one of the implementation areas of the Social Pillar is the EU legislation. To this end, the Commission launched three packages of legislative initiatives as part of what can be called the Social Pillar strategy. The first one is the ‘Labour Mobility Package’, which was launched on 8 March 2016, the same day as the presentation of the EPSR. The second bulk of legislative initiatives was presented on 27 April 2017, during the presentation of the Recommendation on the Social Pillar, as part of the aforementioned ‘Social Pillar Package’. Finally, the third package is the so-called ‘Social Fairness Package’, which was presented on 13 March 2018. Table 6 summarises all the social initiatives related to the three packages.

Tab. 6 Juncker Commission’s social agenda

	<b><i>The “Labour Mobility Package”</i></b>
COM (2016) 128 final	Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of service
COM (2016) 815 final	Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004
	<b><i>The “April 2017 Package”</i></b>
COM (2017) 253 final	Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU
C (2017) 2601 final	Interpretative Communication on Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time
COM (2017) 797 final	Proposal for a Directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union
	<b><i>The “Social Fairness Package”</i></b>
COM (2018) 131 final	Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority
COM (2018) 132 final	Proposal for a Council Recommendation on access to social protection for workers and the self-employed

Altogether, these packages contained five legislative proposals, which are a ‘blend of old and new elements’ (Plomien, 2018). The Commission, in fact, proposed to revise pre-existing legislative initiatives (e.g. Posting of Workers Directive and the Regulation on Coordination of Social Security Systems), to replace existing measures (e.g. Work-Life Balance Directive to replace Directive

92/85/EEC on maternity protection and the 2010 Parental Leave Directive; Directive on Predictable and Transparent Working Conditions to replace the Written Statement Directive), and to introduce genuinely novel actions (e.g. Regulation to establish a European Labour Authority). A sixth legislative initiative should be added – although it was not presented in the packages, but the Commission refers to it in the framework of the European Pillar of Social Rights – namely, a package of three directives on the protection of workers from exposure to cancer-causing chemicals at work, proposed between May 2016 and April 2018. Besides the legislative initiatives, the three packages also contained non-legislative initiatives, such as the proposal for Council Recommendation on access to social protection for workers and self-employed individuals and an Interpretative Communication on Directive 2003/88/EC concerning certain aspects of the organisation of working time.

As stressed by Garben (2019), while relaunching the EU legislative initiatives in the social domain, the Juncker Commission decided to focus on highly debated issues, which were already the subject of broad discussions at the national and European levels (e.g. the maternity leave directive) and on which the EU had previously attracted criticisms with respect to its social deficit (e.g. the revision of the PWD). The most interesting aspect is that even the simple revision of legislative texts produced by the initiatives of the Juncker Commission has created new rights, whose political and legal value should not be underestimated. In what follows, we will illustrate the main novelties of the new initiatives.

The first example concerns the revision of the PWD. As highlighted by Costamagna (2019), the latter represents an important step forward in the protection of posted workers. Among the most significant changes introduced, we should note the determination of the maximum posting period (12 months, extendable up to 18) after which the labour law of the host country must be applied to the posted worker; the extension of collective agreements negotiated by trade unions at the national level to all posted workers; the right for posted workers to have the same remuneration as their peers in the host state; and, finally, the obligation to count all travel expenses, accommodation and food as a reimbursement for posted workers and not as part of the remuneration (for more details, see Chapter 4).

The directive on work-life balance, as argued by Plomien (2018), represents a positive step forward in the development of EU social and gender policies. Among the innovations, there was the introduction of the obligation of at least 10 days of paid paternity leave; of two mandatory months of paid and non-transferable parental leave; and explicit recognition of care work – through the right to at least five days per year of paid leave for the assistance of dependent family members and the possibility of requesting more flexible working conditions for the reconciling work and family life.

As regards the directive on transparent and predictable working conditions, although the new provision failed to codify a single definition of worker at the European level, as it was in the initial Commission's proposal, and the final text adopted explicitly refers to the criteria established by the ECJ in order to deal with the phenomenon of bogus self-employed workers. The directive also recognises a series of protections for all employees who, on average, are employed for at least three hours per week during a consecutive month, including, for instance: the maximum limit of six months for trial periods; written information on the working conditions from the first day of employment (including regarding remuneration and social protection provided); the impossibility for the employer to prohibit the worker from accepting other jobs in parallel; and the right to obtain a motivated written answer in case the worker requests to move towards a less precarious form of work, once the probationary period has ended.

Parallel to the directive on transparent and predictable working conditions, a consultation was launched on a possible initiative for access to social protection for all employees (and therefore also atypical workers) and self-employed workers. Faced with the impossibility of reaching an agreement between the social partners, the Commission adopted a proposal for a recommendation, addressed to the Council. Although the latter constitutes a non-binding act, if it is adopted in a version that is not excessively diluted, it will represent 'a milestone in the discourse and action of the EU' (Spasova & Wilkens, 2019, p. 110). On the one hand, it increases awareness compared to the possible 'gaps' *de jure* and *de facto* in national social protection systems. On the other hand, it defines the absence of adequate social protection as a common problem at the European level.

Thanks to the revision of the directive on the protection of workers from exposure to cancer-causing chemicals at work, the limit values for exposure to carcinogens have been updated, establishing the maximum amount of substance allowed in the air at work and exposure of the skin to these substances. Eight additional carcinogens have been regulated. The objective of the new rules is to further reduce the risk for workers to contract cancer, which remains the leading cause of work-related deaths across the EU. According to what was observed by Vogel (2018), this new provision is to be welcomed and can be interpreted as a distancing from the trend, observable in the last years, to subordinate the right to health and safety at work to the economic imperatives of competitiveness.

Finally, significant novelties have also been introduced by the new European Labour Authority. Indeed, the aim of this new initiative is threefold: (i) to support Member States in providing access for individuals and employers to information about their rights and duties, as well as their services; (ii) to support cooperation between Member States in the cross-border application of relevant Union legislation, including the development of some best practices and facilitation of concerted and joint inspections and the fight against undeclared work; and (iii) to mediate solutions

in the case of cross-border disputes between national authorities, and simplify cooperation by integrating a number of existing committees and networks amongst the Member States, which will hopefully lead to eliminating fragmentation in that area (for further information, see Bednarowicz, 2019).

In summary, the legislative acts adopted in the framework of the European Pillar of Social Rights introduce some new tools, recalibrate existing rights in the face of changed context conditions and propose new policy objectives.

#### *2.4.2 The EPSR as a means to coordinate Member States' policies*

As is stated in the conclusions of the Social Summit in Gothenburg, '[...] **the Pillar establishes a framework for guiding future action by the participating Member States**' (EC, 2017c, p. 6, emphasis in the original). Indeed, one of the key functions of an EU social policy framework is clearly to steer Member States' social policies in the direction of EU orientations and recommendations. To achieve this objective, the Pillar should be integrated with other existing EU social policy instruments and processes, so as to create a coherent EU framework that promotes synergies between its various components.

In this regard, the main vehicle to steer Member States' policies is the European Semester. As declared by Commissioner Thyssen herself while presenting the 2018 Semester cycle: 'I firmly believe that with this Semester cycle, we have put another important brick to build the Pillar as the fundament of a more social, fair and future-proof Europe' (Thyssen, 2018).

To integrate the Social Pillar's principles into the European Semester, the Commission proposed the adoption of a new set of indicators, as part of the so-called Social Scoreboard, which was presented in April 2017 as part of the Pillar's package. The new Scoreboard (European Commission, 2017e) is made up of 14 headline indicators and 21 secondary indicators (i.e. 35 in total), divided into 12 areas in which societal progress can be measured. The Scoreboard serves as a reference framework to monitor the 20 principles and rights of the Pillar, in a 'tangible, holistic and objective way, which is easily accessible and understandable to citizens' (European Commission, 2017e). This said, the Scoreboard is not only conceived as a tool to monitor progress of the implementation of the rights and principles enshrined in the Pillar. According to the EPSR Communication, it is also specifically intended as an instrument 'to inform policy guidance in the context of the European Semester of economic policy coordination' (European Commission, 2017c: 3).

Clear evidence of the use of the Social Pillar and the new Social Scoreboard in the European Semester emerged in 2018 cycle. For instance, the Annual Growth Survey 2018 explicitly refers to

the EPSR as a compass to boost social rights in Europe, and the principles and objectives of the EPSR are highlighted as essential for ‘fair and functioning labour market and welfare systems’. In particular, the influence of the Pillar emerges from the three main areas of the AGS, which reflect the three chapters of the EPSR: ‘Equal opportunities and access to the labour market’; ‘Job creation and fair working conditions’; and ‘Social protection and inclusion to tackle inequality and poverty’. Under the first two headings, the AGS 2018, for example, highlights the necessity of active labour market policies as a way to reduce youth and long-term unemployment and invites Member States to invest in training, life-long learning and re-skilling programmes and to support greater investment in infrastructure in sectors such as education and health. Moreover, it stresses the need for well functioning social protection systems and to provide benefit schemes for the unemployed and minimum income schemes, fostering labour market participation and ensuring equal access to quality services.

The same attention to the Social Pillar’s principles emerge in the new Employment guidelines that the Commission proposed in November 2018. In guideline 5, ‘Boosting the demand for labour’, for example, the new Commission’s proposal stresses the redistributive effect of the taxation system and encourages Member States to set transparent and predictable wage-setting mechanisms, while ensuring fair wages that provide decent living standards. In guideline 6, ‘Enhancing labour supply: access to employment, skills and competences’, the focus of the Commission’s proposal is on the importance of life-long learning and quality learning opportunities, while guideline 7, ‘Enhancing the functioning of labour markets and the effectiveness of social dialogue’, stresses the importance of preventing labour market fragmentation, to facilitate a transition to open-ended contracts and to prohibit the abuse of atypical contracts. Finally, in guideline 8, ‘Promoting equal opportunities for all, fostering social inclusion and combating poverty’, the new proposal suggests three strands of active inclusion: adequate income support, inclusive labour market and access to quality services, in order to guarantee equal opportunities to everyone, in particular to the most disadvantaged.

The influence of the Social Pillar also emerges in the Country Report (CR). The Social Pillar indicators are used both in the analytical part of the CRs and as a reference framework to assess the political priorities and challenges of each Member State. Explicit mention to the Social Pillar is made in the *Executive summary* of each CR, and its indicators are included in the subsection on *Economic situation and outlook*. Moreover, the European Commission introduced in the Country Reports 2018 a new ‘Social Pillar Box’ entirely dedicated to the monitoring of the performance of a Member State considering the European Pillar of Social Rights. Besides giving high visibility to the Social Pillar, the new box classifies Member States according to a statistical methodology agreed with the Employment Committee (EMCO) and Social Protection Committee (SPC). The methodology looks

jointly at levels and changes of the indicators in comparison with the respective EU averages and classifies Member States in seven categories (from ‘best performers’ to ‘critical situations’). For instance, a country can be flagged as ‘better than average’ if the level of the indicator is close to the EU average, but it is improving fast. Moreover, to make the box even more visible, the Commission assigned to each ‘performance category’ a specific colour, from red (worst performance) to green (best performance).

The result of the introduction of the Social Pillar and the new scoreboard in the European Semester emerges clearly in the content of the Country Specific Recommendations addressed to Member States. As it will be illustrated more in depth in Chapter 6, it is possible to observe two main novelties in the Semester cycles after the proclamation of the Social Pillar (2018 and 2019). On the one hand, we can observe an increased attention dedicated to social and employment issues. On the other hand, we can observe a re-orientation of the policy prescriptions addressed to Member States. Notably, it is possible to observe an increase of the recommendations oriented to social investment and social protection policies, which mainly aim to prepare, support and equip individuals to increase their chances of participating in the labour market, to increase the level of income-replacing benefits, the quality and the access to health services or extend the worker’s employment legislation protection. At the same time, we can observe a decrease of recommendations envisaging the retreat of the State as the key provider of social solidarity in terms of both benefits and social rights and involving the adoption of ‘retrenchment’ measures, such as social benefit curtailment, cost-containment strategies, labour market deregulation or pension privatisation. To sum up, the introduction of the Social Pillar contributed to strengthening the coordination of social and employment policies, and especially so by re-orienting the prescriptions addressed to Member States towards a more social investment and social protection policy agenda.

### *2.4.3 The redistributive area of European social and labour policies*

The third implementation area of the Social Pillar, according to the Commission, is the EU budget. A closer look at the Commission’s proposal for the next Multiannual Financial Framework 2021-2027 immediately unveils the centrality of the Social Pillar in the next budget social expenditure.<sup>23</sup>

The Social Pillar is explicitly mentioned in the Common Provisions Regulations of the European Structural and Investment (ESI) Fund. Indeed, one of the five key objectives of the ESI

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<sup>23</sup> We define the ‘social expenditure’ or ‘social dimension’ of the EU budget as the total amount of resources allocated to programmes whose goal essentially consists of implementing the social and employment objectives of the EU, as outlined in the TFEU and in the principles enshrined within the EPSR.

funds is devoted to the realisation of a stronger Social Europe, to be achieved by ‘implementing the principles of the European Pillar of Social Rights, in particular life-long learning, education and training infrastructure as well as health, culture and social infrastructure’ (European Commission 2018h).

In particular, it is the newly proposed European Social Fund Plus (ESF+) that will be the main vehicle to implement the Social Pillar. The ESF+ is a merger of five existing programmes: the European Social Fund, the Fund for European Aid to the Most Deprived, the YEI and the Employment and Social Innovation (EaSI) and Health Programmes. According to the Commission’s proposal, its overall goal is twofold. On the one hand, it aims to streamline existing rules across different types of measures, simplifying funding management and increasing flexibility, so that the funds can be more responsive to the challenges identified in the economic governance cycle and to EU priorities. On the other hand, it aims to help ‘create a more performing and resilient “Social Europe” and implement the European Pillar of Social Rights, as well the social and employment priorities endorsed by the European economic governance process’ (European Commission, 2018d, p. 2). To do so, the ESF+ pursues four specific objectives: a) investing in education, training and life-long learning; b) enhancing the effectiveness of labour markets and promoting equal access to quality employment; c) fostering social inclusion and tackling poverty; and d) demonstrating solidarity with displaced workers and self-employed persons whose activity has ceased in the course of unexpected major restructuring events.

Over the 2021-2027 period, the Commission proposed to allocate €89.688 billion in 2018 prices (€101.174 billion, in current prices), of which €88.646 billion will be under shared management and €1.042 billion for EaSI and Health. In 2018 prices, the amount proposed by the Commission is slightly less (-2%)<sup>24</sup> than the sum of the total amounts of each programme that have been merged in the ESF+.<sup>25</sup> Finally, the Commission proposed that at least 25% of the ESF+ funds be earmarked for promoting social inclusion and tackling poverty (including non-material assistance),

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<sup>24</sup> Although the proposed ESF+ has an allocation which is 7% lower in real terms than the sum of the current programmes, the ESF+ has one action less: the whole thematic objective 11. As stressed by one of our interviewees: ‘The thematic objective 11 of the current ESF addresses public administration reforms in the areas outside the employment and social, such as the justice area, tax collection. A lot of these public procurement enhancements are not really social and employment. The reason of attributing these objectives to the ESF was that they can be considered as sort of HR issue. The problem is that no one feels ownership of these reforms, although they are in the ESF. In the new proposal funding public administration reform can be done through the Reform Support Programme and, therefore, this objective is not in the ESF+. In the current MFF, thematic objective 11 has €4.7 billion. This means that, even in real terms, the ESF stays more or less preserved within the cohesion envelope’ (Interview EMPL 2).

<sup>25</sup> In order to allow a reliable comparison across years, we compare the size of the social programmes in the proposed EU27 MFF 2021-2027 with a virtual MFF 2014-2020 without the UK contribution. The amounts in the virtual budget are estimated based on past expenditure (2014-2017) and the extrapolated share for years 2018-2020. The data have been taken from the official documents of the European Commission.

at least 2% to material support targeting the most deprived and at least 10% to tackling youth unemployment.

The second way to implement the Social Pillar proposed by the Commission is through the reinforced link between the ESI funds and the European Semester. In the Common Provisions Regulation 2021-2027, the Commission proposed to strengthen the link between the funds and the CSRs. Notably, the CSRs will be considered both in the programming of the funds and the design of the cohesion policy programmes at the beginning of the 2021-2027 period, and in the mid-term review of the programmes in 2024. Moreover, the use of the ESI funds will continue to be linked to respect of macroeconomic conditionalities. By making this link stronger, the objective of the Commission is to create synergies and to make sure that the Member States take real action regarding their EU commitments. Since the Country Reports and the CSRs identify the challenges that an MS needs to address, aligning the funds to the Semester makes it possible to align MS' Operational Programmes to the specific needs of the country. As regards the social objectives, the link between the Semester and the European funds is made via the EPSR: together, they constitute a policymaking triangle. More specifically, the Social Pillar is mainstreamed into the Semester through the Social Scoreboard, and it constitutes the reference framework for the social objectives of the new Common Provisions Regulation. Therefore, the objective of the policy triangle of European funds–European Semester–Social Pillar is twofold: (a) to better target the social needs of the Member States and consequently increase the added value and leverage capacity of EU funding; and (b) to provide a framework that gives the Commission a legitimate role in steering the implementation of the principles of the European Pillar of Social Rights.

In addition to the European Structural and Investment funds, the Commission proposes to implement the principles of the Social Pillar through three other social programmes: Erasmus +, the European Globalization Adjustment Fund and InvestEU.

**Erasmus +** is the EU's programme which supports education, training, youth and sport in Europe. Among other actions, Erasmus + supports learning opportunities abroad for students in higher education and in vocational education and training, for education staff and for youth exchanges, as well as finance initiatives aimed at reducing early school leaving, tackling (youth) unemployment and promoting adult learning of new skills.<sup>26</sup> Indeed, the first principle of the EPSR states that everyone has the right to quality and inclusive education, training and lifelong learning in order to maintain and acquire skills that enable them to participate fully in society and manage successfully transitions in the labour market. To fulfil the ambition of the Social Pillar, the

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<sup>26</sup> Over the period 2014-2020, Erasmus+ received an EU allocation of €14.7 billion.

Commission's proposal for the period 2021-2027 comes with a significantly increased budget compared to the current one (+ 92%), reaching €26.368 billion (2018 prices) over seven years.

**The European Globalization Adjustment Fund (EGF)** is the EU programme aimed at providing support to workers made redundant because of major structural changes in world trade patterns, due to globalisation or the negative effects of the global economic and financial crisis on employment. The EGF often provides an opportunity to ensure personalised measures that are tailored to the needs of individual redundant workers.<sup>27</sup> This allows Member States to focus on vulnerable people, such as those who are lower-skilled or have a migrant background, and to provide support with a better advisor-beneficiary ratio and/or over a longer period.<sup>28</sup> As stated in the Commission's proposal, 'the principles of the European Pillar of Social Rights will act as an overarching guiding framework for the European Globalisation Adjustment Fund (EGF) and will allow the Union to put the relevant principles into practice for major restructuring events. Therefore, the EGF shall contribute to the implementation of the principles defined under the European Pillar of Social Rights. To do so, the Commission proposed a series change for the EGF 2021-2027. Firstly, the proposal widens the scope of the fund, by extending the list of eligible factors behind the redundancies, including, for instance, the transition to a low-carbon economy and the consequences of digitalisation and automation. Secondly, the threshold for redundancies has been reduced to 250 workers made redundant or self-employed persons ceasing their activity over a four-month period. The exception for smaller labour markets is maintained. Thirdly, the co-financing rate is aligned with the highest ESF+ co-financing rate granted to the respective Member State (between 50% and 85%). Fourth, with the aim to speed up the procedure, the European Parliament and the Council will be only partially involved in the adoption of the budgetary transfer, while the Commission would adopt the financial contribution by means of an implementing act. Fifth, the maximum amount that the EGF can use over the 2021-2027 period increases by 16%, from €1.200 million to €1.400 million (2018 prices). Sixth, the Commission has proposed introducing a common monitoring system, with output and result indicators, from 2021 onwards. The information provided will include data on the type and quality of jobs (e.g. permanent or non-permanent) and the qualifications gained by beneficiaries that improved their employability.

While the programmes analysed so far are already part of the current MFF, specific attention should be paid to the proposed new funding instrument, **InvestEU**, whose objective is to address market failures and investment gaps that hamper growth, and to help to reach EU policy goals such

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<sup>27</sup> Every single project has to be looked at and considered by both the European Parliament and the Council. If they are approved by these bodies, the EU can co-fund projects up to 60%.

<sup>28</sup> Over the period 2014-2020, the total allocation that can be used by the EGF is €1.2 billion (ca. €170 million per year).

as sustainability, scientific excellence and social inclusion. Among the policy areas supported by InvestEU, one is dedicated to Social Investment and Skills, with a budget of €4 billion (expected to result in total investment of €50 billion). There are two stated reasons for dedicating a specific window to Social Investment and Skills. On the one hand, there is a social investment gap in Europe estimated at €142 billion per annum: €15 billion in education and lifelong learning, €70 billion in health and long-term care and €57 billion in affordable housing (Fransen et al., 2018). On the other hand, there is the marginal role played by the European Fund for Strategic Investment (EFSI) in addressing the shortfall in social investments: in December 2016, less than 4% of the EFSI had been used to finance social infrastructure, and less than 1% had been invested in social services. As stated in the Commission's proposal for InvestEU, the objective of the Social Investment and Skills window is therefore to support social investments, including those supporting the implementation of the European Pillar of Social Rights, such as investments in education, training and related services, social infrastructure, health and long-term care, including clinics, hospitals, primary care, home services and community-based care, social innovation and the integration of vulnerable people, including third-country nationals and inclusion of and accessibility for persons with disabilities.

To conclude, the initiatives proposed by the Commission in order to mainstream the Social Pillar principles in the EU multiannual financial framework 2021-2027 seem to go in the direction of a stronger emphasis on the social dimension of the EU budget. In qualitative terms, in fact, the novelties introduced in the governance of the ESI funds and the increased attention on human capital and social investment in Erasmus +, EGF and InvestEU are certainly to be welcomed. In quantitative terms, however, if we look at the resources allocated for implementation of these programmes, they amount to €151.488 billion (13.35% of the total proposed MFF), to which we should add €4 billion as a guarantee for the Social Investment and Skills window within the new InvestEU programme. Comparing the budget for social programmes in the current MFF (without the UK revenue) to the proposed budget for the post-2020 MFF (in constant prices), we observe that, in the latter, the 'social budget' is slightly higher in absolute terms (+ €2.7 billion), but slightly lower in relative terms (13.35% rather than 13.75% of the total MFF budget).

To a certain extent, the Commission approach seems to follow the adage of 'doing more with less'. While certainly, the social dimension receives a greater emphasis and attention, the resources dedicated are still not sufficient to cope with the challenges. Moreover, some concerns persist regarding the governance of the programs, in terms of accessibility, inclusiveness and coherence (for a detailed analysis, see Sabato et al., 2019; Hemerijck et al., 2019). This said, as the negotiations on the next MFF are ongoing, it is still too early providing a definitive assessment of the impact of the Social Pillar.

# Chapter 3. The Social Pillar and the debate in the European Parliament

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## 3.1 The draft report prepared by MEP Maria João Rodrigues<sup>29</sup>

In September 2015, during the annual State of the Union speech, Jean Claude Juncker, the president of the European Commission, announced the adoption of the European Pillar of Social Rights (EPSR)<sup>30</sup>, with the stated aim to strengthen the social *acquis* of the European Union and foster a new upward convergence of social and employment rights primarily within the Eurozone. As observed above (chapter 2), since the EPSR's announcement, the European Commission has been engaged in promoting it by organizing an online consultation and holding several debates across Europe that have involved public opinion, stakeholders, national governments and other EU institutions. The European Parliament has taken an active role in these debates.

On 3 May 2016, the vice-president of the Progressive Alliance of the Socialists and Democrats (S&D), MEP Maria João Rodrigues, was appointed rapporteur<sup>31</sup>. The appointment of Rodrigues in this role certainly influenced the entire parliamentary debate on the Social Pillar. Indeed, the Portuguese MEP is a long-experienced policy-maker in the field of EU social and employment policies. Indeed, she served as Minister for Qualification and Employment in Portugal when the European Employment Strategy was adopted, and she was actively engaged in the promotion of the Lisbon strategy and the creation of the social Open Method of Coordination. It is not a coincidence that, even before being appointed as rapporteur for the EP on the Social Pillar, Rodrigues had already had conversations with the Commission and especially with the special adviser on the Social Pillar, Allan Larsson, on how to design the EPSR. As claimed by MEP Rodrigues herself: "Immediately after Larsson was appointed as special adviser, I took a flight direction Stockholm and we had a dinner speaking about the Pillar and how to design and implement it. I didn't know I would have been the rapporteur for the EP although I asked immediately to be appointed. I cannot say who were those who concretely drafted the 20 principles but whatever is in the Pillar, Larsson and I started already to

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<sup>29</sup> This chapter is a broader version of an already published article written together with Patrik Vesan. I am extremely grateful to Patrik Vesan with whom I had extensive exchanges and long and fruitful discussions. For the article, see Vesan, P. and Corti, F. (2019a) 'New tensions over Social Europe? The European Pillar of Social Rights and the Debate within the European Parliament', *Journal Common Market Studies*, Vol.57, No. 5, pp. 977-994.

<sup>30</sup> In this text, we will refer to the European Pillar of Social Rights by its acronym – EPSR - and its shorter names - "Social Pillar", or simply "the Pillar".

<sup>31</sup> The other shadow rapporteurs were: Tom Vandenkendelaere (EPP), Arne Gericke (ECR), Enrique Calvet Chambon (ALDE), Gabriele Zimmer (GUE/NGL), Tamás Meszerics (Green/EFA), Laura Agea (EFDD) and Joëlle Mélin (ENF).

discuss about it before the Commission presented its draft in March 2016” (EP1). The prominent role played by Rodrigues in orienting the parliamentary debate on the Social Pillar immediately emerged on 13 September 2016, when the draft report was presented in the EMPL committee. The draft report consisted in 36 paragraphs, in which the rapporteur described in detail how to concretely implement the principles enshrined in the EPSR. The Pillar is described as an initiative that “cannot be limited to a declaration of principles or good intentions but must consist of real matter (legislation, policy making mechanisms and financial instruments, delivering positive impact on citizens’ lives in the short term and enabling support for European construction in the 21st century by effectively upholding social rights and Treaty objectives, strengthening cohesion and upward convergence, and helping to complete EMU” (European Parliament 2016g, §1). Notably, according to Maria João Rodrigues, the Pillar should be adopted as a binding agreement between the European Parliament and the European Council, involving social partners, and should contain a clear roadmap for implementation, with concrete commitments and target dates (European Parliament 2016g, §35). As regards the implementation, Rodrigues identified three main policy areas: EU legislation, EU Semester and EU budget.

In the first area, Rodrigues proposed to adopt a directive on fair working conditions for all forms of employment, ensuring for every worker a core set of enforceable rights to be applied to employees as well as to all workers in non-standard forms of employment (European Parliament 2016g, §3). To contrast precarious form of employment, Rodrigues proposed a European definition of what constitutes ‘employment’, the prohibition of unpaid traineeship and those paid so little that they do not enable workers to make ends meet, the limitation of on-demand work and the ban of zero-hour contract (European Parliament 2016g, §4). Moreover, she proposed to broaden social insurance schemes to enable all workers to accumulate entitlements providing income security in situations such as unemployment, involuntary part-time work or career breaks for family or training reasons and that all workers have a personal activity account (European Parliament 2016g, §19). Another important proposal in the legislative area was the set-up of a minimum national wage through legislation or collective bargaining, equal to, at least, 60 % of the respective national average wage, with the aim of an upward convergence in wages throughout the EU (European Parliament 2016g, §5). The draft report then called for a European framework for minimum income schemes (European Parliament 2016g, §12) and proposed to introduce a new legislative initiative on family leave schemes, including maternity leave, paternity leave, parental leave and carers’ leave, and to review the Directive 2006/54/EC on equal opportunities and treatment of men and women in matters of employment and occupation (European Parliament 2016g, §22).

As regard the coordination area, Rodrigues draft report proposed to introduce a new Convergence Code, namely a new scoreboard of key employment and social indicators (European Parliament 2016g, §26), to be used in formulating the Country Specific Recommendations and to set up a procedure of macro-social surveillance in order to avoid that “economic imbalances are reduced at the expense of worsening the employment and social situation” (European Parliament 2016g, §27). In this respect, Rodrigues explicitly called “for a ‘silver rule’ on social investment to be applied when implementing the Stability and Growth Pact, namely to consider certain public social investments having a clear positive impact on economic growth (e.g. childcare or education and training) as being eligible for favourable treatment when assessing government deficits and compliance with the 1/20 debt rule” (European Parliament 2016g, §28).

Finally, as regard the EU budget, Rodrigues proposed the introduction of a new Child Guarantee to be implemented in all Member States, so that every child now living in poverty can have access to free healthcare, free education, free childcare, decent housing and proper nutrition (European Parliament 2016g, §15). More in general, the rapporteur proposed to raise the Multiannual Financial Framework (MFF) ceilings with the aim to strengthen the Youth Employment Initiative, increase in the volume of the European Social Fund, the European Globalisation adjustment Fund and the Fund for European Aid for the most Deprived and establish a new instrument, to be financed, for example, from EU revenue arising from competition law enforcement, to support the implementation of the Child Guarantee (European Parliament 2016g, §30). Moreover, Rodrigues proposed two new financial instruments, within the Euro area’s fiscal capacity, to be included in the post-2020 MFF: (a) “a fund for a renewed structural convergence, supporting the implementation of socially just reforms and investments that are necessary for increasing the growth potential of crisis-affected areas and restoring upward social convergence”; and (b) a European unemployment insurance scheme, complementing national schemes in cases of severe cyclical downturn and helping prevent the translation of an asymmetric shock into structural disadvantage (European Parliament 2016g, §32).

To sum, the draft report prepared by MEP Rodrigues was highly ambitious as it touched upon all the policy area of the Social Pillar and defined in detail how to implement it. Most importantly, Rodrigues’ report not only was in line with the future Commission’s agenda on the Social Pillar (the implementation policy areas are the same), but it anticipated all the forthcoming Commission’s policy proposals (e.g. Work-Life Balance directive, Transparent and Predictable Working Condition directive, Social Scoreboard and Reform Delivery Tool) and went even further by proposing new ambitious initiatives (such as European Unemployment Reinsurance Scheme). As a result, a heated debate sparked among European Parliament Groups (EPGs) and MEPs that revealed several tensions.

Notably, in the Employment and Social Affairs committee 1119 amendments were tabled in October 2016 in less than a month after the presentation of the draft report. After that, long negotiations started between the rapporteur and the shadow-rapporteurs, which lasted until mid-December, when an agreement was found on the base of 35 compromises on the most divisive issues. The compromise report, supported by an unusual coalition of S&D, GUE/NGL, Greens/EFA, EPP and ALDE, was then approved by the EMPL Committee on 20 December 2016 with 34 votes in favour, 14 against and 4 abstentions. One month later, on 19 January 2017, the MEPs voted in favour of the final text.

Against this backdrop, the aim of this chapter consists in reconstructing the parliamentary debate on the EPSR by outlining the positions of the EPGs and analysing the main divides that emerged during the EP's discussions and voting. The chapter proceeds as follows. Section 3.2 briefly recalls the theoretical framework outlined in chapter 1, delineates the hypotheses and methodology. Section 3.3 focuses on the roll call vote on the Social Pillar, while Section 3.4 presents the results of the in-depth qualitative analysis of the amendments tabled to the resolution and of the political debates in the EP. Section 3.5 summarises the main findings of the present study.

### 3.2 Hypotheses and methodology

As observed in chapter 1 of this thesis, the academic debate has largely focused on the territorial or functional cleavages that structure the EU political space. Notably, many scholars argue that the most important dimensions of conflict within the European Parliament are usually explained by the "left versus right" and "pro versus against EU integration" divides, while national interest plays a less important role in actual voting behaviour (Hix and Høyland, 2013; Hix et al., 2007). Similarly, other researchers point out the emergence of new tensions that accompany the traditional ones and mainly revolve around cultural values' issues. For example, Hooghe, Marks and Wilson (2002) highlight the division between, on the one hand, Green, Alternative, and Libertarian (GAL) and, on the other hand, Traditionalism, Authoritarian, and Nationalism (TAN) political orientations<sup>32</sup>. By contrast, Crespy and Gajewska (2010) highlight the importance of a further line of conflict, the "liberals versus regulators" divide, which combines contrasting economic interests and ideological positions.

A characteristic shared by these divides (left versus right, pro versus against EU integration, GAL versus TAN and liberals versus regulators) is that, overall, they depict the EU's political space

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<sup>32</sup> This division refers to certain issues, such as environmental protection, sustainable growth and general views on democratic freedoms and rights. As Hooghe and Marks observe, in Western countries, left-wing parties are usually associated with a GAL position, while right-wing parties are aligned with TAN ones, with the exception of the liberals who are assumed to be closer to the left parties. By contrast, in the Central Eastern countries, left parties tend to be more TAN- than GAL-oriented because of their post-communist authoritarian nature, while the right parties adopt the opposing position.

as mainly one-dimensional<sup>33</sup>. However, as observed in chapter 1, the new multiple EU integration crises and the systemic challenges posed by the denationalisation of politics suggest that a more complex conflict configuration might have emerged in recent years (Hooghe and Marks, 2018; Hutter et al., 2016; Kriesi, 2016).

In this regard, Ferrera (2017) highlights the existence of a compound dynamic of political tensions on Social Europe. The increasing difficulties of reconciling the social and economic dimensions of the European integration process, especially after the Euro crisis, have led to the emergence of a "clash syndrome" in which old but exacerbated political divides overlap or intersect with new ones. This "clash syndrome" is the result of the combination of four lines of conflict of a functional, normative and territorial nature:

- a. Market-making vs market-correcting priorities of the European (Monetary) Union;
- b. National social sovereignty/discretion vs EU law/conditionality;
- c. Supporters versus opponents of fiscal stability and cross-national transfers (creditor versus debtor conflict);
- d. Intra-EU "systemic competition" between high-wage/high-welfare EU countries and low-wage/low-welfare EU countries ("old versus new" or "Western versus Central and Eastern" Member States);

On the base of the literature reviewed in chapter 1 and drawing on Ferrera's theoretical framework, four hypotheses about MEPs' positionings can be set out to interpret the lively EP debate around the EPSR.

Firstly, we expect that centre-left EPGs (market-correcting) will support the proposal elaborated by MEP Rodrigues, since they encourage more EU integration in the field of social and employment policies, while centre-right EPGs (market-making) will oppose it on the grounds that it could imply further European regulations (H1).

Secondly, we expect Eurosceptic parties to oppose any further interference by the EU in fields such as social policies, which should remain strictly in the hands of national governments. On the contrary, pro-European integration parties will more likely be in favour of further supranational coordination and direct actions on social and employment rights (H2).

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<sup>33</sup> Some authors have focused on the emergence of separate, orthogonal dimensions of conflicts with reference to EU and national politics (for a review, see Otjes and Katsanidou 2017).

According to Ferrera's "clash syndrome" argument, while H1 and H2 are important for explaining some of the tensions around the Social Pillar, two additional hypotheses may help clarify the actual configuration of EP conflict dynamics.

On the one hand, we expect to observe a tension between MEPs coming from creditor Euro-zone countries and from debtor Euro-zone countries, especially on those issues related to the EU budget and EU fiscal capacity (H3). Indeed, the tension between creditors and debtors opposes political actors supporting austerity policies inspired by *ordo-liberal* principles to actors pressing for a more "solidaristic approach" and centred around two main issues, cross-national redistribution and fiscal discipline.

Finally, we expect conflicts between MEPs belonging to "high-wage/high-welfare" Member States (Western countries) and "low-wage/low-welfare" Member States (Eastern countries) especially on those issues related to the labour mobility and upward social standards convergence (H4). Notably, we expect western MEPs will focus on limiting access to other EU nationals to counter the alleged risk of "welfare tourism" or at least on fixing relatively high levels of European standards against social dumping dynamics. By contrast, we expect Central and Eastern MEPs promoting free movement of EU citizens and freedom to provide service, while maintaining national levels of social standards against further attempts at EU harmonization.

Against this background, the question is which conflict dimension will prevail over the others in the parliamentary arena? Based on the hypotheses elaborated in chapter 1, we can advance two further expectations. Firstly, since the political debate takes place in the parliamentary arena, we expect left vs right and pro- vs against-further EU integration tensions to prevail over the territorial divides, unless the issue under debate concerns cross-national redistribution of resources or intra-EU mobility and access to welfare (H5). In the latter case, we expect left-wing political actors (MEPs) to stand cohesive in support of further European integration in the EU social and employment field, while right-wing parties will more likely split on the base of their territorial provenience (H6).

To test these four hypotheses, this chapter adopted a two-step methodology.

Firstly, it moved from an analysis of the roll call vote (RCV) on the final resolution to describe MEPs' voting behaviour and EPGs' internal cohesion<sup>34</sup>. As argued in chapter I, most of the literature on political positioning and party competition within the European Parliament is based on quantitative analysis of RCV (Bakker et al., 2015; Whitaker, Hix and Zapryanova, 2017). This approach sheds light on the factors that can explain the MEPs' voting behaviour and the level of cohesion within the

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<sup>34</sup> In regard to internal cohesion, there are two main standard measures: the Rice Cohesion Index and the Agreement Index (AI) (Hix, Noury and Roland, 2007). In this analysis, we refer to the AI index, which also takes the abstentions into account, by referring to the data provided by votewatch.eu (Bowler and McElroy, 2015).

European Parliament groups. However, the RCV analysis has some shortcomings, since it ignores an important part of conflict dynamics and political motives that mark EP activities (Hug, 2016; Carrubba et al., 2006; Yordanova and Mühlböck, 2015). On the one hand, it overlooks the political rationale behind voting behaviour. On the other hand, RCV analysis usually focuses on legislative resolutions, *de facto* ignoring all the other initiatives of the EP, such as Parliament's own initiative report, as it is the case of the resolution in case. In doing so, it underestimates the political and symbolical salience of EP initiatives, which has increased, especially after the Lisbon Treaty and the introduction of the *Spitzenkandidaten* mechanism in the 2014 European elections. Finally, from a methodological perspective, RCV analyses usually rely on the national or EPG belongings of MEPs as key units of analysis, thus ignoring the role of national party delegations within groups in the explanation of voting patterns (Crespy and Gajewska 2010).

Taking these shortcomings into account, the analysis of RCV was complemented by a qualitative study of the main rationales behind MEPs' voting behaviour. This empirical study was based on the combination of three different sources of information. Firstly, MEPs' positionings was identified by examining the content of the amendments tabled in the EMPL Committee. Indeed, all EPGs and countries are represented. Moreover, the result of the final vote in the EMPL committee reflects that of the plenary. Secondly, press materials, position papers, and non-official internal documents were examined to check the consistency of the analysis based on RCV and amendments<sup>35</sup>. Finally, seven interviews were conducted with key informants (rapporteurs and shadow-rapporteurs' assistants and an EPG policy advisor) to validate the interpretation of text and discourse analysis.

The next two sections present and discuss the results of the empirical research.

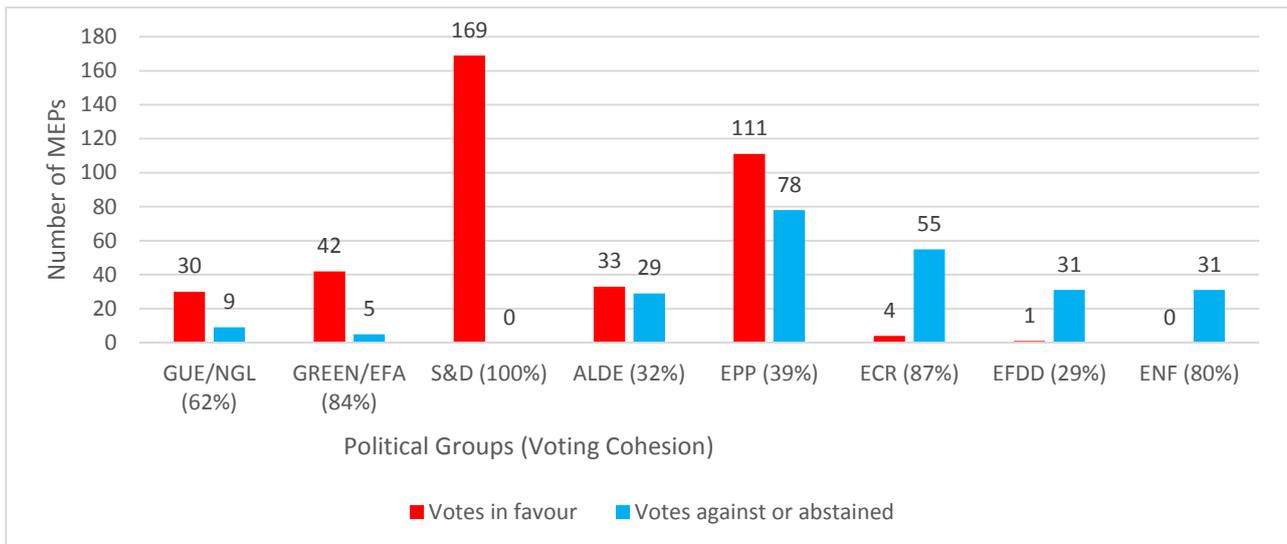
### 3.3 The roll call vote on the Social Pillar resolution

On 19 January 2017, the European Parliament voted the resolution on the EPSR, which passed with 396 votes in favour (289 votes required to pass), 180 votes against and 68 abstentions. A rather unusual coalition was officially built among the major EPGs in support of the final resolution, since it ranged from the far-left (GUE-NGL) to the centre-right (ALDE and EPP) of the political spectrum.

Figure 1. Distribution of the vote on Social Pillar by European Political Groups and internal cohesion.

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<sup>35</sup> During the period of parliamentary debate on the Social Pillar, I had complete access to email exchanges within the S&D group and near-complete access to the negotiations' papers. I have been also personally involved in the working group on the Social Pillar, led by MEP Maria João Rodrigues.



Source: Our elaboration from European Parliament Minutes of Proceedings Result RCV (European Parliament, 2017a) To calculate internal cohesion, we rely on Agreement Index, retrieved from votewatch.eu.

Figure 1 shows the vote on the EP resolution on the Social Pillar. This result can be interpreted by looking at the first two hypotheses (H1 and H2), which correspond to the most traditional lines of conflict within the European Parliament.

Almost all the MEPs who voted against the EP resolution or abstained belong to the five right-wing political groups (ENF, EFDD, ECR, EPP, ALDE), while almost all left-wing MEPs (GUE/NGL, Greens/EFA, S&D) were in favour of the resolution. Therefore, at first glance, MEPs' positioning seems to confirm the existence of a division between centre-left groups that support more EU integration in employment and social policies and centre-right groups that oppose further market-correcting regulations. However, the "left versus right" hypothesis does not explain the peculiar position taken by ALDE and EPP. In fact, despite the political agreement to vote together with the S&D<sup>36</sup>, liberals and Christian-Democrats split into two sub-groups (one in favour of and the other against the resolution). Similarly, also the nine rebel votes (four against and five abstentions) of the GUE/NGL and the five abstentions within the Greens/EFA group cannot be explained

Moving to the second hypothesis, the "pro versus against European integration" tension emerged in the final vote on the EPSR resolution. Eurosceptic EPGs, like ENF, EFDD and ECR, were among the main opponents to the Social Pillar. They explicitly motivated their votes with the intention to reject any kind of supranational action in the area of social policy, which according to their views should remain firmly under the full control of Member States. As stated by the ECR shadow rapporteur, Arne Gericke, during the debate in Plenary, social policies belong to the Member States and the European Union should limit to help Member States, "instead of constantly wasting time with new super projects. Europe has already a well-functioning welfare system, more bearable

<sup>36</sup> This agreement was confirmed by our interviews and some internal documents.

than any new Social Pillar” (European Parliament, 2017b). Similarly, the ENF shadow rapporteur, Dominique Martin, labelled the Social Pillar as a mere “propaganda exercise designed to depict the EU as the only solution to problems facing ordinary Europeans, [while its real goal consists of imposing] European dominance regarding social protection in each Member State” (European Parliament, 2017b). In this respect, the ENF prepared a minority opinion<sup>37</sup> on the Social Pillar in which the first article reads as follows: “The ENF Group distances itself from the work carried out by the other political groups on this report, which it regards as a flagrant attack on the sovereignty of the Member States and an example of unjustified interference in their internal affairs” (European Parliament, 2017a).

However, although the left-right well predicts the voting behaviour of right-wing Eurosceptic groups, it does not hold for the GUE/NGL group. The latter, in fact, despite being traditionally counted among Eurosceptic political forces (Bakker et al., 2015; Hooghe, Marks and Wilson, 2002), largely voted in favour. Finally, the opposition of significant shares of the ALDE and EPP MEPs cannot be understood in the light of our second hypothesis.

To recapitulate, although a left-right divide and a conflict between national social sovereignty and further EU integration seems to emerge, these tensions leave part of the RCV on the Social Pillar report unexplained. In particular, the position of some MEPs belonging to the EPP and ALDE groups appears puzzling and requires further interpretations<sup>38</sup>.

This remark is confirmed by a simulation of the outcomes of the RCV that would have happened, if some political divides were applied (Table 7). The aim of this counterfactual exercise was to show the limits of explanations based on one-dimensional political space; the units of analysis in this case were not the EP groups, but the national delegations within the EPGs.

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<sup>37</sup> A minority opinion is an opinion on a parliament report prepared by a minority group of MEPs which belongs to a parliamentary group and do not share the report prepared in the committee.

<sup>38</sup> With respect to the rebel votes within the GUE/NGL and Green/EFA groups, they can be explained as follows. In the case of the GUE/NGL, one of the interviewees explained the votes against or abstentions by referring to the eurosceptic attitude of a minority group of MEPs: “You do not have to be surprised about the vote against the EPSR of these MEPs. They are against the EU tout court, but this is not the position of the GUE/NGL. Some years ago, the GUE/NGL was against the EU integration process, but now the situation has changed. However, some MEPs still remain eurosceptic. We have even two different mailing list. However, the majority of the GUE/NGL and the official line of the group is pro-European and in favour of a stronger Social Europe” (EP7). In the case of the Green groups, MEPs who abstained belong to the Swedish delegation. The reason for this abstention is well explained in the written explanation of the vote by MEP Max Andersson on behalf of his party delegation (Miljöpartiet de gröna): “We welcome the Commission and Parliament taking initiatives to strengthen people's social rights. It is positive that social issues and employment issues are given a greater role within the EU and better cooperation on these issues is needed. But on the basis of the principle of subsidiarity and the distribution of powers between the EU and the Member States, it is important not to interfere with the issues to be decided at national level. The proposal contains both good and bad parts. We want to safeguard the Swedish labour market model on wage setting and the national decision-making power over social issues and labour market issues, and that is why we have chosen to abstain in the final vote”. (Available here: [http://www.europarl.europa.eu/meps/en/124994/MAX\\_ANDERSSON/all-activities/written-explanations/8](http://www.europarl.europa.eu/meps/en/124994/MAX_ANDERSSON/all-activities/written-explanations/8)).

The simulation replicated four potential voting scenarios: the "left versus right", the "pro versus against European integration", the "GAL versus TAN" and the "regulators versus liberals" divides. The predicted voting behaviour was compared to the actual result of the RCV on the EP resolution. To run these simulations, we relied on the 2014 Chapel Hill Expert Survey (CHES), which provides data on the positioning of 268 parties on political ideology, European integration and policy positions in 31 countries, including all EU Member States (Bakker et al., 2015)<sup>39</sup>. For the purposes of this study, a new dataset of the 644 MEPs who voted on the EPSR resolution was created, and then we simulated the hypothetical outcomes on the EPSR resolution that would have resulted, taking into account the traditional literature's lines of conflict within the EP. While comparing the four scenarios, different levels of ability to predict the actual votes emerged.

Table 7. Voting scenarios and real EP votes on the Social Pillar.

Scenarios	In favour	Against	«Vote gap» between hypothetical scenarios and real results	Total votes
LEFT vs RIGHT	281	361	115	642
PRO vs ANTI EU	479	163	85	642
GAL vs TAN	331	311	65	642
REGULATORS vs LIBERALS	334	308	62	642
Results of the vote in the EP Plenary	396	248*	0	644 <sup>†</sup>

(\*) Abstentions counted together with vote against the EP resolution.

(†) Since two voting MEPs belong neither to an EP party group nor to a national delegation, we were not able to reconstruct their position. Therefore, the sum of the simulated models is 642 and not 644.

Source: Vesan and Corti 2019a.

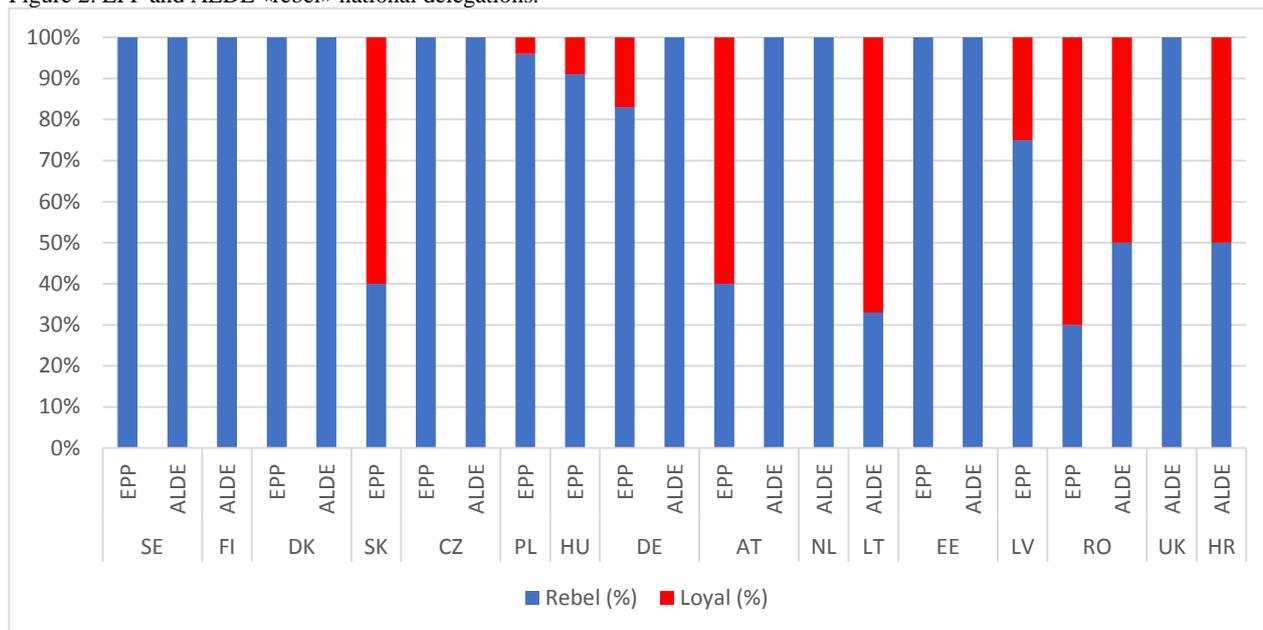
As Table 7 shows, if we consider single-dimensional divides separately, it is possible to observe a vote gap between the hypothetical scenario and the actual results. This is especially evident for two hypotheses, the "left versus right" and the "pro versus against EU integration" divides. However, also the "GAL versus TAN" and "regulators versus liberals" lines of conflict fail to predict the MEPs' voting behaviour. In fact, although their ability to predict the overall voting behaviour

<sup>39</sup> The CHES considers the positions of experts on four key dimensions of the conflict within the EP: European integration, general left/right, economic left/right (regulators versus liberals), and GAL/TAN. In more detail, we associated the pro-European integration, left wing, regulator and GAL positions with a vote in favour of the EP resolution, while we counted anti-European integration, right wing, liberal and TAN positions as potential opponents of the resolution (Bakker et al., 2015).

seems to be relatively high, neither of them accounts for the "rebel" voting attitude of a significant share of the MEPs belonging to EPP and ALDE<sup>40</sup>.

Therefore, the position adopted by Christian-Democrat and liberal MEPs remains the most puzzling aspect of the EP debate on the Social Pillar. To account for this outcome, we look at the territorial distribution of votes by focusing on ALDE and EPP national delegations that voted against the line backed by their group (Fig. 2).

Figure 2. EPP and ALDE «rebel» national delegations.



Source: Our elaboration from European Parliament Minutes of Proceedings Result RCV (European Parliament, 2017a)<sup>41</sup>

Figure 2 shows that it is possible to identify three groups of "rebel" MEPs belonging to the ALDE and EPP: the Northern national delegations (DE, NL, DK, SE and FI), the Visegrad delegations (PL, CZ, HU and SK) and the Baltic delegations (EE, LT and LV). While considering these votes in relative terms, the high significance of the territorial divides emerges even more clearly: 100% of the Czech, Danish, Estonian and Swedish ALDE and EPP deputies and 100% of the Dutch, German, British, Austrian and Finnish ALDE deputies did not follow the main political line of their groups (i.e., a positive vote for the EP resolution on the EPSR). Similarly, 83% of German, 96% of Polish, 91% of Hungarian and 75% of Latvian deputies belonging to EPP voted against the Social Pillar or abstained.

<sup>40</sup> If we rely on the Chapel Hill Expert Survey to distinguish between "GAL-TAN" and "regulator-liberal" parties, the actual voting behaviours of "rebel" MEPs belonging to the ALDE and EPP groups do not correspond to what these two divides would predict.

<sup>41</sup> The following national delegations were not present in the EP 8th legislature: HU-ALDE, PL-ALDE, UK-EPP, SK-ALDE.

Therefore, almost all the Christian-Democrat and liberal MEPs from Northern and Eastern European countries opposed the parliamentary proposal for a Social Pillar either voting against or abstaining, despite the agreement between their groups and the S&D rapporteur and even though the new initiative was supported by President Juncker (himself belonging to the European People's Party). By contrast, Italian, French, Spanish, Portuguese, Greece, Maltese and Cypriot EPP and ALDE delegations voted in favour of the resolution, together with S&D deputies<sup>42</sup>.

To summarise, according to the analysis of the RCV on EP resolution, hypotheses H1 and H2 seem only partially confirmed and cannot account for the position held by a significant number of liberal and Christian-Democrat MEPS. If we look at the distribution of votes among ALDE and EPP national delegations, the results move in the direction of Ferrera's "clash syndrome", in particular with respect to the "creditor versus debtor Member States" conflict (H3) and the "high-wage/high welfare versus low wage/low welfare countries" divide (H4). To corroborate our interpretation, the next section presents the results of a qualitative study of the parliamentary debate.

### 3.4 An in-depth analysis of the EP political debate on the Social Pillar

The qualitative study of the EP's debate on the Social Pillar was based on the analysis of the 1119 amendments tabled in the EMPL Committee, along with internal documents and interviews with key-informants. Firstly, each amendment was categorised on the basis of the political and national belonging of the MEP(s) who tabled it. Secondly, the amendments were classified by looking at how they proposed to change the original draft resolution. In details, we distinguished the amendments in favour of the rapporteur's proposal (i.e. introducing only minor changes or adding parts that reinforce the original text) and those against (i.e. delating the original paragraph or changing some parts to weaken its original meaning).

The first finding that emerges is that, regardless of the origin of the MEP, almost all S&D, GUE/NGL and Greens/EFA amendments either strengthened or approved the text of the draft resolution<sup>43</sup>, while all ENF and ECR amendments rejected the draft proposals. On the contrary, the amendments tabled by EPP and ALDE MEPs showed a more complex pattern, which confirms what had already emerged in the previous analysis of the RCV, namely the existence of a divide between Northern and Southern and Eastern and Western ALDE and EPP delegations. Notably, such divide occurred in 11 paragraphs (out of 36) of the draft resolution. Having identified these paragraphs, we control whether their underlying tensions expressed through the amendments are consistent with our

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<sup>42</sup> The same voting behaviour was confirmed by the RCV on the report in EMPL Committee.

<sup>43</sup> The only exception is represented by one amendment tabled by Swedish S&D MEPs on the proposal to establish a EUBS. As regard the GUE/NGL, MEP João Pimenta Lopes, who belongs to the eurosceptic Portuguese Communist Party tabled amendments against any further EU measure proposed by the rapporteur.

theoretical expectations, that is the existence of conflicts on cross-national redistribution and fiscal discipline divide (H3), and on issues of free movement and access to domestic welfare for other EU nationals (H4). Table 8 shows the final result of this analysis.

Table 8 Amendments tabled by EPP and ALDE MEPs on creditor-debtor and low-welfare vs high-welfare divides (number of amendments in bracket).

Main Topic (draft resolution paragraph)	Main divides	
	Pro a more solidaristic EU intervention	Against more solidaristic EU intervention
Rebalancing the European Semester (§ 27)	ES-ALDE (933-946); PT-EPP (940-945); PL-EPP (937-881); IE-ALDE (891-894)	DE-EPP (931-932) BE-EPP (929)
Introduction of a Silver Rule on social investment (§ 28)	No amendment tabled	DE-EPP (849-850-955); PL-EPP (952); BE-EPP (953); ES-ALDE (954)
Raising of the MFF 2014-20 ceilings (§ 30 intro)	ES-IE-ALDE (991)	NL-EPP (989); DK-ALDE (988-995)
Strengthening of the Youth Employment Initiative (§ 30 point a + §21)	IE-ALDE (733); SI-EPP (735)	DK-ALDE (988)
Increase of ESF, EGF and FEAD (§ 30-point b)	PL-EPP (1004)	NL-EPP (1002); DK-ALDE (1000)
Implementation of a Child Guarantee (§ 30-point c + § 15)	ES-ALDE (589-1013); PT-EPP (592); RO-ALDE (590); HU-EPP (601); PL-EPP (593-594)	DE-EPP (595-596-1015-1016); DK-ALDE (1012); NL-EPP (1008); BE-EPP (591-1011)
Support for a Skills Guarantee (§18)	FR-EPP (662); PL-EPP (656); RO-EPP (658); SI-ALDE (663); IE-ALDE (664); AT-EPP (661)	DE-EPP (653-654-655)
Refocus EFSI on social investment (§ 31)	PT-EPP (1027); SI-EPP (1025); RO-EPP (1023); PL-EPP (1028); IE-ALDE (1029)	NL-EPP (1024); DK-ALDE (1026); BE-EPP (1022)
New financial instruments: Fund for renewed structural convergence (§ 32 intro + point a)	ES-ALDE (1047-1059); PT-EPP (1058)	DE-EPP (1038-1039-1046-1049-1050); DK-DE-ALDE (1055); NL-EPP (1037); BE-EPP (1041-1053); PL-EPP (1044-1052)
	Pro higher social standards	Against higher social standards
Wages upward convergence (§ 5)	DE-EPP (361-362-363-373); BE-EPP (375-377); ES-EPP-ALDE (364-358); NL-EPP (371); IE-ALDE (367)	RO-ALDE (356); PL-EPP (365) SI-EPP (368); RO-EPP (369); PL-EPP (379)
Labour mobility should be a right but not at the expense of poor workers (§ 24)	BE-EPP (803); ES-EPP (805-807) FR-EPP (814); RO-ALDE (809)	RO-EPP (801-806); CZ-ALDE (802); PL-EPP (804); HU-EPP (812); DE-EPP (808)

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Source: Our elaboration from amendments tabled in EMPL Committee on Rodrigues' draft resolution on EPSR.

The first finding that emerges from table 8 is that the amendments tabled by ALDE and EPP MEPs from creditor countries show a clear positioning against proposals regarding cross-national economic redistribution and the weakening of fiscal discipline. By contrast, liberal and Christian-Democrat MEPs from debtor countries either strengthen or support the proposals contained in the draft resolution.

For example, the role of the European Semester and the possibility of its further "socialization" (Zeitlin and Vanhercke 2018) was among the issues discussed during debates on MEP Rodrigues' draft report. The proposal of the S&D rapporteur explicitly called for a rebalancing of the European Semester "so that the existing scoreboard of key employment and social indicators and the new Convergence Code are directly taken into account in formulating CSRs and the euro area recommendation as well as for the activation of EU instruments" and considered "macro-social surveillance to be of great importance for avoiding that economic imbalances are reduced at the expense of worsening the employment and social situation" (§ 26). This proposal was fully supported by the whole Greens/EFA group (AM 941) and the S&D group, which also called for "a European agenda of structural reforms and investments aiming to strengthen growth potential based on quality jobs and productivity, to promote fair, robust, efficient and fiscally sustainable welfare systems, and to foster a sustainable transition of Member States' economies towards greater resource efficiency" (AM 938). By contrast, the ALDE and EPP delegations split. On the one hand, MEP Enrique Calvet Chambon, ALDE Spanish shadow rapporteur, welcomed MEP Rodrigues's proposal for a "social rebalancing" of the European Semester (AM 933) and MEP Sofia Ribeiro, a Portuguese EPP deputy, went even further and called "for a social imbalances procedure to be introduced that will prevent a race to the bottom in terms of social standards in the EU" (AM 940). In this respect, the Portuguese MEP co-signed an amendment together with three S&D MEPs proposign a "Social Imbalances procedure to be introduced in the European Semester process, which must prevent the deterioration of social and labour standards in the EU and must boost upwards social convergence" (AM 945). By contrast, the Belgian and German EPP deputies simply acknowledged the existence of "a link between social and economic aspects" (AM 931, 932, 934), but they strongly opposed the need for rebalancing the EU semester towards social concerns, thus maintaining the the aim of the Semester should be the surveillance of Member States macroeconomic performance. Similar tensions emerged with respect to the proposed targets for the new Convergence Code aimed at guiding the coordination of economic, employment and social policies in the EU through the introduction of a new set of targets for upward social convergence and new indicators.

Another issue on which the EPP and ALDE deputies split was the S&D rapporteur's proposal for a fiscal capacity for the Eurozone and in particular the establishment of a “fund for renewed structural convergence, supporting the implementation of socially just reforms and investments that are necessary for increasing the growth potential of crisisaffected areas and restoring upward social convergence” (European Parliament 2016g, §32). Such proposal was rejected by all EPP and ALDE MEPs, who proposed to delete the text. For instance, German EPP MEP, Sven Schulze, considered that European Structural and Investment Funds and Country Specific Recommendations are enough to tackle dynamics of economic adjustment within the Euro area (AM 1046). On the contrary, the text proposed by the rapporteur was welcomed by both the spanish ALDE rapporteur Enrique Chambon and the portuguese EPP MEP, Sofia Ribeiro.

Finally, a third example concerns the rapporteur proposal for a “silver rule on social investment to be applied when implementing the Stability and Growth Pact, namely to consider certain public social investments having a clear positive impact on economic growth (e.g. childcare or education and training) as being eligible for favourable treatment when assessing government deficits and compliance with the 1/20 debt rule” (§28). While, the S&D group (AM 959, 962, 963), the Greens/EFA group (AM 960) and the GUE/NGL (AM 961) were united in favour of the rapporteur’s proposal, the ALDE and EPP split with the “Nothern delegations” that tabled a series of amendments against such proposal (AM 949, 950, 953, 955), arguing that public social investments “should not serve as a justification for a higher government deficit and for circumventing the 1/20 debt rule” (AM 955).

Against this backdrop, it is possible to find evidence of the emergence of the "creditor versus debtor countries" divide in the parliamentary debate. This divide has also had an impact on the final outcomes. The comparison of the text adopted in the EMPL Committee and the Plenary with MEP Rodrigues' draft proposal reveals that some parts related to issues of cross-national distribution and expansive EU fiscal policies were either nuanced or deleted. This confirms that the tension between creditors and debtors not only marked the parliamentary debate, but it also partially affected the final position of the European Parliament.

Moving to the potential clash between old Member States and new Member States, this line of conflict heightened the issue of free movement and social dumping. In this case, the Social Pillar could be considered a chance to set common standards and face practices of unfair competition. Actually, this type of conflict emerged in two paragraphs of the resolution: "fair mobility" (§24) and "adequate and sustainable working conditions" (§5). If we look at paragraph 5, the rapporteur proposed the following text: “Emphasises the need for renewed upward convergence in wages throughout the EU; calls on the Commission to actively support a wider coverage for collective

bargaining; considers that to ensure decent living wages, minimum wages set at a decent level are necessary; recommends the establishment of national wage floors through legislation or collective bargaining, with the objective of attaining at least 60 % of the respective national average wage” (§5). Against this proposal, the Eastern EPP and ALDE MEPs emphasised the importance of the free movement of workers as one of the greatest achievements of the European Union and a cornerstone of the internal market. Nevertheless, they invoked national prerogatives on social policies with the intention of rejecting the first part of the proposal, that concerning "upward wage convergence" in the EU. The scepticism of ALDE and EPP MEPs from Eastern countries is well summarized by the written declaration of Adam Szejnfeld (EPP-PL):

*I am afraid that the Commission's initiative, despite its high profile, could in practice lead to a violation or even allow the EU Member States to limit the fundamental freedoms for workers within the single market: the movement of workers and the provision of services. Such actions, already conducted under the pretext of fighting the so-called "dumping", are completely incompatible with the idea, principles and rules laid down for the creation of a single market. (European Parliament, 2017b)*

Clearly, Central and Eastern European national delegations belonging to EPP and ALDE groups stood in opposition to the ones of their Western popular and liberal colleagues, who asked for a stricter regulative approach and for renewed upward wage convergence to avoid alleged problems of social dumping and the negative externalities on the stability of the host countries' social standards<sup>44</sup>.

A second example where the division between eastern and western MEPs within the EPP and ALDE emerges is paragraph 24, and especially the sentence stressing that labour mobility “should not be forced on workers by poor conditions in their home regions, and should not undermine host countries' social standard”. Despite the generale statement, which lacks of any specific proposal, MEPs amend the rapporteur's text differently. On the one hand, western MEPs highlighted the importance of avoiding that labour mobility hampers labour standards. For instance, French EPP MEP, Anne Sander stressed that labour mobility “should in no case undermine host countries' social standards due to fraud or social dumping” and urged “the Member States to transpose and apply without delay implementing Directive 2014/67/EU in order to effectively combat unacceptable cases of fraud in respect of posting, but also cases where the law is being circumvented, which harm both

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<sup>44</sup> A notable exception, however, is represented by Sven Schulze (DE-EPP MEP), who tabled an amendment against the rapporteur's proposal to regulate free movement in order to prevent undermining 'host countries' social standards.

companies' and employees' interests" (AM 814). Similarly, Spanish EPP MEP, Francis Gambús, highlighted that labour mobility "is an opportunity and a right whose exercise must be supported without undermining any of the social standards of the host countries or the EU itself" (AM 807). On the contrary, Eastern EPP and ALDE MEPs stressed the value of labour mobility but delated the part of the text referred to the importance not to undermine host Member States' social standard. For instance, Hungarian EPP MEP, Csaba Sógor, modified the paragraph 24 as follows: "Emphasises that free movement of workers within the EU is one of the greatest achievements of the European Union and a cornerstone of the internal market, bringing prosperity to all regions of the Union, and it should be upheld and protected in the future" (AM 801). Similarly, Czech ALDE MEP, Martina Dlabajová, proposed the following text: "Emphasises that labour mobility within the EU, non-discrimination and freedom of movement is a cornerstone for a well-functioning internal market, mobility should be encourage and support by the European Commission and Member States" (AM 802).

Some evidence of the "low versus high welfare and wage systems" tension can, therefore, be observed in the debate within the EMPL Committee, albeit with reference to a limited number of amendments. Furthermore, such a divide did not lead to change in the draft resolution since the original call for "upward wage convergence in the EU" was maintained as well as the reference to the social standards in the host Member States.

To sum up, the qualitative analysis of the debates within the EMPL Committee confirms the existence of new tensions between creditor and debtor MEPs and, though to a lesser extent, of intra-EU "system competition" between high-wage/welfare versus low-wage/welfare Member States. Such divides help to explain the deviant voting behaviour of some national delegations of ALDE and EPP MEPs. The presence of these tensions in the debates on the Social Pillar does not mean, however, that all the political confrontations on EU social policy can be explained by these new divides. Indeed, as observed above, other conflict dynamics emerged from the RCV, which are also confirmed by the analysis of the amendments tabled in the EMPL committee.

More in detail, a clear tension over the issue of national social sovereignty and EU conditionality emerged in all amendments tabled by eurosceptic parliamentary groups. Notably, the ENF rapporteur, Joëlle Mélin, proposed to completely delate the drafted resolution. Similarly, the ERC rapporteur, Arne Gericke, tabled all amendemnts against the proposals contained in the Rodrigues' draft report. At the same time a clear left versus right divide characterize also the EMPL debate. This emerges, for instance, on issues such as the proposal to introduce a common European framework for minimum income schemes, which was delated by all amendmetns tabled by EPP and ALDE MEPs. In this respect, the EPP shadow rapporteur, Tom Vandenkendelaere, in an internal document sent to the S&D rapporteur explicitly rejected the proposal and stated: "The introduction

of a European framework for minimum income schemes is a RED LINE<sup>45</sup>”. A second issue on which a clear left-right divide emerged is on the proposal to establish a European Unemployment insurance scheme. Here the amendments against the Rodrigues’ proposal were tabled by ALDE and EPP MEPs from creditor countries, while no amendment was tabled by EPP and ALDE southern delegations in favour of the proposal. However, in an internal document sent by the EPP shadow rapporteur to MEP Rodrigues, the former stressed that the proposal for an European Unemployment Benefit Scheme (EUBS) was not acceptable for the entire EPP group: “Setting out minimum standards for national unemployment insurance schemes AND a European unemployment insurance scheme are both RED LINES<sup>46</sup>”. On the contrary the proposal was supported by left-wing MEPs (S&D, Greens/EFA and GUE/NGL)<sup>47</sup>. For instance, a joint amendments co-signed by Maria João Rodrigues, the Spanish MEP, Sergio Gutiérrez Prieto, the Lithuanian MEP, Vilija Blinkevičiūtė, the Italian MEPs, Brando Benifei and Elena Gentile, the Belgian MEP, Maria Arena, the German MEP, Joachim Schuster, the Dutch MEP, Agnes Jongerius, and the Romanian MEP, Emilian Pavel, described in detail the kind of European re-insurance scheme to be implemented. Notably, it specifies that “this scheme should be equipped with relevant safeguards against lasting transfers or unintended weakening of existing national schemes; in particular, it should be complementary to national schemes without replacing them, it should provide only short-term support related only to cyclical unemployment and/or reduction of working hours due to a cyclical downturn, and it should be financed from general tax revenue as opposed to social insurance contributions; the scheme should be strongly linked to re-training measures and underpinned by minimum standards regarding the coverage of national schemes, activation requirements and the quality of job-search support provided to unemployed people” (AM 1076). Two other relevant amendments in favour of a European Unemployment re-insurance scheme was tabled by Austrian S&D MEP, Evelyn Regner (AM 1075) and Finnish S&D MEP Miapetra Kumpula-Natri (AM 1073).

Finally, a third example where a clear left-right divide emerges is on the nature of the Social Pillar itself. The proposal of the S&D rapporteur was that the EPSR should be adopted as a “binding agreement between the European Parliament and the European Council, involving social partners at the highest level, and should contain a clear roadmap for implementation, with concrete commitments and target dates” (§35). In this case, while all the amendments tabled by left-wing EPG were in favour of a binding agreement and the establishment of a roadmap, right-wing EPG tabled all amendments delating the reference to ‘binding’ agreement and to ‘concrete commitments and target dates’.

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<sup>45</sup> Capital letters are in the original document.

<sup>46</sup> Capital letters are in the original document.

<sup>47</sup> The only exception is represented by one amendment (AM 1069) tabled by a Swedish MEP (Marita Ulvskog) and one Danish MEP (Ole Christensen), who proposed to delete the proposal for a EUBS.

According to the EPP, in fact, the Social Pillar should be a political declaration but not a binding agreement. Table 9 summarizes all the main topic, on which a left-right divide emerged in the EMPL debate.

Table 9 Issues on which a left-right divide emerged from the amendments tabled by all MEPs (number of amendments in bracket).

Main Topic (draft resolution paragraph)	Market-correcting	Market-correcting
Introduce a European framework for minimum income (§ 12)	Greens/EFA (544); PT-ES-LT-IT-BG-NL-DE-RO-BE-UK-S&D (545); DE-GUE/NGL (546); BG-S&D (547); PT-EPP (548); PT-GUE/NGL (549); EL-GUE/NGL (550); SE-S&D (551);	DE-EPP (524, 533, 538); NL-EPP (525); FR-ENF (526); ES-EPP (527); BE-EPP(528); HU-EPP (529, 539); RO-ALDE (530); DK-ALDE (531); DE-ECR (532, 537); IE-EPP (534); FR-EPP (535); ES-ALDE (536); IE-ALDE (540); PL-EPP (541, 542)
New legislature measures on work life balance and revision Directive 2006/54/EC (§ 22)	Greens/EFA (761); SI-EPP (767)	ENF (748, 755); DK-CZ-DE-ALDE (749, 758); NL-EPP (750, 762); PL-EPP (751, 759, 760); DE-ECR (752, 757); DE-EPP (756, 763); HU-EPP (764); BE-EPP (765)
Increase general tax revenue to co-finance social insurance schemes (§29)	PT-ES-LT-IT-BE-BG-DE-NL-RO-UK-S&D (977); Greens/EFA (978); EL-GUE/NGL (979); DE-GUE/NGL (980); BG-S&D (981);	ENF (967); DE-EPP (968, 972); DK-CZ-DE-ALDE (969), ECR (970); PL-EPP (971); BE-EPP (975), FR-EPP (976); IE-EPP (976)
European Unemployment Insurance Scheme (§ 32-point b)	FI-S&D (1073); AT-S&D (1075); PT-ES-LT-IT-BE--DE-NL-RO-S&D (977); Greens/EFA (1077)	DE-EPP (1062-1063); DK-CZ-DE-ALDE (1067); BE-EPP (1070); PL-EPP (1068); FR-EPP (1064); ENF (1065); ECR (1066); ECR (1071); SE-DK-S&D (1069);
Integrate EUBS and fund for renewed convergence in the MFF post-2020 (§33)	PT-ES-LT-IT-BE-BG-DE-NL-RO S&D (1090)	NL-EPP (1079); DE-EPP (1080, 1081); ENF (1082); PL-EPP (1083); ECR (1084, 1086); DE-ECR (1085); IE-ALDE (1087); PT-EPP (1088)
EPSR as a binding agreement between EP and Council (§ 35)	ES-S&D (1111); HU-Greens/EFA (1113); SE-S&D (1114, 1115); NL-S&D (1116); UK-Greens/EFA (1117); PT-ES-LT-IT-BE-BG-DE-NL-RO-UK-S&D (AM 1118)	PL-EPP (110); DK-CZ-DE-ALDE (1105); BE-EPP (1106); DE-EPP (1107, 1108); DE-ECR (1109); ES-IE-ALDE (1110)

Source: Own elaboration from amendments tabled in EMPL Committee on Rodrigues' draft resolution on EPSR

To sum, a clear left-right divide is confirmed also in the analysis of the amendments. In this respect, it is worth stressing that, contrary to the issues on which a creditor-debtor or low-welfare vs high-welfare divides emerged, in the cases where a left-right divide occurred, the rapporteur's

proposal was either watered down or delayed. Indeed, the right-wing majority in the EP, which includes the votes of the extreme right eurosceptic groups, was enough to block any proposal. This element, however further strengthened the importance to look at other (territorial) divides to understand the complexity of the political debate and how some policy proposals (e.g. Child Guarantee, Skills Guarantee, Convergence Code etc.), despite the opposition of large part of the right-wing groups, were nonetheless approved.

### 3.5 Conclusions

This chapter has proposed an in-depth analysis of the European Parliament debate on the European Pillar of Social Rights. Such an analysis reveals the main conflicts that have emerged and shows that the European social policy arena is not characterised by a single predominant divide. By contrast, a complex clash syndrome, namely an overlapping of multiple tensions, seems to characterize the political debate over social integration in the European Parliament. In particular, four main findings can be highlighted:

1. Traditional lines of conflict, like the "left versus right" and the "pro-versus against (further) European integration" divides, are still important, but leave part of RCV on the Social Pillar unexplained;
2. Two new tensions - the "creditor versus debtor countries" and "high-wage/high-welfare" versus "low-wage/low-welfare" Member States - emerged from the analysis of RCV and from the qualitative study of amendments, internal documents and interviews;
3. These new divides explain the low internal cohesion of ALDE and EPP groups. By contrast, other EP groups voted massively (pro or against the resolution). Notably, the left-wing groups are highly cohesive in supporting further EU integration in the field of social and employment policy, included the creation of cross-national redistribution mechanisms and allowing more fiscal flexibility for social investments.
4. The overlapping of multiple lines of conflict facilitates the opening of possibility spaces for further progress in the adoption of policy proposals, while the reduction of the conflict dimensionality hampers the possibility to find compromise between political forces.

Overall, these findings provide empirical evidence of our initial hypotheses and to the clash syndrome theory on the coexistence of multiple political tensions between the institutional foundations of national welfare states and the European integration process. The way these tensions overlap has several consequences for the future of European integration in the field of social and

employment policy. In this respect, the creditor-debtor and the intra-EU "system competition" divides do not simply have a functional connotation; they also have a territorial nature. This aspect suggests that the politics of European social policy, at least in the European Parliament, can be characterised by the layering between reinvigorated old forms of "vertical Euroscepticism", which are motivated by the EU's interference in national economies, industrial relations and social policy, and new forms of "horizontal Euroscepticism" (Bardi, 2014). The latter refers to mutual mistrust and resentment of political actors from one Member State towards one or more selected Member States in relation to issues that have consequences on the functioning of the EU. The potential overlapping of horizontal and vertical lines of conflict does not simply make the possibility of reaching agreements more complicated, but – as observed - it could also pave the way to the emergence of new political coalitions through the "criss-crossing" (Lipset and Rokkan, 1967) of the multiple lines of tensions.

In conclusion, the key message of this chapter is that to understand the increasing political contestation provoked by the EU's social and employment policies, it is important to focus on which combination of different fractures will emerge since, as suggested by the cleavage theory, political fractures often tend to overlap, rather than replace, each other. In this respect, this chapter provides empirical evidence on the emergence of new conflict constellations in the European Parliament that may hamper the development and implementation of the comprehensive agenda foreseen by the European Pillar of Social Rights. This conflict constellation rotates around multiple issues that refer not simply to the *content* of social policy (more or less interventionist approach to promote social rights), but also to the *locus* of authority (national versus supranational sphere) and the *boundaries* of responsibilities (who should carry the burden and for what?) and varies significantly depending on the *issue* under debate (e.g. labour mobility, financial instruments etc.) and the *actors* involved (e.g. left-wing MEPs, Eurosceptic MEPs etc.).

In the following chapters (numbered 4 and 5), we will analyse in detail two initiatives, the revision of the posting of workers directive and the proposal to introduce a European Unemployment Benefit Scheme. The objective is to trace the political debate around these two initiatives that have been debated in the framework of the European Pillar of Social Rights, with the aim to understand, firstly, whether the same conflict dynamics observed in the parliamentary debate on the Social Pillar emerge also in these case studies, and, secondly, to investigate whether and how the conflict configuration varies depending on the actors involved (e.g. MEPs, national Ministers, social partners) and the arena where the political confrontation takes place (e.g. the Parliament, the Council).

### 3.6 Key players, key events and technical information

#### Key players

##### *European Parliament*

Committee responsible: Employment and Social Affairs

Rapporteur: S&D RODRIGUES Maria João (appointed 03/05/2016)

Shadow rapporteurs: EPP Vandenkendelaere Tom, ECR Gericke Arne, ALDE Calvet Chambon Enrique, GUE/NGL Zimmer Gabriele, Greens/EFA Meszerics Tamás, EFDD Agea Laura, ENF Mélin Joëlle

Committee for opinion: Women's Rights and Gender Equality

##### *European Commission*

DG Employment, Social Affairs and Inclusion

#### Key events

08/03/2016: Non-legislative basic document published (see European Commission 2016c)

13/09/2016: Presentation of the draft report on the EPSR by MEP Rodrigues (see European Parliament 2016g)

18/10/2016: Deadline for presentation of the amendments to the draft proposal (see European Parliament 2016h, 2016i, 2016j)

08/12/2012: Vote in committee, 1st reading/single reading

20//12/2012: Committee report tabled for plenary, single reading (see European Parliament 2016k)

19/01/2017: Debate in Parliament (see European Parliament 2017a, 2017b)), decision by Parliament, 1st reading/single reading, text adopted (see European Parliament 2017c)

#### Technical information

Procedure reference: 2016/2095(INI)

Procedure type: INI - Own-initiative procedure

Procedure subtype: Initiative

Legal basis: Rules of Procedure EP 54

Stage reached in procedure: Procedure completed

Committee dossier: EMPL/8/06338

#### Summary of the conflict constellations

Table 10 Summary of the conflict dynamics over the EP report on the Social Pillar (rules, issues, arena, actors)

<b>Rules</b>	<b>European Parliament</b>
	Simple Majority
<b>Issues</b>	<b>Main divides</b>
European framework for minimum income	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty
New legislature measures on work life balance	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty
European Unemployment Insurance Scheme	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty
EPSR as a binding agreement	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty

between EP and Council					
Rebalancing the European Semester	<ul style="list-style-type: none"> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
Introduction of a Silver Rule on social investment	<ul style="list-style-type: none"> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
Introduction of a Child Guarantee	<ul style="list-style-type: none"> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
Increase MFF allocation for EU social programs	<ul style="list-style-type: none"> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
Wages upward convergence	<ul style="list-style-type: none"> <li>- Intra-EU “system competition” High-wage/high welfare MS vs low-wage/low welfare MS (“old vs new” Member States or “West vs East”)</li> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
Labour cost as competitive factor	<ul style="list-style-type: none"> <li>- Intra-EU “system competition” High-wage/high welfare MS vs low-wage/low welfare MS (“old vs new” Member States or “West vs East”)</li> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
European framework for minimum income	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
New legislature measures on work life balance	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
EPSR as a binding agreement between EP and Council	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
<b>Arena</b>	<b>Main divides</b>				
European Parliament	<ul style="list-style-type: none"> <li>- Intra-EU “system competition” High-wage/high welfare MS vs low-wage/low welfare MS (“old vs new” Member States or “West vs East”)</li> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>				
<b>Actors</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><u>Pro-regulation</u></td> <td style="width: 50%;"><u>Against-regulation</u></td> </tr> <tr> <td>S&amp;D, GREEN, GUE/NGL MEPs western MEPS from ALDE and EPP groups</td> <td>ECR, EFDD, ENF MEPs eastern MEPs from ALDE, EPP groups</td> </tr> </table>	<u>Pro-regulation</u>	<u>Against-regulation</u>	S&D, GREEN, GUE/NGL MEPs western MEPS from ALDE and EPP groups	ECR, EFDD, ENF MEPs eastern MEPs from ALDE, EPP groups
<u>Pro-regulation</u>	<u>Against-regulation</u>				
S&D, GREEN, GUE/NGL MEPs western MEPS from ALDE and EPP groups	ECR, EFDD, ENF MEPs eastern MEPs from ALDE, EPP groups				

Source: own elaboration

# Chapter 4. From the Monti II Regulation to the revision of the posting of workers directive

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## 4.1 The posting of workers: A brief introduction<sup>48</sup>

The posting of workers is a prominent and significant issue area for social policy-making and one of the most debated legislative reports at the EU level. It concerns the intra-EU labour mobility of workers legally employed in their own country (sending or home Member State), who are for a limited period sent by their employer to another country (host Member State) to work in the context of a cross-border provision of services.

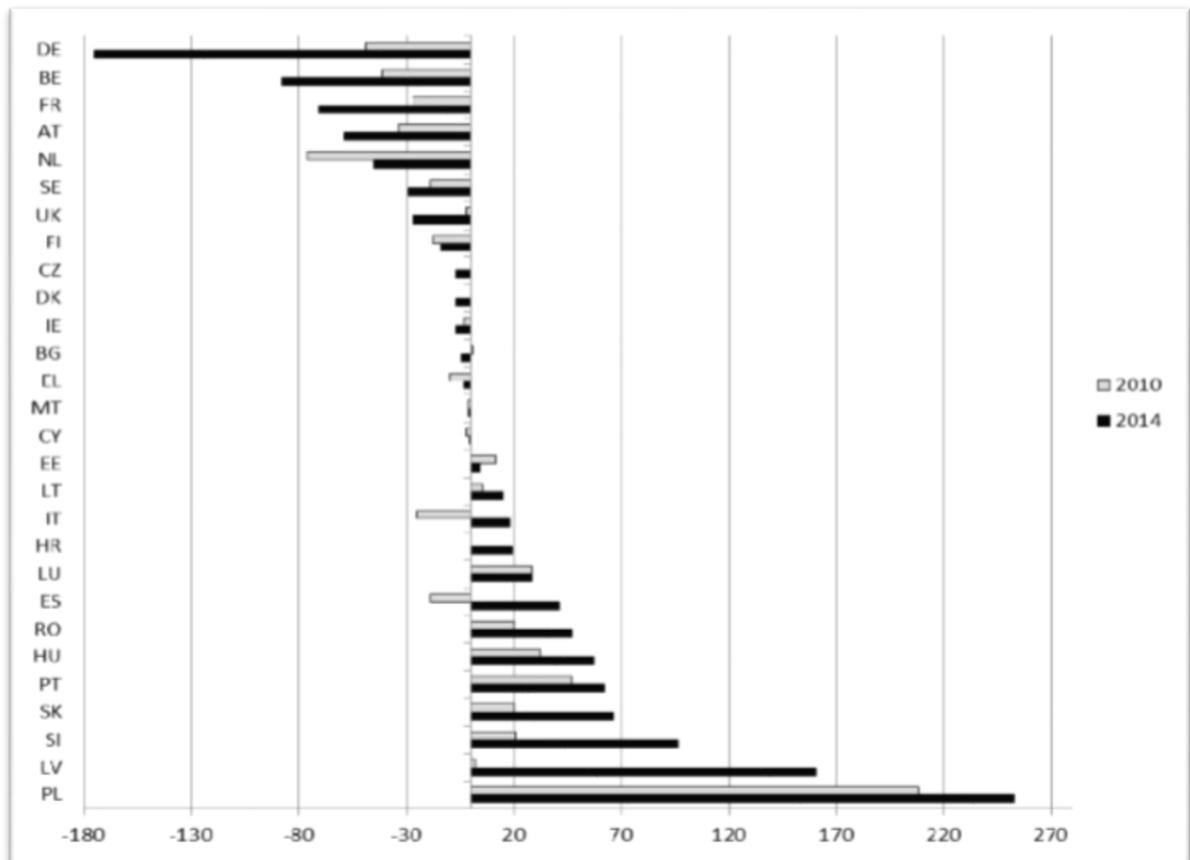
The posting of workers is an increasing phenomenon in the EU. Since 2011, the overall number of posted workers is estimated to have increased by 58% (De Wispelaere & Pacolet, 2017). Based on analyses of flows, it is possible to identify two basic models of posting. The first one is mainly triggered by labour cost differentials and the competitive advantage of lower-wage countries. In this respect, low value chain sectors are mainly involved, such as construction, transport or agriculture. The second model of posting is that driven not by wage competition, but by skills shortages and the need for highly specialised personnel and services (high value chain). In relative terms, 42% of all posting in 2014 were concentrated on the construction sector, followed by 22% in the manufacturing industry and 13.5% in education, health and social work (data retrieved from EU Commission Impact Assessment 2016). From a sending perspective, construction workers represent over 50% of posted workers sent from Estonia, Portugal and Slovenia, followed by Hungary, Poland and Luxembourg, with shares slightly below that level. Measured as a proportion of the domestic employed workforce in the sector, posted workers made up 20% of Belgian construction workers in 2014 and about 10% of Austrian and Luxembourgish workers (European Commission Impact Assessment, 2016). Overall, in absolute terms, Germany, Belgium, France and Austria are net-receiving countries (altogether they received in 2016 more than 50% of total postings in Europe), while Poland, Latvia, Slovenia and Slovakia are the top sending countries. In terms of the flow of

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<sup>48</sup> This chapter is a broader version of an article that will be published on the Cuadernos de Yuste with the title “Tensions over Social Europe? The case of the posting of workers directive”. The “Cuadernos de Yuste” series collects the multilingual and cross-disciplinary contributions from the summer doctoral seminars organised by the European Academy of Yuste Foundation on European issues related to those linked to the work carried out by winners of the “Charles V European Award”. The Charles V European Award includes the provision of research and mobility grants on European studies and are addressed to researchers who are working on their doctoral thesis. The article has been awarded the 2019 Charles V European Award, dedicated to Don Marcelino Oreja Aguirre.

posting between EU Member states, De Wispelaere and Pacolet (2017) observe that the highest flow is from high-wage (above EU average wage<sup>49</sup>) to high-wage Member States (38,2%), then from low-wage (less than half of the EU average wage<sup>50</sup>) to high-wage Member States (32.8%) and from medium-wage (around EU average<sup>51</sup>) to high-wage Member States (17.7%). As a proportion of received posted workers over the total share in domestic employment, Luxembourg (9%), Belgium (3.6%) and Austria (2.5%) scored the best in 2016. On the other hand, as a proportion of sent posted workers over the total share in domestic employment, Slovenia (17.9%), Luxembourg (16.4%), Slovakia (4.5%) and Poland (3.2%) scored the best in 2016. Figure 3 presents the net balance between posted workers sent and posted workers received, with a comparison between the situation in 2010 and 2014.

Figure 3. Net balance between postings sent and received, 2010 and 2014 (in 0.000)



Source: EU Commission, Impact Assessment, 2016, p. 59

Overall, looking at the general labour market, the posting of workers remains a relatively small phenomenon, with only 0.7% of the workforce involved – around 2 million workers in 2016. The average duration of posting period is less than four months. However, there are significant differences

<sup>49</sup> DK, LU, SE, FI, BE, NL, DE, FR, AT, IT, IE and UK.

<sup>50</sup> HR, CZ, EE, PL, SK, HU, LV, LT, RO and BG.

<sup>51</sup> CY, ES, EL, MT, SI and PT.

between the Member States: workers from France, Belgium and Luxembourg are posted for no longer than 33 days, while workers from Estonia, Hungary and Ireland are – on average – posted for more than 230 days.

Despite its limited scope, the issue of the posting of workers has become highly salient in the EU political agenda. This debate emerged for the first time in the late 1980s, when new workers from Spain and Portugal accessed the Single Market, after the so-called Southern enlargement (1986). In 1991, the Delors Commission proposed the introduction of the PWD in the framework of its Action Programme relating to the implementation of the Community Charter of Basic Social Rights for Workers. Given the controversies between major sending countries (Portugal, *in primis*, but also the UK, Ireland and Greece) and receiving Member States (notably, France, but also Belgium, Germany, Denmark and Luxembourg), the final text was adopted after five years of tough negotiations in 1996. In line with the Rush Portuguesa formula (C-113/89),<sup>52</sup> the aim of the new directive was to strike a balance between facilitating cross-border provision of services, enhancing legal certainty regarding applicable contract law and offering protection to posted workers (96/71/EC). According to the new directive, in fact, Member States had to ensure that posted workers are subject to the host country's laws, regulation and administrative provisions concerning the following issues: maximum work periods and minimum rest periods; minimum rates of pay (including overtime rates); conditions of hiring out workers; health and hygiene at work, protection for pregnant women and equal treatment of men and women.

Over the years, however, several 'legislative gaps' emerged within the PWD and became highly problematic, especially so after the Eastern enlargement.<sup>53</sup> Voss and colleagues (2016) identify five main concerns with respect to the 1996 PWD. The first regards the lack of a clear definition of temporary nature of posting of workers, which risks creating legal uncertainty and facilitating dynamics of unfair competition between local undertakings and sending undertakings. In the PWD,

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<sup>52</sup> Rush Portuguesa was a Portuguese construction company that a French firm hired as a subcontractor to work on a railway line in France. Problems arose when Rush Portuguesa wanted to bring its own workers from Portugal to work on the project. French employment law stated that only the French immigration office was allowed to recruit nationals from other countries within France. When the French immigration office asked the company to pay a "special contribution" because of the violation of the French Labour Code, the firm appealed to the French court in order to get the demand annulled. The French Court referred two main questions to the ECJ: (i) whether France could preclude the PT company from bringing its own workers to France temporarily to do the work the company had been subcontracted to do; (ii) whether a company operating in a country different from its own could be made subject to the labour laws of the host country. The ECJ ruled that the PT company was allowed (Art. 59- 60 EEC Treaty) to bring its own workers to France and the French immigration office was not allowed to impose on the firm conditions with respect to the recruitment of manpower in situ or the obtaining of work permits for the Portuguese work-force. At the same time, a firm bringing its workers to another country should not be submitted to different rules and obligations than a firm permanently established in the host country.

<sup>53</sup> Eastern enlargement refers to the three rounds of accession to the EU that took place in 2004 (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia), 2007 (Bulgaria and Romania), and 2011 (Croatia). Cyprus and Malta are not included in this group.

a posted worker is defined as a worker who for a 'limited period of time carries out work in the territory of a Member State other than the state in which he normally works' (Art. 2.1). However, in the 1996 PWD there is no clear indication with regards to the temporary nature of posting. Contrary to Regulation (EC) 883/2004 on the coordination of social security systems, which sets a limit of two years (after which the obligation applies that the employee must be covered by the social security regime of the host country) and explicitly excludes the possibility of repeated postings for the same job, the PWD neither provides a fixed time limit nor other criteria to determine the temporary nature of the posting duration in the host country.

The second problem regards the establishment of the sending Member State. According to the PWD, the posting undertaking must be 'established' in a Member State. This would require a genuine link between the undertaking and the sending Member State. However, the lack of legal clarity on the concept of 'established' has led to several problems, among which is the emergence of *ad hoc* companies created to source workers from places with lower social standards and send them to other countries with higher social standards, that is, the so-called *letterbox company*. In this respect, the legal loophole in the PWD has created a margin for multiple practices to circumvent or evade employment and social security legislation. Another problem concerns the so-called '*regime shopping*' in the field of transnational temporary agency work. Namely, agency workers are sourced from locations that are convenient in terms of employment laws and industrial relations, to countries with more restrictive regulations.

The third problem regards the unclear and controversial interpretation of the terms and conditions of employment. Although the 1996 directive defined a minimum set of rights of posted workers, it does not clarify whether such rights are a 'minimum floor' or 'maximum ceilings'. Article 3.1 of the PWD defines the core of mandatory terms and conditions of employment: maximum work periods and minimum rest periods; (b) minimum paid annual holidays; (c) the minimum rates of pay, including overtime rates (this point does not apply to supplementary occupational retirement pension schemes); (d) the conditions of the hiring-out of workers, in particular, the supply of workers by temporary employment undertakings; (e) health, safety and hygiene at work; (f) protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, and of children and of young people; and (g) equality of treatment of men and women and other provisions on non-discrimination. According to the 1996 PWD, such rights are laid down by law, regulation or administrative provision, and/or by collective agreements or arbitration awards which have been declared universally applicable. In so doing, however, locally agreed collective agreements are not recognised, thus penalising those Member States whose industrial relations regimes are based on the autonomous collective bargaining model (e.g. Sweden, Finland

and Denmark). As will become clearer below, the lack of legal clarity on this matter has been the focus of much political and judicial controversy, since it allows posting undertakings to guarantee lower social standards to their workers compared to the local workers.

The fourth problem regards the lack of legal clarity as concerns the definition of minimum rates of pay, namely, which components of the wage paid are to be considered as elements of the minimum rate of pay in the host country. Article 3.1 states that ‘the concept of minimum rates of pay is defined by the national law and/or practice of the Member State to whose territory the worker is posted’. However, the heterogeneity of national definition of minimum rate of pay soon led to legal uncertainty. The minimum rate of pay, in fact, except for gross salary, which is included in all Member States, may be extended to seniority allowances, supplements for dirty/heavy/dangerous work, quality bonus, the thirteenth month bonus and travel expenses, among others.

Finally, the fifth problem regards the inconsistency between the PWD and other legislative initiatives, notably, the Temporary Agency Worker directive (2008/104/EC) and the Regulation on coordination of social security systems (2004/883/EC). In the first case, the problems arise from the fact that, while the Temporary Agency Worker directive establishes that a temporary agency worker should be granted the same working and employment conditions of workers, as comparable local workers, the same principle is not mandatory in the PWD. In the second case, the problem derives from the fact that the 2004/883/EC regulation provides precise criteria as regards the duration of posting, social security contributions and the payment of taxes. Notably, according to the regulation on coordination of social security systems, posting cannot exceed 24 months, which is the period after which, according to the ‘OECD Model Tax Convention on Income and on Capital’, the receiving Member State has the competence to levy both taxes and contributions. Moreover, the Regulation 2004/883/EC establishes that for periods of less than 183 days, the sending Member State has the competence to levy income tax and social security contributions, and for periods between 183 days and 24 months, income tax is levied by the receiving Member State while social security contributions are levied by the sending Member State. On the contrary, the PWD does not specify any limit to the duration of the posting period. This legislative incongruence, however, facilitates the emergence of situations of so-called ‘social dumping’. This consists of the set of practices on an international, national or inter-corporate level aimed at gaining an advantage over competitors, which could have important negative consequences on economic processes and workers’ social security. Examples include actions taken by actors from low-wage Member States to gain market advantage over actors from Member States with higher pay and social standards; multinational companies from high-wage countries searching for ways to avoid legal constraints by employing subcontractors from low-wage countries; and companies engaging cheaper and more vulnerable workers or relocating production to

lower-wage and less regulated locations. At the core of the social dumping, created by the legislative incongruence between PWD and 2004/883/EC Regulation, is the fact that the PWD provides rules on minimum rate of pay requirements, but posted workers continue to pay their social security contributions in the Member States where they are generally established for up to two years and for up to 183 days in the case of income tax. This allows companies to provide cross-border services with a cost advantage when they source workers from countries with lower social standards than those in the country to which they are sent. Table 11 illustrates how much an employer can save by sourcing a worker from Member States with lower social security contributions to provide a service for a period of 3-4 months (more than 183 days and less than 2 years).

Table 11. Savings made by companies through posting

	Dutch worker	Posted worker from Portugal	Posted worker from Poland
Net salary	€1.600	€1.600	€1.600
Social security contribution (paid in the sending MS)	€496	€81	€350
Taxes (paid in host MS, i.e. after 183 days)	€81	€81	€81
Gross salary	€2.177	€1.762	€2.032
Percentage saving as compared to a Dutch worker		19.1%	6.7%

Source: Voss et al., 2016, p. 27

To sum up, all the aforementioned legislative gaps and incongruences paved the way, over the years, for the emergence of fraud and circumvention of rules, especially on the part of those employers who, profiting from the legal uncertainty surrounding the PWD, kept the posted workers' social standards lower compared to the ones in the host Member States, thus facilitating the creation of situations of social dumping.

The problems related to the 1996 PWD are not limited to what we called the 'legislative gaps'. Other 'structural' problems emerged with respect to the 1996 PWD and the legal basis of the directive. The PWD, in fact, is based on Chapter II of the Treaty on the Functioning of the European Union on the right of establishment, which states that within the framework of the provisions of services, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. During the negotiation on the PWD, the debate revolved around the question of whether to base the new directive on social policy or on free movement policy. The distinction was of importance not only because of the signal any such preference would send about the intention of the directive, but also on how it could be ratified. In this respect, after the Maastricht

Treaty, legislation on free market regulation was decided by qualified majority voting, while social policy was still decided by unanimity. At that time, the strong opposition of low-wage, labour-exporting countries (the UK, Portugal and Ireland), however, prevented any possibility to adopt the new PWD under the social policy clause. The result was that the legal basis of the new PWD was the right to provide service and free movement, at the expense of any social clause. As argued by Malmberg (2011), the PWD was designed as both a maximum free movement directive and a minimum labour law directive.

The consequences of the prioritisation of economic freedoms over social rights emerged blatantly and were consolidated by the ruling of the ECJ and especially so in the (in)famous Laval Quartet. This refers to four cases from the ECJ (Viking, Laval, Rüffert and Luxembourg), which were addressed by the ECJ between 2007 and 2008 and contributed to defining the position of the Court on highly salient issues related to the interpretation of the PWD.

The **Viking case** (C-438/05) concerned a collective action relating to the reflagging of a vessel from Finland to Estonia. Viking (a Finnish passenger ferry operator) owned a ship which operated under a Finnish flag on the route between Finland and Estonia. The company decided to re-flag the vessel in Estonia, with the aim of avoiding Finnish trade unions, Finnish working conditions and cut jobs. As a reaction, the Finnish Seamen's Union (FSU) called for strike action by its own members. The company brought proceedings in the ECJ, arguing that its right to freedom of establishment under EC law was infringed by the industrial action under Article 43 of the EC Treaty, and their right to provide services under Article 49 TFEU. The trade union called on the fundamental right to take action to preserve jobs as recognised by Title XI of the EC Treaty and Art. 136. The ECJ ruled that although the right to collective action is a fundamental right, in the Viking case, it represents a restriction to the freedom to provide service, especially by impeding the right to freedom of establishment.

The **Laval case** (C-341/05) regards a Latvian company, which won the contract to build a school in Sweden and posted its workers for that purpose. Since the Latvian company refused to sign up to the Swedish collective agreements in the construction sector and comply with local terms and conditions of employment, the Swedish construction unions, supported by the Swedish Electricians' Union, picketed Laval's building sites. In response, Laval called on the Swedish Labour Court to rule the action unlawful. According to the trade unions, Swedish legislation allows them to resort to industrial action to force an employer irrespective of where it is based into signing a collective agreement. The Swedish Court called on the ECJ to decide whether the Swedish unions had circumscribed the EU law (notably, the 1996 PWD). Although recognising the right of trade unions to undertake collective action, the ECJ ruled again that the collective action represented a restriction

on the freedom to provide services, which made the provision of such services ‘less attractive’. Moreover, the ECJ stressed that according to the 1996 PWD, collective action is allowed in cases where an undertaking does not respect the minimum protection standards applicable within the host Member State. However, in the case of Sweden, no minimum standards applied, since there was no legal provision for the collective agreement to be incorporated into Swedish law.

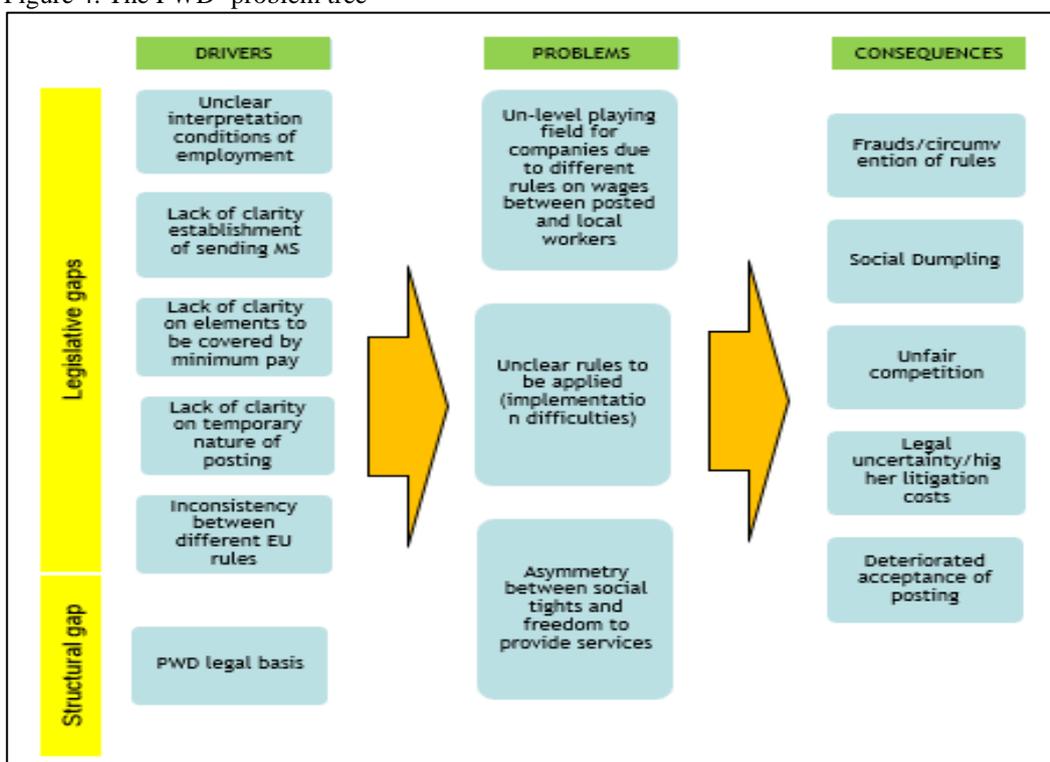
In **Rüffert vs Land Niedersachsen** (C-346/06) the German state had legislation according to which public works contracts exceeding €10,000 are to be awarded only to employers who agree – in writing – to pay the wage laid down in the collective agreements at the place where the service is provided. According to German state law, the employer must also agree to require any subcontractors it may employ to comply with these requirements. In 2003, a German construction company (*Objekt und Bauregie*) was awarded a public works contract (worth €8.5 million). The German company employed a Polish subcontractor to perform the structural work, which paid his employees less than half of the required minimum wage. The Land Niedersachsen decided to nullify the contract because the company failed to comply with the minimum wage requirements set out in the collective agreement. Moreover, the German state imposed a financial penalty on the company. The latter appealed to the ECJ, which ruled that, in the context of the PWD, it is a violation of the EC Treaty to impose working conditions for those working on public contracts that do not apply to workers in general. Notably, the Court argued that the collective agreement mentioned in the Public Procurement Act in Niedersachsen was not generally applicable (according to Article 3.1 of the Directive).

Finally, the **Commission vs Luxembourg** (C-319/06) is a slightly different case from the previous three, since it is a case between the EC and a Member State (Luxembourg), whereby the former brought an enforcement action against the latter. According to the Commission, in fact, Luxembourg did not fulfil the obligations under the PWD and did not respect the freedom to provide service, especially by restricting the right of establishment for the sake of ensuring equal pay for equal work. The ECJ ruled that although the objective of Luxembourg was to offer better working conditions for workers, it went further than the minimum protection offered by the PWD, and therefore it is unacceptable, and the law had to be amended.

The problem raised by the (in)famous Laval Quartet was twofold. Firstly, the ECJ ruling established the *de facto* subordination of right of collective action to economic freedom to establishment. Indeed, in both the Laval and Viking cases, collective action was considered as a restriction on the freedom of services and the right to establishment. Dølvik and Visser (2011) argue for the existence of a trilemma of three fundamental principles: free movement of services and labour; non-discrimination and equal treatment; and the right of association and industrial action. All three principles are recognised in the Treaties and Charters. However, the ECJ ruling has systematically

favoured economic freedom to establishment, thus subordinating the right to strike and take industrial action. Secondly, in *Rüffert* and *Commission vs Luxembourg*, the ECJ interpreted the core social rights guaranteed by the PWD as a *maximum ceiling* rather than a *floor of rights*, thereby preventing Member States to impose higher labour standards, especially through collective agreement. As observed above, the PWD was designed around countries with minimum wages and large coverage of universally applicable individuals, and not for countries where much of the terms and conditions of employment are negotiated in case-by-case agreements (e.g. Sweden and Denmark). Figure 4 summarises the drivers, the problems at stake and the consequences when the posting of workers issue is debated.

Figure 4. The PWD ‘problem tree’



Source: based on Commission 2016 (Impact Assessment)

## 4.2 Reactions to the Laval Quartet and the call for a revision of the PWD

The ruling of the ECJ in the Laval Quartet led to a mounting debate both at the European and national levels. The substantial redefinition of the ECJ’s jurisprudence on the posting of workers with a markedly market-friendly approach was perceived by several actors as a threat to the spaces of national social sovereignty. In the immediate aftermath of the Viking and Laval ruling, the European Trade Union Confederation (ETUC) declared that the: ‘ECJ does not sufficiently recognise and allow trade unions to defend their members and workers in general against social dumping, to fight for equal treatment of migrant and local workers, and to take action to improve living and working conditions of workers across Europe. (...). The idea of Social Europe has taken a blow’ (ETUC

2008b). At the same time, the ETUC proposed a revision of the PWD with the a fivefold objective: (i) to introduce a clear time limit for the definition of posted worker; (ii) to make mandatory each binding collective agreement for posted workers; (iii) to ensure that the host country's collective agreement can provide for higher than minimum standards; (iv) to make it clear that both legislative sanctions and social partner activity, including collective action, are available to enforce these standards; and (v) to ensure a broad scope for what can be considered 'public policy provisions' that MSs can apply in addition to the nucleus of minimum standards of the Posting Directive. Finally, the ETUC proposed the introduction of a legally binding Social Protocol to the Treaties with the objective of defining the aims and principles of the European social model and clarifying the relationship between fundamental social rights and economic market freedoms, with the explicit aim of influencing future decisions by the ECJ.<sup>54</sup>

In September 2008, the European Parliament issued an opinion report, drafted by the Swedish social democratic MEP Jan Andersson, which emphasised the necessity to safeguard and to strengthen equal treatment and equal pay for equal work and explicitly recalled Articles 39 (Free movement of persons, service, capital) and 12 (non-discrimination) of the European Community Treaty. Moreover, the report stressed that 'in the framework of freedom to provide services or freedom of establishment, the nationality of the employer, or of employees or posted workers cannot justify inequalities concerning working conditions, pay or the exercise of fundamental rights such as the right to strike' (European Parliament, 2008). The report highlighted that the Community legislation has 'loopholes and inconsistencies', reaffirmed that fundamental social rights are not subordinate to economic rights in a hierarchy of fundamental freedoms and asked 'for a re-assertion in primary law of the balance between fundamental rights and economic freedoms in order to help avoiding a race to lower social standards' (Ibid). Finally, the parliamentary report called on the Commission to 'prepare the necessary legislative proposals which would assist in preventing conflicting interpretation in the future' (Ibid). Within the European Parliament, the Party of European Socialists, under the leadership of the Danish leader Poul Nyrup Rasmussen, was particularly active in calling for an explicit action to review the PWD. Indeed, the revision of the PWD was indicated as a key priority in the PES manifesto for the 2009 European electoral campaign. Notably, in the manifesto, it is stated: 'We will act to prevent the exploitation of workers and strengthen their rights to collective bargaining. Recent European Court judgements have created uncertainty about workers' rights and collective agreements. Together with the social partners we will examine the impact of the

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<sup>54</sup> The position of the ETUC was defined in a final report elaborated by an expert group on posting and published on 31 May 2010 with the title "A revision of the posting of workers directive: Eight proposals for improvement".

Viking, Laval and other judgements to ensure that rights are not undermined. A review of the EU Posting of Workers Directive is essential' (PES, 2009).

Following the heated debate after the Laval Quartet, the mounting critiques coming from the European trade unions and in the wake of 2009 European elections, the newly re-appointed President of the European Commission, José Manuel Durão Barroso, during his first speech in front of the European Parliament, stated his 'attachment to the respect of fundamental social rights and to the principle of free movement of workers', and highlighted that 'the interpretation and the implementation of the posted workers directive falls short in both respects' (Barroso, 2009a). To solve this problem, Barroso committed himself to propose as 'as soon as possible' a Regulation, to be co-decided by the Parliament and the Council, with the aim to give 'much more legal certainty than the revision of the Directive itself, which would still leave too much room for diverging transposition' (Barroso, 2009a). To this end, the president of the European Commission entrusted former Commissioner Prof. Mario Monti with the mission of preparing a report containing options and recommendations that could give 'helpful and valuable inputs for an initiative to relaunch the Single Market' (Barroso, 2009b). Notably, in the letter sent by Barroso to Mario Monti, the President of the Commission indicated the necessity to relaunch the European social dimension as one of the three key challenges ahead to relaunch the Single market.

Two years after the release of the Monti Report (May 2010), the European Commission proposed the adoption of two legislative initiatives: the so-called Monti II Regulation, namely, the 'Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services' (COM (2012) 130 final) and a directive on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (COM (2012) 131 final). One year after the launch of Monti II, however, the proposal for a Council regulation was withdrawn, after a group of national parliaments raised subsidiarity concerns, and social partners harshly criticised the proposal. At the same time, a significantly watered-down compromise on the Enforcement directive was approved during the last plenary session in April 2014. The failure of the Barroso Commission in reviewing the posting of workers directive was summarised by the secretary general of the European Trade Union Confederation, Bernadette Ségol, who immediately after the vote on the Enforcement Directive declared: 'Mr Barroso has failed to do what he promised which is to resolve the shortcomings in interpretation and implementation of the Posted Workers Directive. It is deeply frustrating and disappointing. A strengthening of the Directive itself is now more urgent than ever' (ETUC, 2014b).

Despite the failure of Barroso, the posting of workers remained a highly salient issue in the subsequent Commission's agenda. Indeed, soon after his appointment as president of the European

Commission, Jean-Claude Juncker gave absolute priority to the revision of the PWD, with the objective of ‘addressing unfair practices leading to social dumping and brain drain by ensuring that the same work in the same place is rewarded by the same pay’ (European Commission 2015b). In March 2016, the Commission proposed a revision of the posting of workers directive (COM(2016) 128 final), with the aim of guaranteeing for every worker in the EU the same pay for the same work in the same place. After two years of tough negotiations, in June 2018, the proposal for a revision of the PWD was approved.

Against this background, the aim of this chapter is to explore and compare the political debates around the Monti II regulation, the Enforcement Directive and the revision of the PWD. Notably, it examines the positioning of the European Parliament, the Council and among social partners, with the aim being investigation of the divides that emerged during the political debate.

A study of the politics of the posting of workers could prove interesting and original for at least two reasons.

Firstly, scholars have so far investigated the issue of the posting of workers mainly from a legal perspective, by presenting the shortfalls of the existing legislation or outlining the case law (Giensen, 2003; Dølvik & Visser, 2011; Voss et al., 2016; Cremers et al., 2007; Zahn, 2017; Rasnača, 2018); or from an economic perspective, by analysing the costs and benefits of posting for sending and receiving countries (De Wispelaere & Pacolet, 2017; Alcidi & Gros, 2019; Dalla Pellegrina & Saraceno, 2016). However, few studies have focused on the political dynamics underpinning the debate over the posting issue (Fromage & Kreilinger, 2017; Cooper, 2015; Goldoni, 2014).

Secondly, the revision of the PWD has been only recently approved (June 2018). This chapter represents, therefore, an initial contribution to filling the gap in empirical research on the newly adopted directive.

This chapter proceeds as follows. Section 4.3 briefly recalls the theoretical framework and the methodology. Section 4.4 focuses on the debate on the Monti II regulation, with the aim of understanding the reason why the Commission’s proposal was withdrawn. Section 4.5 presents the debate on the Enforcement directive. Section 4.6 is dedicated to the revision of the PWD. Section 4.7 concludes.

### 4.3 Hypotheses and methodology

The traditional literature has primarily described the debate over the posting of workers and intra-EU labour mobility as one-dimensional, mainly revolving around the divide between low-wage Member States and high-wage Member States. Especially after the Eastern enlargement, both media reporting and academic commentary have stressed the dividing line between old and new (or post-

communist) Member States. On the one hand, high-wage, mainly old, western, Member States, argue in favour of the protection of their domestic market from unfair competition and social dumping, and in defence of the autonomy in organising national labour and welfare systems. On the other hand, low-wage, mainly new, Centre-Eastern Member States, support the freedom to access the foreign market for their service provider and argue in favour the social protection of their posted workers.

Based on the traditional literature and media reporting, we might hypothesise that the post-crisis debate on intra-EU mobility has also been characterised by a one-dimensional divide pitting Eastern countries against Western countries. However, as we observed in the first section of this chapter, an in-depth analysis of the PWD reveals that several sub-issues are raised when we discuss the PWD. Notably, we observed how the legislative and structural gaps that emerged over the years touch upon the overall view of intra-EU labour mobility (e.g. the legal basis of the PWD), as well as the distribution of competences between the European and national levels over the elements of remuneration (e.g. the conception of posted workers' social rights either as a ceiling or a floor of rights). Against this background, we can hypothesise that the debate over the revision of the PWD is also characterised by the overlapping multiple lines of conflict and that the territorial conflict between low-wage and high-wage welfare states cannot alone fully explain the conflict dynamics over intra-EU labour mobility and access to domestic welfare systems. By contrast, as observed in Chapter 3, the debate, at least in the European Parliament, seems to be characterised by an overlapping of both new and old political divides. Drawing from the findings of the previous chapter, the in-depth analysis of the PWD legislative and structural gaps, and building on the clash syndrome theory, we can therefore expect that in the case of PWD, the political conflict is the result of the combination of three lines of conflict of a functional, normative and territorial nature:

- Market-making vs market-correcting priorities of the European Union;
- National social sovereignty/discretion vs EU law/conditionality;
- Intra-EU 'systemic competition' between high-wage/high-welfare EU countries and low-wage/low-welfare EU countries ('old versus new' or 'western versus central and eastern' Member States).

As argued above, the market-making vs market-correcting divide rests on different visions and programmatic ideas about the overall mission of the EU and pits the supporters of a neoliberal project, centred on market-making, against a project oriented towards market-correcting, focused on a stronger social EU regulation. In the specific case of the posting of workers, for instance, we expect a conflict between left-wing MEPs and right-wing MEPs around the legal basis of the PWD, the former supporting the change of the current legal basis of the PWD, by adding Article 45 of the TFEU

(equal treatment) and Articles 151 and 153 of the TFEU (protection of workers social rights) to the current PWD legal framework (based on Art. 56 of the TFEU on freedom of movement).

The second line of conflict refers to the divide between advocates of ‘more power to Brussels’ vis-à-vis defenders of domestic models and practices. In the case of the posting of workers, such a divide can emerge, for instance, between those who want the EU to define the working conditions of posted workers and those who prefer to define at the national level the set of minimum rights which should be guaranteed to posted workers. Such a divide is highly related to the industrial relations in each country and the different roles of social partners, notably trade unions – for instance, in setting remuneration’s issues. The higher the involvement of trade unions in defining and negotiating worker remuneration, the higher the possibility to prefer Member States to define their remuneration rules.

Finally, the third divide concerns the tensions around the issues of access to domestic welfare for other EU nationals and social dumping. This tension is mainly linked to the Eastern enlargement and therefore exhibits a clear territorial connotation by separating high-wage/high-welfare countries (old Member States) from low-wage/low-welfare ones (new Member States, mainly CEE). In this respect, we expect the conflict between low-wage and high-wage welfare states to emerge on issues such as the duration of the posting of workers, the terms and conditions of employment and the definition of the terms of remuneration.

Based on the hypotheses presented in Chapter 1, we can advance two further expectations. Firstly, we expect the functional divides to prevail in the debate in the European Parliament, while the territorial tension between high-wage/high-welfare EU countries and low-wage/low-welfare EU countries prevails in the Council. Secondly, we expect left-wing MEPs to be more cohesively supporting policy measures that protect the ‘social interest’ of the posted workers and defend the maintenance higher social standards. By contrast, we expect right-wing MEPs to split on the basis of their territorial provenance.

To unveil the conflict dynamics underpinning the European debate over the posting of workers, we analyse the positioning of political actors within the Parliament and the Council vis-à-vis the Commissions’ proposals on the Monti II regulation, the Enforcement Directive and the revision of the 1996 PWD. In the case of the European Parliament, we analyse the amendments tabled by MEPs in the committee for Social and Employment Affairs, the position papers presented by European Parliamentary Groups, the draft report prepared by the EP rapporteur and the result of the RCV. As regards the Council, we analyse the debates of the public sessions of the Employment, Social Policy, Health and Consumer Affairs (EPSCO) configuration. Moreover, to better understand the positioning of Member States in the Council, we also examined – where possible – national parliaments’ reasoned opinions on the Commission’s proposals. Finally, the position of social

partners was also analysed, especially that of the European Trade Union Confederation and BusinessEurope. In this respect, we analysed reports and studies, position papers, public letters, speeches and press releases (all information is available on the ETUC and BusinessEurope websites). Table 12 summarises the sources used for this research.

Table 12. Sources used for the analysis of the position of actors

	Monti II Regulation	Enforcement Directive	Revision of the PWD
European Commission	Proposal for Council regulation	Proposal for enforcement PWD	Proposal for revision PWD
EPSCO Council/Member States positions	12 national parliaments' reasoned opinions 1 EPSCO meetings (records)	6 EPSCO meetings (records)	15 national parliaments' reasoned opinions 10 EPSCO meetings (records) 2 public letters signed by national governments RCV
European Parliament	1 EMPL meeting (record)	Draft report 883 amendments tabled in the EMPL committee Final report	Draft report 523 amendments tabled in the EMPL committee Final report RCV (plenary)
ETUC	3 press release	9 press releases	2 public letters 10 press releases 2 position papers
BusinessEurope	1 press release	4 public letters 1 position paper 1 speech	5 public letters 1 position paper 5 press releases

Source: Own elaboration.

#### 4.4 The failure of the Monti II regulation

On 9 May 2010, the report prepared by Prof. Monti, 'A new strategy for the Single Market. At the service of Europe's Economy and Society', was presented to the Commission. The report explicitly addressed the problem of how to reconcile economic freedoms and workers' social rights after the Laval Quartet. In a dedicated section of the report, it is stated that the Court's cases have exposed the fault lines that run between the Single Market and the social dimension at the national level in two ways:

First, because the cases brought to the surface the strains to which the current regulatory framework for posting of workers is subject, in a context of divergent social and employment conditions among

Member States and acute sensitivity about the perceived risks of social dumping and unfair competition. Secondly, the Court's decisions showed that the reach of the EU law extends to collective labour disputes (Monti, 2010, p. 69).

To rebalance economic freedom and social rights, the Monti Report first illustrates two opposed strategies. On the one hand, it illustrates the ETUC's proposal to amend the Treaty and introduce a Social Progress Clause, with the aim to immunise the right to strike, as recognised at the national level, from the impact of single market rules. On the other hand, the alternative is to regulate the right to strike at the EU level. As the first strategy deemed as 'not realistic in the short term' and the second 'explicitly prohibited by the Treaty', the Monti Report proposed a third alternative with the threefold objective of ensuring more clarity in the implementation of the PWD, protecting the rights of workers and rejecting any kind of protectionism: 'introduce a provision to guarantee the right to strike modelled on Art. 2 of Council Regulation (EC) No 2679/98 and a mechanism for the informal solutions of labour disputes concerning the application of the directive' (Monti, p. 72). Notably, the proposal consisted of adopting a new legislative act to regulate the cross-border provision of services so that the right to take industrial action and the right to strike would not be affected by the freedom to provide services and would be protected in accordance with the European Charter of Fundamental Rights. Beyond the Council Regulation, the Monti Report proposed the adoption of measures aimed at clarifying the implementation of the PWD and strengthening dissemination of information on the rights and obligations of workers and companies, administrative cooperation and sanctions in the framework of free movement of persons and cross-border provision of services.

Following the Monti Report, in March 2012, the European Commission proposed the adoption of two legislative initiatives: the so-called Monti II Regulation, namely, the 'Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services' (COM (2012) 130 final) and a directive on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (COM (2012) 131 final). Moving from the Monti II regulation, the stated objective of the proposed text was to guarantee that the freedom to establishment did not restrict the fundamental right to take collective action recognised in each Member State, thus reconciling the right to strike with the economic freedoms of the internal market, in the wake of the Laval Quartet judgements of the ECJ. To use the Commission's words:

The present proposal aims to clarify the general principles and applicable rules at EU level with respect to the exercise of the fundamental right to take collective action within the context of the freedom to provide services and the freedom of establishment, including the need to reconcile them in practice in cross-border situations. Its scope covers not only the temporary posting of workers to another Member

State for the cross-border provision of services but also any envisaged restructuring and/or relocation involving more than one Member State (Commission, 2012a, p. 10).

The proposal of the Commission, however, immediately created several problems. The first concerned the fact that it did not overcome the tension between economic and social goals raised by the ECJ interpretation of the PWD. If we look at Article 2 of the proposed Regulation, it reads as follows: ‘The exercise of the freedom of establishment and the freedom to provide services enshrined in the Treaty shall respect the fundamental right to take collective action, including the right or freedom to strike, and conversely, ***the exercise of the fundamental right to take collective action, including the right or freedom to strike, shall respect these economic freedoms***’.<sup>55</sup> In so doing, the Commission proposal did not solve the problem of the subordination of the workers’ social rights to the economic freedom and therefore reproduced the assessment and interpretation problems highlighted with reference to the rulings of the Laval Quartet.

The second problem was related to the proposal for a new alert mechanism (Article 4). Notably, the Commission proposed that:

Whenever serious acts or circumstances affecting the effective exercise of the freedom of establishment or the freedom to provide services which ***could cause grave disruption to the proper functioning of the internal market*** (...) the Member State concerned shall immediately inform and notify the Member State of establishment or origin of the service provider and/or other relevant Member States concerned as well as the Commission.

According to the ETUC (2012a), such an alert mechanism would further intensify the control of Member States over trade union actions and would restrict the right to collective action. Notably, the European trade union confederation criticised the lack of legal clarity of the expression ‘proper functioning’. As argued by Goldoni (2014), ‘it is not clear why the Commission should be informed so that it can ensure that a restriction of the economic freedoms does not go beyond what is permitted’ (Ibid, p. 97).

The third problem related to the proposal for a Council Regulation was the legal basis, namely, Article 352 (‘Flexibility clause’), which empowers the EU to take action in circumstances where it lacks powers specified by the Treaties. This would require a unanimity vote in the Council, the support of the European Parliament and, in some Member States (DE, UK), also the intervention of the national constitutional court, thus making the approval process extremely complicated.

Against the Commission’s proposal, all actors involved reacted negatively. Twelve national parliaments issued a reasoned opinion and activated the so-called *Early Warning Mechanism* (EWM). The EWM was established with the Lisbon Treaty (December 2009) and consists of a subsidiarity

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<sup>55</sup> Bold and italics mine.

control mechanism. Notably, EU national parliaments can raise any objection to any legislative proposal of the Commission, within 8 weeks from its release, in case subsidiarity concerns emerge. A national parliament can therefore argue that the subject matter at hand can be best tackled on the national, regional or local level rather than at the EU level. One-third of national parliaments<sup>56</sup> must submit a reasoned opinion raising a subsidiarity concern about the Commission proposal in order to activate the so-called ‘yellow card’. Whenever such a card is activated, the Commission must review its proposal and decide whether to maintain, amend or withdraw it. In the latter two cases, the Commission must provide reasons why it has chosen not to withdraw the proposal.

The EWM was therefore activated for the first time in the case of the Monti II regulation (for more details, see Cooper, 2015; Fromage & Kreilingert, 2017; Goldoni, 2014). Several problems were raised by national parliaments. Firstly, the regulation at the EU level of the right to take collective action was perceived as a threat to the constitutional essentials by many Member States. Most of the national parliaments feared that the Commission’s proposal ‘might destroy well-functioning national arrangements in the area of labour law’ (Reasoned opinion of the Finnish Folketinget, 3 May 2012). The Czech Senate found that ‘the draft Regulation modifies in a restrictive manner the conditions of the exercise of the right to strike’ (Reasoned opinion of the Czech Senate, 14 June 2012). Similarly, the Portuguese Assembleia da República has clearly stated that: ‘reconciling social rights and economic rights in the context of fundamental rights conflict with Portuguese constitutional tradition and with the interpretation followed by the jurisprudence of the Portuguese Constitutional Court and in legal theory generally’ (Reasoned opinion of the Assembleia do Republica, 18 May 2012). The second concern raised by national parliaments regards the choice of a Council Regulation, directly enforceable in national regulation, which was perceived as a threat to the authority of social partners and to the different social models and diversity of industrial relations. Therefore, national parliaments challenged the Commission proposal based on Article 153(5), regarding the limits of the EU competences (LU, FR, MT, PT, DK, NL, BE). The Danish Parliament, for instance, stressed that ‘Article 153 (5) of the TFEU explicitly excludes the right to strike from the range of matters that can be subject to European legislation’ (Reasoned opinion of the *Folketing*, 3 May 2012). The Maltese parliament, in this respect, stressed also that the instrument of regulation is highly intrusive and pointed out that – so conceived – the Commission proposal may be disruptive of national social partners’ autonomy (Reasoned opinion of the House of Representatives 22 May 2012). Similarly, the Belgian Chamber of Deputy reiterated that: ‘Le droit du travail reste en effet une question nationale par excellence’ (Reasoned opinion of the *Chambre des Représentants de Belgique*,

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<sup>56</sup> Each national parliament has two votes. In parliaments with a bicameral system, each chamber has one vote.

30 May 2012). According to the Swedish (Reasoned opinion of the *Riksdag* 11 May 2012) and the Danish parliaments, the proposed Article 3 on dispute resolution mechanisms represented a threat to the autonomy of national models for dispute resolution. Three parliaments also questioned the respect of the principle of proportionality (MT, FI, UK). Finally, Article 2 of the Regulation was harshly criticised by all national parliaments' reasoned opinions. For instance, on Article 2, the Swedish *Riksdag* argued:

The *Riksdag* has difficulty seeing how the proposal, in its current state, contributes to the clarification of the relationship between liberties and rights that is the proposal's purpose according to the explanatory memorandum. The *Riksdag* cannot see either that the regulation would create greater legal certainty in this regard. Nor can the *Riksdag* see how the proposal would be "reducing tensions between the national industrial relation systems and the freedom to provide services" which is stated as essentially the basis of the proposal. It is thus difficult to see how the proposal could help achieve any of the objectives referred to in the Treaty, which is a prerequisite for the flexibility clause to be used.

Put even more clearly, the Dutch Tweede Kamer noted that: 'The proposal does not provide further clarity as regards, on the one hand, the need to ensure free movement of services and on the other hand, the need to ensure workers' right to take collective action' (Reasoned opinion of the Tweede Kamer, 22 May 2012).

Social partners were also highly sceptical about the Commission proposal. On the one hand, the employers' association highlighted that the goal of the PWD is to impose a set of hard-core rights and not to create equal conditions and that the PWD of 1996 already has all the features to guarantee adequate protection to workers. At the same time, they stressed the importance of preserving the diversity of the industrial relations. Finally, they claimed that the Laval Quartet already offered all the necessary legal certainties. Therefore, the employers' associations considered the proposal to introduce a new Council regulation as unnecessary (BusinessEurope, 2012a).

On the other hand, while stressing the weaknesses of the 1996 PWD, the European Trade Unions Confederation considered the Commission's proposal for a Council regulation as insufficient. Notably, the ETUC (2012a) claimed that the proposed regulation restricted the right to take collective action and did not ensure that economic freedoms would not take priority over fundamental social rights. Moreover, the European trade union confederation stressed that the Monti II regulation reinforced the proportionality test as developed by the ECJ in *Viking*, which left it up to the national courts and ultimately the ECJ to decide if collective action is necessary. The ETUC highlighted also the risk for a juridification of the industrial relations and stressed the non-respect of the principle of non-discrimination between local and foreign companies. Moreover, according to the ETUC, in the Commission's proposal, social rights were still depicted as obstacles to the mobility. Finally, the

ETUC claimed that the Commission's proposal reinforced the interpretation given by the ECJ in Viking and Laval and did not solve the problems resulting from the ECJ ruling, to which President Barroso committed himself to find a solution.

In light of the horizontal opposition to its proposal, on 11 September 2012, Commissioner László Andor announced to the Employment and Social Affairs committee of the European Parliament the Commission's decision to withdraw the Monti II Regulation. The opposition of all social partners and most of the Member States persuaded the Commission to abandon its proposal. In the EP, MEPs from all political groups welcomed the EC's decision. Stephen Hughes, vice-president of the S&D, expressed his enthusiasm and stressed that: 'The Commission's proposal – known as Monti II – has been opposed by our Group right from the beginning'<sup>57</sup>. However, he called the Commission to carry on with its commitment to review the PWD. He declared: 'the Commission's announcement on the withdrawal of the text leaves a vacuum. There are still huge legal uncertainties left by the European Court of Justice rulings (in the Laval case) regarding the rights of workers. The problem remains and the Commission has the responsibility to act'<sup>58</sup>. His call for Commission action was echoed by French S&D MEP and chair of EMPL committee, Pervenche Berès, who called on the Commission to retable laws, expressing her wish to 'find a satisfactory solution with full recognition of the fundamental right to strike' (EUobserver, 2012b).

Greens/EFA MEP Elisabeth Schroedter said: 'Today's withdrawal of the draft Monti II legislation on the right to strike is a welcome development. (...) The right to strike is an inviolable fundamental right that should be upheld and defended by the EU, but the Monti II proposals did the reverse, limiting this right. This interfered with the constitutional prerogatives of Member States' (Greens/EFA Group EP, 2012). Similarly, Green EMPL spokesperson Emilie Turunen (MEP, Denmark) stated: 'The proposal by the Commission would interfere with national labour market models and threatened the fundamental right to strike, which is totally unacceptable. This is the wrong way to solve the problems which the ECJ created with its Laval and Viking decisions' (Greens/EFA Group EP, 2012).

A slightly different position was expressed by the MEPs from the Europe's People Party (EPP), who welcomed the decision of the Commission but did not call on the EC for further initiatives to rebalance the asymmetry between economic and social rights within the Single Market. In a joint declaration, the EPP Group Coordinator in the EMPL committee, Csaba Óry, and the EPP Group Coordinator in the committee on the Internal Market and Consumer Protection of the EP, Andreas

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<sup>57</sup> Quote available at: <https://www.euractiv.com/section/justice-home-affairs/news/brussels-drops-plans-for-eu-law-limiting-right-to-strike/>.

<sup>58</sup> Quote available at: <https://www.euractiv.com/section/justice-home-affairs/news/brussels-drops-plans-for-eu-law-limiting-right-to-strike/>.

Schwab, declared: ‘We appreciate the efforts of the European Commission for delivering all the necessary legislation to ensure the full implementation and enforcement of the Single Market acquis. But this proposal touches Article 153 (5) of the Treaty on the Functioning of the European Union, which states that the definition of the right to strike is an exclusive national competence’<sup>59</sup>. However, no mention was made of the necessity to take further action to tackle the problems raised by the Laval Quartet. A similar position was expressed by European Conservative and Reformists (ECR) EMPL spokesperson: ‘It is good to see that for once the Commission is listening. The UK was among 12 Member States which saw that this planned legislation would cut right across the key principle of subsidiarity - that matters which can be dealt with by national or local governments should be dealt with there, not by the EU’<sup>60</sup>.

Finally, the withdrawal of the Commission proposal was welcomed by both the ETUC (2012b) and BusinessEurope (2012c). Bernadette Ségol, general secretary of the European Trade Union Confederation (ETUC 2012b), declared ‘the Commission should confirm that the EU is not only an economic project, but in fact has as its main objective the improvement of living and working conditions of its citizens’. However, she stressed that the withdrawal of the proposal does not solve the problems created by the ECJ in the Laval Quartet. Therefore, the ETUC urgently called on the EU institutions to adopt a social progress protocol to be attached to the European Treaties in order to ensure that fundamental social rights cannot be restricted by economic freedoms. As expected, a different position was expressed by BusinessEurope, which welcomed the withdrawal of the Monti II, but did call on the Commission to take further action in this domain. Indeed, Philippe de Buck, director general of BusinessEurope, said that:

...ensuring a proportionate use of the right to strike is necessary to prevent situations in which strike actions excessively affect equally important rights and freedoms, such as the single market freedoms, or the fundamental right to property and to conduct a business. This is why the approach proposed by the European Court of Justice is balanced. This is why the withdrawal of this regulation proposal is the right approach (Euractiv, 2012).

To sum up, the Commission’s proposal for a Council regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services was met by a horizontal critique from all Member States, political parties and social partners. The Commission found itself isolated and with no margin for manoeuvre to get its proposal accepted,

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<sup>59</sup> Quote available at: <https://www.eppgroup.eu/newsroom/news/epp-group-welcomes-the-withdrawal-of-monti-ii>.

<sup>60</sup> Quote available at: <https://www.euractiv.com/section/justice-home-affairs/news/brussels-drops-plans-for-eu-law-limiting-right-to-strike/>.

because of the formal constraints imposed by Art. 352 on which the Council regulation's proposal was based and which requires a legislative proposal to be approved by a unanimity vote of all MSs and the majority of the EP. At the core of the critiques against the Commission's proposal was the opposition between supranational centralisation and national sovereignty. National parliaments, social partners and political groups in the EP criticised the attempt of the Commission to regulate the right to strike at the EU level, thus giving 'more power to Brussels' and violating national spaces of social sovereignty. This said, the qualitative analysis of the positions expressed by all political actors reveals that except for the shared opposition to the Commission's proposal, the attitude of the political actors towards the posting of workers, the ECJ ruling and the asymmetry between economic and social rights within the European Single Market vary significantly. As observed, in fact, the decision of the Commission to propose two legislative measures (see below for the Enforcement directive) to tackle the problems related to the posting of workers was mainly a response to the call of trade unions, socialist parties across Europe and in Brussels, and some national governments in the immediate aftermath of the ECJ ruling on the infamous Laval Quartet. It is not a coincidence that soon after the Commission's decision on withdrawal of Monti II, the same actors who called on the Commission to act after the Laval Quartet again asked the Commission to propose legislative measures to rebalance the economic and social dimension of the Single Market. At the same time, a closer look at the reasoned opinion tabled by national parliaments and sent to the Commission reveals a significant difference between the position of Member States. While the Swedish parliament, for instance, stressed the problems raised by the ECJ ruling and the necessity to fight against social dumping, the Polish Senate stressed that: 'the right to take collective action is not threatened at present by the freedom of establishment or the free movement of services, and vice versa. These values are in balance, with priority being given to neither of them' (Reasoned opinion of the Senat Rzeczypospolitej Polskiej, 8 May 2012).

These findings therefore confirm the existence of a clear tension between supranational centralisation of social competences at the EU level and spaces of national social sovereignty over the Monti II regulation. However, the qualitative analysis of the debate suggests that a more complex scenario may emerge. In the next section, we will present the *iter* of the second legislative measure proposed by the Commission after the Monti Report: the Enforcement Directive.

#### 4.5 The Enforcement Directive

Together with Monti II regulation, the Commission proposed a second legislative initiative, the so-called 'Enforcement Directive' (ED), with the aim of establishing a common framework for the competent authorities, improve the monitoring of the PWD and its implementation, identify the

genuine posting from fraudulent posting and create an enhanced dialogue between national inspectorate authorities, thus facilitating exchange of information and monitoring capacity, guaranteeing better protection of posted workers and a more transparent and predictable legal framework for service providers.

Among the novelties proposed by the ED in order to better prevent and address any abuse of the applicable rules, there was a list of factual elements to help the assessment of whether a specific situation qualifies as a genuine posting, with the aim of avoiding phenomenon such as letterbox companies (Article 4). For instance, in order to fight abuse and circumvention, it is stated that the competent authority should control the place where the undertaking has its registered office and administration, uses office space, pays taxes and social security contributions and, where applicable, in accordance with national law, has a professional licence or is registered with the chambers of commerce or professional bodies (Art. 4.2a); the place where posted workers are recruited and from which they are posted (Art. 4.2b); the law applicable to the contracts concluded by the undertaking with its workers, on the one hand, and with its clients, on the other (Art. 4.2c); the place where the undertaking performs its substantial business activity and where it employs administrative staff (Art. 4.2d); and the number of contracts performed and/or the size of the turnover realised in the Member State of establishment, taking into account the specific situation of, inter alia, newly established undertakings and SMEs (Art. 4.2e). Moreover, the ED (Art 4.3) proposed that the undertaking should clarify the date on which the posted worker starts his or her service and the nature of the activity, and other ‘factual elements’ in order to guarantee the temporary nature of the provision of cross-border service. For greater legal certainty, the ED proposed to lay down a list of national control measures that are considered justified and proportionate and which may be applied in order to monitor the compliance of PWD (Article 9) and established a special treatment for the construction sector’s workers. Notably, Art. 12 proposed to oblige Member States to introduce a subcontracting liability in order to tackle underpayment, namely, the posted worker holds both his employer and the subcontractor liable for any outstanding net remuneration corresponding to the minimum rates of pay. Finally, to improve access to information, Art. 5 states that information on the terms and conditions of employment and on collective agreements applicable to posted workers must be made available on a single official national website, accessible to everyone and free of charge.

While the ED certainly proposed to introduce some relevant novelties (e.g. access to information for companies and posted workers, strengthening of administrations’ cooperation) to tackle fraud and abuse, more controversial issues were left untouched. Indeed, the draft ED did not address problems such as: the clarification of the minimum rates of pay; the interpretation of the PWD core social rights as a minimum floor or maximum ceiling; the persistence of practices such as ‘regime

shopping' or bogus self-employment in the context of posting; the definition for the temporary character of posting; the inconsistency between PWD and EU regulation in the field of social security coordination; and, last but not least, the question of how to achieve a better balance between economic and social rights.

Against the Commission's proposal, the European Trade Union Confederation immediately criticised the 'minimalistic approach taken by the Commission by proposing an Enforcement Directive instead of a revision of the Posting of Workers Directive itself' and argued that 'the text will not prevent abuses of workers' rights nor does it clarify the scope of the Posting of Workers Directive'. Indeed, the ETUC (2012a) argued that while trade unions certainly agree with the objective to guarantee a genuine enforcement and implementation of the PWD, they expected from the Commission a more ambitious proposal that would revise the core elements of the PWD. On the other hand, BusinessEurope welcomed the Commission's decision to propose an Enforcement directive with the aim of improving access to information about terms and conditions of employment applicable to posted workers, as well as facilitating administrative cooperation, which are the key elements in improving compliance. However, BusinessEurope expressed some concerns on two key elements of the ED proposal, which, 'instead of making it easier for companies and workers to access opportunities offered by the single market, will increase bureaucracy and hamper cross-border provision of services' (BusinessEurope, 2012b). Notably, the EU businesses criticised Article 12 of the proposed ED, which obliges Member States to introduce a system of joint and several liability for posted workers' wages in the construction sector.<sup>61</sup> According to businesses, companies should not have to assume responsibilities of public authorities to enforce the application of employment terms and conditions by other companies. Moreover, this proposal represented to them an administrative burden and cost for companies and subcontractors, especially for SMEs. Concerns were also expressed on Article 9, namely, on the possibility of defining a close list of control measures and administrative formalities that Member States may impose on undertakings posting workers. In its position paper, BusinessEurope argued: 'In principle, BusinessEurope would welcome an exhaustive list of allowed national control measures. At the same time, we are concerned that in practice an attempt to draw up such a list may be difficult, given the diversity of existing national control

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<sup>61</sup> The Commission's proposed text on Article 12 reads as follows: 'With respect to the construction activities (...), the Member States shall ensure (...) that the contractor of which the employer (service provider or temporary employment undertaking or placement agency) is a direct subcontractor can, in addition to or in place of the employer, be held liable by the posted worker and/or common funds or institutions of social partners for non-payment of the following: (a) any outstanding net remuneration corresponding to the minimum rates of pay and/or contributions due to common funds or institutions of social partners in so far as covered by Article 3 (1) of Directive 96/71/EC; (b) any back-payments or refund of taxes or social security contributions unduly withheld from his/her salary'.

measures. Member States need to be in a position to carry out control duties effectively' (BusinessEurope, 2012b).

Articles 9 and 12 of the Commission's proposal were indeed the most controversial and debated issues in the Council and in the European Parliament. Moving from Article 12, the Commission's proposal was explicitly mentioned as a problematic issue during the EPSCO meeting held on 6 December 2012 under Cypriot presidency. On the one hand, a group of countries, mainly from Eastern Europe (Poland, Hungary, Lithuania, Latvia, Estonia), supported by the United Kingdom, explicitly called on the Commission to delete its proposal. The reason for such opposition was well explained by the Polish delegate, who stated:

On Article 12 of the draft directive, we believe that the objectives that are pursued in this case will not be achieved if we introduce joint and several liabilities. We also have misgivings that the introduction joint and several liabilities under the PWD may result in discriminating foreign businesses and foreign entrepreneurs that post workers. Let us also remember that the heart of the ED is to implement to the PWD. Therefore, the ED should not introduce new legal institutions that are not known by various systems of Member States. We think that the introduction of joint and several liabilities under the PWD is not commensurate with the objective that is pursued and as a result the possibility of service providers will be limited in cross-border provision of services when they wish to rely on their own employees, and it may result in unnecessary barriers. That is why Poland would like to delete that proposal from the draft of the directive.

The same position was also expressed in the EMPL committee in the EP, where the Polish EPP rapporteur, in charge of drafting the parliamentary report, deleted the whole of Article 12. The justification was the following:

Its introduction (of joint and several liability) at the European level only for companies which post workers in the countries where this system does not exist is highly disproportionate and will have a negative effect on cross-border provisions of services by hampering competitiveness of the foreign companies. It would act as a *barrier in the single market*, while not combating dishonest companies, which often are excluded from the scope of PWD.

On the other hand, Germany, Austria, Spain, Italy, Belgium, Denmark, Finland, France and Sweden<sup>62</sup> were strongly in favour of the further regulation of the construction sector and the introduction of

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<sup>62</sup> It is worth noting that Germany, Austria, Spain, Italy, Belgium, Finland, France and the Netherlands had already introduced in their national legal systems some form of contractor liability for wages and/or other working conditions.

joint and several liabilities. Notably, Danish Employment minister Mette Frederiksen declared: ‘With regard to Article 12, we have no rules in Denmark in this area but we are in constant dialogue with social partners and they recommended us that we associate with the Commission’s proposal on joint and several liabilities because it sends a very clear message to what we call the non-registered in Denmark’. Similarly, France’s Labour minister stated that:

On Article 12, we also think that it is essential to set up a mechanism of joint and several liabilities at the EU level. In France, in fact there are too many contractors who turn blind even if they know exactly what is happening beneath them and they know that what they are requested can only be achieved if other subcontractors respect the rules against the frauds. So, this joint and several liabilities I think it is something essential to tackle rules circumvention and fraud.

In the parliamentary debate, a strong position in favour of Article 12 was expressed by the Socialist, Greens/EFA and GUE groups, who were supported by the position taken by the ETUC in favour of Article 12. In particular, the S&D was against the draft proposal of the EPP rapporteur and asked for a binding rule of joint and several liabilities across sectors, meaning measures that are not limited to the construction sector. Interestingly, the S&D shadow rapporteur on the ED was Stephen Hughes, a British MEP, whose position therefore was against his own government.

As mentioned above, the other controversial issue that was debated during the Council and EP negotiations was Article 9 on national control measures and administrative requirements that host Member States may impose on service providers. In its draft, the Commission proposed a closed list of measures that the Member States may impose on service providers. According to the Commission, this would have created a floor of requirements common for all Member States. This proposal was supported by all Eastern Member States, who stressed that, in so doing, legal certainty and transparency would be guaranteed. This concept was stressed during the Council meetings by the Polish, Lithuanian, Czech, Hungarian, Romanian, Slovakian, Estonian and Bulgarian ministries. A clear statement in this respect was made by the Lithuanian Labour in a Council meeting in October 2013:

Lithuania supports the objectives of the ED to ensure minimum level of protection of rights to posted workers and to harmonize the application of law in this area. That is why we agree with the Commission’s proposal to establish a close list of national control measures in Article 9, which would add to clarity of the national administrative control requirements and help to ensure legal certainty. If, however, we allow each Member State to establish its own control measure this would lead to an increase of administrative burden for companies and this would hamper freedom to provide services in the EU.

On the contrary, the idea of a close list was strongly opposed by western Member States (Germany, Finland, France, Sweden and Denmark), who considered it as a threat to their capacity to maintain higher social standards. This point was clearly explained by the German Minister of Labour and Social Affairs, Ursula von der Leyen:

On Article 9, we have once again consulted our social partners and we are still persuaded that it should be possible for a state to use the control measures available at national level. So, a close list is not possible for us because it would lower our national standards. We are all very open to the whole subject of the posting of workers, and we agree that there should be full mobility, but nonetheless we have to balance this with the protection of workers in the various location they work in. We have to guarantee this balance and we are persuaded that this can be better guaranteed in our country if we can use those control possibilities which we already have.

To sum up, the Commission's proposal on the Enforcement directive mainly received lukewarm reactions. Indeed, the lack of ambitious proposals on the key problematic elements, which emerged from the legislative and structural gaps within the PWD, made the Commission's proposal less controversial compared to the Monti II regulation. However, a closer analysis of the political debate in the Council and the Parliament and among social partners unveiled some tensions on two key issues. The first regards the definition of national control measures on posting undertakings and the possibility to define a close or an open list at the EU level of administrative requirements. Article 9 indeed pits higher-welfare standards Member States against lower-welfare standards countries in the Council, the former asking for an open list of administrative requirements in order to guarantee each Member State the possibility to impose its standards, and the latter supporting the Commission's proposal for a close list in order to guarantee legal certainty and avoid administrative burden for companies. The second controversial issue regards the Commission's proposal to establish joint and several liabilities at the EU level, thereby giving posted workers the possibility to hold both the employer and the subcontractor liable for their remuneration and back payments. This proposal again divided Western countries who had already introduced in their national legal systems some form of contractor liability for wages and/or other working conditions (Germany, Austria, Spain, Italy, Belgium, Finland, France, Netherland plus Sweden and Denmark) against Eastern countries, who do not have the same conditions and argued that this would represent a further burden for posting their workers.

The result of these negotiations was a compromise that Article 12 would be significantly watered-down from the Commission's initial proposal. Indeed, in the final text, back-payments or

refunds of taxes or social security contributions were completely removed. In this respect, as argued by Heinen and colleagues (2017): ‘a liability for the full scale of possible wage components would have significantly strengthened the position of the posted worker and would have made fraudulent practices much more unattractive due to the risk of being held liable for the whole remuneration’ (Ibid. p. 50). As regards Article 9, a list of administrative requirements was ultimately approved, however, not as completely close list, but rather, as a minimum requirement. The final compromise was voted for on 16 April 2014, but no one expressed any specific satisfaction. As observed above, Bernadette Ségol, ETUC secretary general, defined the compromise on the ED as: ‘deeply frustrating and disappointing’ and called for ‘a strengthening of the Directive, now more urgent than ever’ (ETUC, 2014b). The Party of European Socialists indicated the revision of the PWD as a priority in its manifesto for the 2014 electoral campaign. Notably, the European socialists stated: ‘We want to put an end to social dumping, by ending the practice of exploiting workers and precarious contracts that harm many Europeans. We want to promote social justice. We will insist on strong rules to guarantee equal pay for equal work, the protection of workers’ rights and quality jobs’ (PES, 2014).

#### 4.6 The revision of the PWD

Soon after his appointment as president of the European Commission, Juncker stressed the importance of revitalising the social dimension of the European Union, especially by revisiting the legislation on free movement of workers. To this end, he inserted in the Commission’s Working Programme for 2015 the launch of a labour mobility package, which included a targeted revision of the PWD, the revision of the Regulation on EURES and the revision of the Social Security Coordination Regulations. As regards the PWD, President Juncker stressed that the proposal for a revision of the 1996 directive aimed to ‘address unfair practices leading to social dumping and brain drain by ensuring that the same work in the same place is rewarded by the same pay’ (Juncker 2016).

Immediately after the publication of the Work Programme of the European Commission for 2015, national governments reacted to the Commission’s plan for a targeted revision of the PWD. Two joint letters were sent to the Commissioner for Employment, Social Affairs, Skills and Labour Mobility, Marianne Thyssen. The first was signed by seven labour ministers from Member States (Austria, Belgium, France, Germany, Luxembourg, Netherland and Sweden), who welcomed the proposal from the Commission and especially the principle of ‘equal pay for equal work in the same work-place’. In this letter, labour ministers listed a series of problems that emerged around the posting of workers, such as the transformation from a temporary provision of services to a semi-permanent presence of posted workers in the host country, and that they expect the new Commission’s proposal could address. In this respect, labour ministers stressed how employers in the sending countries may

enjoy an unfair advantage vis-à-vis employers in the host countries because of the legal loopholes in the 1996 PWD. For instance, they indicated the problem of minimum hard-core social rights, which are considered as a maximum ceiling to be guaranteed to posted workers and the incongruence between the PWD and the EU Regulation on coordination of social security. In order to combat social dumping and unfair competition, in the letter, labour ministers suggested to the Commission to adopt a new legal basis for the PWD on Articles 151 and 153 of the TFEU. Moreover, they asked to improve cross-border inspections and suggested a study on the use of self-employed individuals in the posting of workers. Finally, they asked to clarify in the revisited PWD the concept of the temporary nature of posting and to harmonise the PWD with the 883/2004/EU regulation.

The second letter was signed by nine Member States' labour ministers (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia). These countries stressed that the 1996 PWD directive already provided clear safeguards to protect the social rights of posted workers. They underlined the fact that the ED was only recently adopted, and therefore time was needed to perceive its full effects. They also envisaged the risk that a revision could be used to undermine some of the fundamental principles of the EU, including the freedom to provide services, and openly criticised the principles of equal pay for equal work in the same workplace, defined as *misguided and incompatible with a genuine Single Market*. Finally, the letter concluded with an explicit reference to the pay rate differences across EU countries and the ruling of the ECJ:

...it is important to emphasize that pay rate differences existing among Member States do not constitute an unfair competition when the freedom to provide services is concerned and there should be no obstacle for service providers to profit from a competitive advantage resulting from the differences between the national rates of pay, an advantage which was safeguarded so far by the EU law, including especially the case law developed by the Court of Justice of the European Union.

The reaction of labour ministers from 16 Member States to the Commission's plan to propose a revision of the PWD gives a clear idea of the high salience of the issue. At the same time, a clear East versus West divide, namely between low-welfare versus high-welfare countries, emerged blatantly around the issue of free movement, fair competition and protection of workers' social rights.

Against the announcement of the labour mobility package, social partners also reacted. On the one hand, the ETUC expressed its satisfaction with the decision of the Commission and indicated a list of priorities for the revision of the PWD. Notably, ETUC (2016b) asked that posted workers could be guaranteed remuneration that is no less than that applied to workers; that they could benefit from the protection of the collective agreements that are applied in the host country; that posting could

remain temporary; and that trade unions could be able to collectively bargain for posted workers. On the other hand, BusinessEurope was rather sceptical about the Commission's proposal. Emma Marcegaglia, president of BusinessEurope, sent a letter to EC President Juncker (BusinessEurope, 2015a), in which she reported the deep concern of BusinessEurope member federations with the revision of the PWD and the application of the principle 'equal pay for equal work in the same workplace' on posting of workers. The latter, in fact, would 'create a discriminatory situation against foreign service provider compared to domestic firms and undermine the single market for services'. Moreover, BusinessEurope stressed that the adoption of a revision of the PWD would jeopardise the foundation of national collective bargaining and wage-setting systems through the EU. Finally, to strengthen its position, BusinessEurope highlighted the unity of the business associations across Europe, including those from Scandinavian countries, which were in theory the most affected by unfair competition of posted workers (Finland, Sweden, Denmark, Iceland and Norway). Against this backdrop, BusinessEurope called on the Commission to withdraw its proposal.

Despite the immediate negative reactions, on 8 March 2016, the Commission presented its proposal for a directive amending Directive 96/71/EC, concerning the posting of workers in the framework of the provision of services (COM(2016) 128 final). While presenting it, Commissioner Thyssen said: 'I have said from day one of my mandate that we need to facilitate labour mobility, but that it needs to work in a fair way. Today's proposal will create a legal framework for posting that is clear, fair and easy to enforce' (Thyssen, 2016). According to the Commission's *explanatory memorandum*, the goal of the revision of the PWD was twofold: i) facing the problems that had emerged in the Single Market, especially after the Eastern enlargement and the wage differentials, which created incentives for unfair competition at the expense of workers' social rights; and ii) harmonising the PWD with the Regulations on coordination of social security system and the Temporary Agency Workers directive. To this end, the Commission's draft targeted revisions proposed to introduce changes in three areas: remuneration of posted workers, rules on temporary work agencies and long-term posting. Notably, the Commission indicated four key objectives. The first regards the rules on remuneration that would be applied generally to local workers and that would also have to be granted to posted workers. Remuneration would not only include the minimum rates of pay, but also other elements such as bonuses or allowances where applicable. Member States would be required to specify in a transparent way the different elements of how remuneration is structured in their territory. Rules set by law or universally applicable collective agreements would become mandatory for posted workers in all economic sectors. Secondly, the Commission's proposal gave the possibility to Member States to provide that subcontractors need to grant their workers the same pay as the main contractor. Nevertheless, this could only be done in a non-discriminatory way: the

same rule must apply to national and cross-border subcontractors. Thirdly, the proposal ensured also that national rules on temporary agency work apply when agencies established abroad post their workers. Finally, if the duration of posting exceeded 24 months, the labour law conditions of the host Member States would have to be applied, where this is favourable to the posted worker.

Against this proposal, trade unions immediately reacted positively. The ETUC (2016e) considered it as a good step in the right direction, especially the Commission's proposal to introduce full equal treatment for temporary agency workers who are posted and to align the duration of posting to social security provisions. At the same time, the ETUC stressed some loopholes that persisted in the Commission's proposal, such as the too-restrictive definition of recognised collective agreement, the lack of the right of trade unions to collectively bargain for posted workers and the possibility to make primary contractors jointly liable with their subcontractors with respect to terms and conditions of employment. Moreover, the ETUC suggested some revisions, such as the reduction of the period of long-term posting (24 months), which should be determined by host Member States. Finally, the ETUC asked to introduce the unconditional equal pay principle for posted workers and pointed out that the problem of the asymmetry between right of collective action and freedom to establish was not addressed.

Business associations (Business Europe; European Centre of Employers and Enterprises and Union Européenne de l'Artisanat et des Petites et Moyennes Entreprises) reacted negatively, stressing the lack of necessity to revisit the PWD. Notably, they claimed that the proposed text by the Commission undermined the competitiveness of foreign company and the industrial relations at national level and created legal uncertainties. An exception on the side of business associations was represented by the European Federation of Building and Woodworkers (EFBWW), the European Construction Industry Federation (FIEC) and the European Builders Confederation (EBC). EFBWW, FIEC and EBC positively welcomed the proposal of the Commission, though with certain caveats regarding, for instance, the duration of long-term posting period and the definition of the concept of remuneration.

Following the release of the Commission's draft proposal, eleven national parliaments (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia, Croatia and Denmark)<sup>63</sup> addressed a reasoned opinion which triggered the activation of the EWM. All of them (except for the Danish Folketing) claimed that the Commission's proposal violated the principle of subsidiarity and argued that the proposal was premature since numerous Member States

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<sup>63</sup> The reasoned opinion presented by Denmark differs significantly from the others. The Danish Folketing welcomed the Commission's proposal and the introduction of the principle 'equal pay for equal work in the same workplace'. The only concern regards the issue of pay regulation. According to the Danish Parliament, it is not well specified that pay must be defined by the national practice.

had not yet implemented the ED. Another concern expressed by these Member States regards the risk of undermining the labour cost competitiveness advantage of some countries, by introducing the principle of equal pay for equal work in the same workplace. This was well explained in the Bulgarian reasoned opinion: '[Bulgaria] is concerned that the EC intention to equalize payments between the seconded and the local workers will remove the existing competitive advantages of certain service providers. This would lead to restriction of the access to the Single Market for businesses from the less developed economies within the European Union' (Reasoned opinion of the National assembly of the republic of Bulgaria, 20 April 2016). Similarly, the reasoned opinion of the Croatian parliament read as follows: 'The European Affairs Committee considers that the present Proposal for a Directive raises concerns about restrictions on freedom to provide services within the European Union and stresses that labour cost is a legitimate element of companies' competitiveness in the EU internal market' (Reasoned opinion of the Croatian parliament, 6 May 2016). Several national parliaments also argued that the rules in the 1996 directive were adequate and already gave willing Member States the possibility to go beyond the general rules (extension of collective agreements beyond the construction sector, temporary agency workers). In this respect, the Estonian Parliament stressed that the valid Directive already provided 'working conditions in the receiving country that the service providers from other countries have to respect' (Reasoned opinion of the Estonian *Riigikogu*, 10 May 2016).

Despite the activation of the Yellow Card, Juncker decided to maintain the EC proposal. In the Communication on the proposal for a directive amending the PWD (COM (2016) final), the Commission addressed all concerns expressed in the reasoned opinions and declared its intention to maintain its position. As regard the critique on the adequacy of existing rules and the unnecessary of a revision of the PWD, the Commission replied that the:

Member States having the option, but not the obligation, to apply such rules in sectors other than the construction sector does not fully achieve this objective. Indeed, Member States can under such circumstances choose not to do so, hence failing to provide a level playing field and an adequate protection of posted workers in such other sectors. The obligation for all Member States to apply the rules in all sectors of the economy cannot be established at national level but must be laid down at Union level. Therefore, the Commission considers that the objective of the proposal on this point can be better achieved at Union level (European Commission, 2016b, p. 6).

With respect to the argument advanced by national parliaments that the alignment of wages across Member States should come as a consequence of further economic development and not from the

Union's legislative action, the Commission replied that the aim of its proposal is not to align wages across Member States. On the contrary:

...the proposal merely ensures that mandatory rules on remuneration in the host Member State are applicable also to workers posted to that Member State. Moreover, the fact that economic development may bring more convergence in the wages over time does not exclude the need to ensure - also in the interim - a level playing field for companies and an appropriate protection for posted workers (European Commission, 2016b, p. 6).

Finally, as regards the critique advanced by the Danish Parliament, concerning the lack of express recognition of Member States' competences as far as the definitions of pay and terms and conditions of employment are concerned, the Commission replied that its proposal fully and unequivocally respects the competence of the Member States to set the remuneration and other terms and conditions of employment. Moreover, it further specified that its proposal does not regulate remuneration, nor does it define remuneration or the constituent elements of remuneration at the EU level (European Commission, 2016b, p 7).

There are several possible explanations for the decision of the Commission to maintain its proposal. The first is certainly related to the genuine commitment of the presidency and Juncker himself. As clearly stated by the interviewees (SECGEN1, SECGEN2, DGEMPL4), from the outset of his presidential term, Juncker invested a great deal of 'political capital' in increasing the visibility of social issues at the EU level. As early as his first State of the European Union (SOTEU) speech in October 2014, Juncker enunciated his ambition to achieve for the EU a 'Social Triple A rating, that is just as important as an economic and financial triple A rating'. One year later, in September 2015, he revealed his intention to adopt an EPSR and in this context, he also presented the Labour Mobility Package, including the targeted revision of the PWD.

Besides Juncker's commitment, the second reason that explains the Commission's decision to ignore the Yellow Card procedure is certainly the significantly changed political context. While in 2012 a horizontal majority of Member States opposed the proposal of the Monti II regulation, in 2016 two distinguished groups of western versus eastern Member States were created, and only the latter raised subsidiarity concern and activated the Yellow Card. Therefore, the Commission benefited from the support of a large proportion of Member States. At the same time, social partners were also divided. BusinessEurope immediately opposed the proposal, which would bring new uncertainty for business in Europe. On 11 May 2016, the Director General of BusinessEurope, Markus Beyrer, explicitly supported the Yellow Card procedure and called on Commission to take these concerns

seriously and withdraw its proposal. On the contrary, the ETUC explicitly supported the Commission and on 13 May 2016, after the trigger of the Yellow Card procedure, Luca Visentini, ETUC secretary general, sent a letter to Commissioner Thyssen and president Juncker, stating that the: ‘European trade union movement takes the unanimous view that Member States seeking to block the principle of ‘equal pay for equal work’ are neglecting their own workers’ (ETUC, 2016e). In the letter, he stressed the unity of the trade unions from both the sending and the hosting countries. The letter concluded as follows: ‘We wish to confirm that all trade unions in Europe, including those in countries where parliaments have supported the yellow card procedure, are strongly in favour of the revision of the Posting of Workers Directive, and therefore join with the ETUC in encouraging the European Commission to maintain its proposal’ (ETUC, 2016e).

Finally, a third reason that explains the decision of the Commission to maintain its proposal is the procedural requirement of a revision of the PWD. Contrary to the Council regulation that necessitates the unanimity vote in the Council and the simple majority in the Parliament, the revision of the PWD required a qualified majority vote in the Council and the majority in the Parliament. This gave the Commission more margin for manoeuvre for the approval of its proposal.

#### *4.6.1 The debate in the European Parliament*

On 10 May 2016, French Christian-Democrat MEP Morin Chartier and Dutch socialist MEP Agnes Jongerious were appointed rapporteurs for the European Parliament report on the revision of the PWD. In their draft report, the co-rapporteurs build on the Commission’s proposal and advanced the five most relevant proposals: (i) changing the legal basis of the PWD, with the introduction of Article 151 and 153 TFEU (Title X: Social Policy), thus tackling the asymmetry between freedom to provide service and workers’ social rights (Amendment 1); (ii) eliminating the reference to labour cost as a factor of competitiveness in the internal market (Amendment 6); (iii) clarifying that the set of social rights guaranteed by the PWD to posted workers is to be interpreted as minimum floor of rights and not a maximum ceiling. (Amendments 9-10; in this respect, they considered the list of terms and employment conditions as an open list that can be further improved by each Member State); (iv) defining the concept of remuneration at the national level; and (v) extension of the terms and conditions of employment of temporary workers to posted workers.

The issues raised by Chartier and Jongerious were objects of a broad debate in the EMPL committee, where MEPs tabled a total of 523 amendments. As explained in Chapter 1, to analyse this amount of information, we proceed as follows. Firstly, each amendment is categorised on the basis of the political and national belonging of the MEP(s) who tabled it. Secondly, we classify the amendments by looking at how they proposed to change the original draft. In detail, we distinguish

the amendments in favour of the Commission’s proposal (for example, introducing only minor changes or adding parts that reinforce the original proposal) and those against (such as deleting the original paragraph or changing some parts to weaken its original meaning). Table 13 summarises the MEPs’ positioning on the most controversial issues related to the PWD identified in the introduction. For each issue, we indicate the position taken by MEPs in their amendments. For instance, concerning the legal basis of the PWD, we distinguish between those MEPs who asked to base the PWD on the social title of the TFEU and those who indicated only the freedom to provide services.

Tab. 13 Amendments tabled on the most controversial issues

Main Topic (Commission’s proposal)	Main divides	
	Market-correcting vs Market-making	
Legal Basis (Citation 2)	Free movement of workers (Art. 151/153/45 TFEU)	Only freedom to establishment (Art. 56 TFEU)
	IT-EFDD (27); SE-S&D (28); DE-Greens/EFA (29); DK-GUE/NGL (30);	CZ-EPP (24, 35); SK-EPP (25, 32); HU-EPP (26); UK-ECR (31); CZ-ALDE (33); SE-ALDE (34);
Labour cost as a competitive factor in competitive internal market (Recital 11)	Delete Commission’s text: labour cost is not a competitive factor	Maintain Commission Text: labour cost is a competitive factor
	DK-GUE/NGL (166); FR-ENF (167); DE-Greens/EFA (170); RO-S&D (171); SE-S&D (173); RO-S&D (174); DE-GUE/NGL (176); FR-EPP (177)	RO-EPP (168); AT-EPP (169); HU-EPP (172); ES-ALDE (175); UK-ECR (178); IE-EPP (179); SE-ALDE (180); CZ-ALDE (181);
Extend the rights of posted workers to temporary agency workers (recital 15 and others)	Maintain Commission Text: extend temporary agency workers’ rights to posted workers.	Delete Commission’s text: do not extend temporary agency workers’ rights to posted workers.
	DE-GUE/NGL (266, 488); BE-S&D (268); BG-S&D (252, 467); DE-Greens/EFA (251)	IT-ENF (248, 471); CZ-ALDE (250)
	High-wage/welfare vs Low-wage/welfare	
National rules on remuneration applied to posted workers must not restrict cross-border provision of services (Recital 12)	Delete Commission’s text: Member States’ rules can restrict cross-border provision of services	Maintain Commission text: Member States’ rules cannot restrict cross-border provision of services
	SE-S&D (183); DE-Greens/EFA (184); BE-ECR (185); BE-S&D (186); DK-GUE/NGL (187); FR-ENF (188); IT-ENF (194); RO-S&D (197);	CZ-ALDE (189); PL-EPP (190); HU-EPP (191); ES-ALDE (192); SE-ALDE (193); CZ-EPP (195); RO-EPP (196); UK-ECR (198);
Determination of habitual place of work: number of months after which applicable working and employment conditions should be those established by the host Member State (Recital 8)	Month(s)≤12	Months≥24
	FR-ENF (113); DK-GUE/NGL (116); NL-S&D (112); IT-ENF (114); BE-ECR (115); DE-Greens/EFA (121); LU-EPP (124)	RO-S&D (117); PL-EPP (118, 122); BG-S&D (119); UK-ECR (120); RO-EPP (109); HU-EPP (110); PL-EPP (111); SK-EPP (123)
Calculation of cumulative working period for posted workers performing the same task at same place (Art. 2a par. 2)	For all posted workers from day 1	Only for workers posted for at least 6 months
	FR-EPP (325); FR-S&D (326); BE-ECR (327); IT-EPP (328); LU-EPP (329); DK-GUE/NGL (330); IT-S&D (331); NL-S&D (332); FR-ENF (334); IT-ENF (335);	PL-EPP (322, 323), UK-ECR (324); SK-EPP (333);
	EU-conditionality vs national social sovereignty	
Definition of concept and elements remuneration (Art. 3 par. 1 Sub. 2)	Determined at the Member States’ level	At the EU level
	EPP-CZ (391); PL-EPP (392); RO-S&D (393); DK-S&D (394); NL-S&D (395);	-

From the analysis of the amendments tabled in the EMPL committee, three main findings emerge with respect to MEP positioning on the revision of the PWD.

Firstly, a clear left–right tension occurs with respect to the legal basis of the posting of workers, whereby left-wing MEPs (GUE/NGL; Greens/EFA and S&D) prefer to add also Articles 153, 151 and 45 TFEU in order to balance posted workers’ social rights (i.e. equal treatment and right to strike) and economic freedoms, and right-wing MEPs prefer to maintain the existing legal basis. The same divide emerges with respect to the understanding of labour cost, which is perceived by right-wing MEPs as a competitiveness factor, while it is not perceived in this way by left-wing MEPs. Finally, MEPs belonging to left-wing groups would like to extend temporary agency workers’ rights to posted workers, while right-wing MEPs oppose the proposal.

Secondly, a territorial conflict dynamic emerges between western and eastern delegations, when it comes to the determination of the period of posting after which a worker should be subject to the labour market rules of the host country. The same conflict emerges with respect to the determination of the habitual place of work and the scope of the directive itself and to the calculation of the cumulative working period for posted workers performing the same task at the same place. Interestingly, this territorial divide does not equally affect all the EPGs. Indeed, the left-wing groups stood united in favour of the rapporteurs’ proposal, thus favouring a market-regulation approach, while right-wing Christian-Democrat and liberal MEPs split according to their territorial origin. Western EPP and ALDE delegations supported the Commission’s proposal, while Eastern EPP and ALDE MEPs tabled amendments against it. In this respect, we can argue that in the case of left-wing groups, the left–right divide trumped the east–west divide. On the contrary, in the case of right-wing MEPs, territorial origin prevails on the ideological stance. We observe the same territorial split in the ENF group, while the conservative MEPs from the ECR group adopted a market-making approach, opposing all proposals from the rapporteurs.

Finally, a third line of conflict emerges on the definition of the elements of remuneration. In this respect, all MEPs tabled amendments against the proposal for an EU-level definition of remuneration, claiming that the concept of remuneration shall be determined by the national law and/or practice of the Member State to whose territory the worker is posted.

To sum up, the parliamentary debate on the posting of workers unveils the emergence of two new coalitions of ‘regulators’ and ‘liberals’, the former including the delegation of left-wing MEPs and Western MEPs from right-wing groups (EPP and ALDE), the latter composed of conservative MEPs from the ECR group and the delegation of Eastern MEPs from right-wing groups (EPP and

ALDE). Because the regulators' coalition had the majority in the EMPL committee, the result of negotiations was in favour of the proposals advanced by the two rapporteurs. Indeed, the text voted on by the EMPL committee on 23 October 2017 contained the extension of the legal basis of the PWD to Articles 151 and 153, the definition of the limit of 24 months after which labour law of the host Member States applies to posted workers, the deletion of the reference to labour cost as a competitiveness factor, the deletion of the definition of the elements of remuneration and the extension of the rules of temporary workers to posted workers, as well. A look at the RCV in the EMPL committee confirms the conflict configuration that emerged in the amendments. Indeed, the final report, which was approved with 32 votes in favour, 8 against and 13 abstentions, was supported by the left-wing groups (GUE/NGL, Greens/EFA and S&D) and part of the ALDE and EPP, with the abstention of EFDD and ENF. The split within the ALDE and EPP delegations between western MEPs and eastern MEPs was also confirmed.

#### *4.6.2 The debate in EPSCO Council*

The EPSCO council discussed for the first time the Commission's proposal for a revision of the PWD on 16 June 2016 under the Dutch presidency. At that time, the Commission still had not decided whether to withdraw or maintain the proposal. The debate was therefore characterised by a contrast between ministers from Eastern and Western countries. Notably, Romania, Hungary, Czech Republic, Poland, Lithuania and Latvia reiterated their opposition to the proposal because of three main reasons. They deemed existing rules to be sufficient and adequate; they thought that the extension of applicability of generally binding collective agreements outside the construction sector and the rules on subcontracting chains and on temporary agency workers could be better achieved at the Member State level; and, finally, they criticised the lack of justification for the Commission's proposal. Denmark intervened in the debate, welcoming the Commission's proposal, but, at the same time, stressing its concerns on the possibility of defining the elements of remuneration at the EU level. France, Belgium, Austria, Denmark, Italy, Germany, Sweden and Greece intervened supporting the Commission's proposal.

On 8 December 2016, a second EPSCO meeting was held under the Slovakian presidency. As in the Parliament, the most controversial issues in the Council were the duration of long-term postings, the definition of the elements of remuneration, the introduction of a new provision on subcontracting and the proposal of the Commission to make the terms and conditions under Article 5 of Directive 2008/104/EC<sup>13</sup> (Temporary Agency Work Directive, TAWD) mandatory for posted workers, applying the principle of equal treatment between temporary agency workers and comparable workers of the user undertakings. While Member States agree on amending the definition

of the elements of remuneration, by leaving it up to Member States, several concerns remained among Eastern countries, for instance, on the introduction of the concept of equal pay for equal work in the same workplace, and on the limitation of the duration of the PWD up to 24 months. In this respect, the labour minister of Latvia declared: ‘In our view the proposal on remuneration and limitation of the duration of posting of workers would produce a negative effect, by restricting the provision of services, reducing the number of posted workers and increase legal uncertainty’<sup>64</sup>. A strong opposition to the Commission’s proposal was also expressed by the Czech Republic and Romanian Labour ministers, who considered the Commission’s proposal and the advancement of the negotiations as a ‘threat to the freedom of providing services and an additional burden to already less competitive companies’ (Romanian labour minister). Similarly, Hungary and Poland declared their opposition to the proposal to revise the PWD, and especially to the introduction of the concept of remuneration, which they considered as a way to restrict freedom to conduct business and provide services. On the contrary, Germany, France, Sweden, Austria, Finland and Denmark reiterated their support of the Commission’s proposal. Notably, France and Germany proposed to also extend the PWD to the road transport sector, which had been initially excluded by the Commission.

Negotiations remained stuck among Member States for a lengthy period. During the first EPSCO meeting under the Maltese presidency on 3 March 2017, labour ministers remained highly divided along the same east versus west cleavage and adopted the same arguments from both sides as on previous occasions. Some progress was reached during the EPSCO meeting on 15 June 2016. Member States agreed on the proposal to shift from the minimum rate of pay to all mandatory elements of remuneration; on the proposal of universally applicable collective agreement to all posted workers in all sectors; on the necessity to introduce rules on post-working; and on temporary workers posted workers. However, dissensus persisted among Member States on the duration after which long-term posting becomes subject to the host Member State’s labour laws; on the link between PWD and other legislative initiatives, such as the 883/2004 and the Temporary Workers Directive; and on the extension of the PWD to the road transport sector.

Finally, a general agreement was reached by the Member States on 23 October 2017, under the Estonian presidency, revolving around five main points. Firstly, the Member States agreed that the remuneration of posted workers should be defined in accordance with host Member State law and practices. Secondly, an agreement was found on the long-term posting of 12 months that can be extended to 6 months (18 months in total) on the basis of a written notification by the service provider. Thirdly, collective agreements that are universally applicable to posted workers would be extended

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<sup>64</sup> All direct quotes are a direct transcription of Ministers’ speeches during the EPSCO Council referred at the beginning of each paragraph. A link to the video can be found in ‘Primary sources’.

across all sectors. Fourth, temporary agency workers and local workers would receive equal treatment. Finally, Member States agreed on a three-year transposition period, plus one additional year before the application of the directive, and, as regards the transport sector, the provisions of the amending directive will apply from the date of entry into force of the forthcoming sector-specific legislation.

In order to reach this general agreement, however, twelve hours of negotiations were necessary. Indeed, the EPSCO meeting on 23 October started in the morning, and a general approach was only achieved late that night. During the morning meeting, the initial compromise of the Estonian presidency (24-month maximum duration of posting period, inclusion of the road transport sector) was not supported by Hungary, Poland, Slovakia, Czech Republic, Lithuania or Romania, and Germany and the Netherlands also expressed concerns as regards the possibility to extend the applicability of the PWD to the transport sector. In order to avoid the failure of the revision of the PWD, the Estonian presidency proposed to specify through a Commission declaration that the PWD rules shall apply to the road transport sector from the date of entry into force of the legislative act amending directive 2006/22/EC, which concerns social legislation relating to road transport activities. This proposal was discussed in the afternoon EPSCO council meeting. However, it was opposed by the Visegrád countries (Hungary, Poland, Slovakia and Czech Republic). In his intervention on behalf of the Visegrád, the Hungarian minister declared:

There are elements that we do not really like, because what we are experiencing is not a compromise seeking exercise but an exercise where the interests of one group is going to push down the position of the other group, step by step, gradually. We have done a lot of concessions for the last couple of weeks and months. Everyone is aware of that. We had a common approach paper by the Visegrád group that was supported by other Member States. I wonder why we cannot talk about that. (...) I understand everyone has interests here and everyone will pay a political price at the end of the day. We are not ready to talk about single elements, but we are ready to talk about the package as a whole. We showed openness in accepting elements of the revision of the PWD we were initially against, such as the reference to remuneration but we experienced that we were giving a lot but practically getting nothing (...). Today I have the mandate by the four Visegrád prime ministers not to accept this as it is. Whatever happens today, let me remind you that this would bring a huge division in the EU, another one.

The position of the Visegrád countries was supported by Romania, who also opposed the proposal to reduce the duration of the posting period to a maximum of 12 months, as well as Latvia, Poland,

Lithuania, Ireland and Croatia. On the contrary, the Estonian presidency's proposal for a compromise was supported by France, Germany, Italy, Sweden, Denmark and Belgium.

The Estonian presidency therefore proposed a third compromise for a general approach that would entail a Commission declaration on the applicability of the PWD to the road transport sector, term of posting of 18 months, an application period of four years and a transposition period of three years. The proposal of a maximum duration of 18 months was, however, opposed by Germany and France, who proposed a maximum of 12 months with the possibility of an extension of 6 months, with the support of Italy, Spain and Austria. Denmark, Romania, Portugal, Hungary, Poland, Czech Republic and Slovakia expressed their support for the compromise proposal of 18 months. Except for Poland, the presidency's proposal on the application and transition period was accepted by all Member States. Finally, as regards the transport sector, the issue remained controversial with Hungary, Czech Republic, Poland, Croatia, Slovakia, Lithuania and Latvia sticking to their positions. In the end, the Romanian minister proposed as a compromise a long-term posting of 12 months that can be extended to 6 months (18 months in total) on the basis of a motivated notification by the service provider. The Romanian proposal was then discussed in the late evening on 23 October and received the support of all Member States. After the agreement on the Romanian proposal, Member States voted on the final general approach outlined above, which received the support of all the EU countries, with the exception of Hungary, Poland, Latvia and Lithuania, who voted against, while UK, Croatia and Ireland<sup>65</sup> abstained. Despite the opposition of some Member States to the general approach, the votes cast in favour of the final agreement were enough to adopt the general approach and open the negotiations with the Parliament.

To sum up, the debates within the Council brought to the surface a clear territorial divide between western and eastern Member States and a clear contrast between EU law competences and spaces of national social sovereignty (e.g. on the definition of remuneration).

#### *4.6.3 The results the trialogue and the RCVs in the Parliament and the Council*

Soon after the approval of the general approach in the Council and the vote of the EMPL report in the European Parliament, a trialogue meeting started between the Commission, Council and Parliament. As the final position voted on in the EMPL committee and the Council general approach were similar, and as they are both the positions supported by similar majorities, the negotiations did not last for long. An agreement was in fact reached in early 2018 under the Bulgarian presidency. Notably, the Parliament and Council agreed on the application of the concept of remuneration from

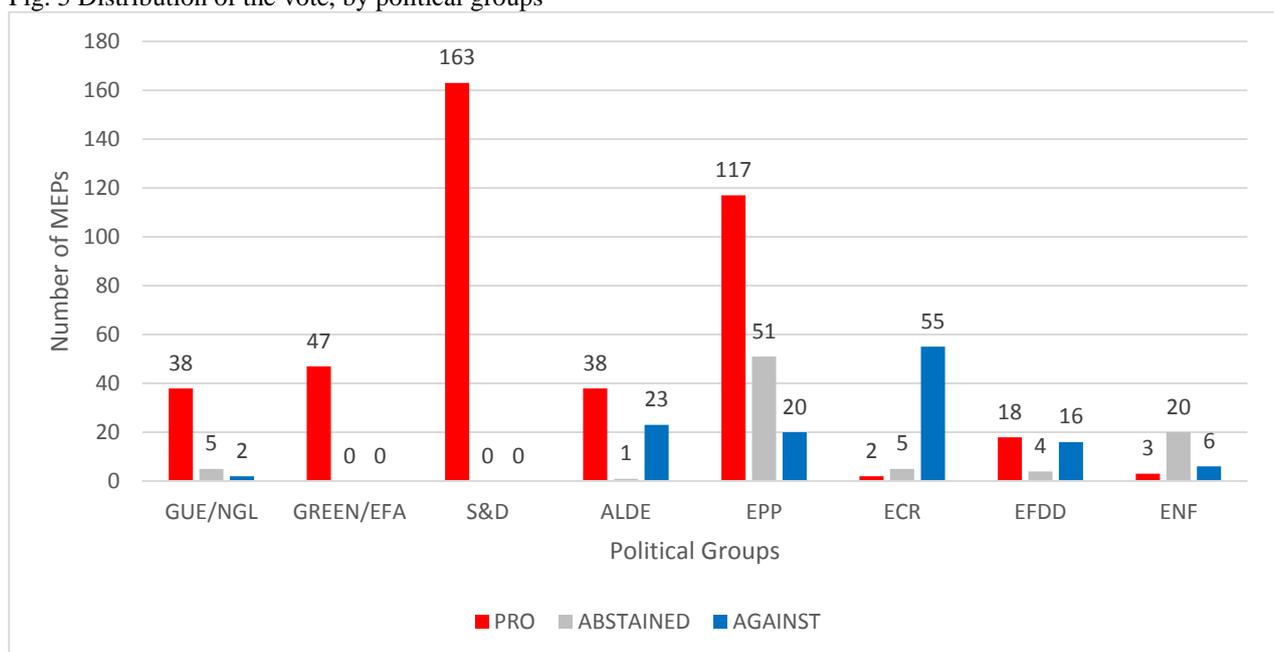
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<sup>65</sup> The UK and Ireland decided to abstain in light of the lack of clarity concerning the road transport sector and the applicability of the PWD.

day 1 of posting, so that posted workers will benefit from the same rules on remuneration as local workers of the host members. The the concept of long-term posting was introduced, after which the posted worker is subject to the host country's labour laws, with the so-called Romanian formula (12 months + 6 months extension subject to a justified notification by the service provider). Moreover, it was agreed that collective agreements can be applied to posted workers not only in the construction sector, as it is currently, but in all sectors and branches. Temporary work agencies are to guarantee to posted workers the same terms and conditions which apply to temporary workers hired in the Member State where the work is carried out. Cooperation on fraud and abuse in the context of posting was enhanced. Road transport was excluded from the applicability of the PWD until the entry into force of the sector-specific legislation. Finally, the deadline for transposition and the date of application will be two years after the entry into force of the directive.

The final agreement was voted on in the European Parliament on 29 May 2018. Figure 5 presents the results of the plenary vote.

Fig. 5 Distribution of the vote, by political groups



An initial look at Figure 5 immediately confirms the emergence of a divide between left-wing European parliamentary groups, almost unanimously in favour of the revision of the posting of workers, and right-wing groups. Similarly, the European Conservative and Reformists group voted against it, and the European Nations and Freedom group abstained, as they did for the report voted on in EMPL committee. The Europe of Freedom and Direct Democracy group split again between the Italian Five Stars Movement, which voted along with the left-wing groups and the United Kingdom Independence Party, which voted along with the far-right delegations. Finally, MEPs from

Europe's People Party and the Alliance of Liberals and Democrats for Europe split, although their official party line was to vote in favour of the final agreement on the revision of the PWD. Again, a look at the territorial origin of the rebel delegations unveils a clear East versus West divide, whereby the rebel MEPs in the ALDE and EPP groups come from the Visegrád delegations (Poland, Hungary, Czech Republic and Slovakia), the Baltic countries (Estonia, Lithuania, Latvia) and other Eastern Member States (Romania and Croatia).

As regards the Council, on 21 June 2018, the final agreement text on the posting was adopted by the EPSCO with 22 votes in favour, 2 against and 4 abstentions. As expected, the countries who voted against the final agreement were Poland and Hungary, while the UK, Latvia, Lithuania and Croatia decided to abstain.

#### 4.7 Conclusion

On 8 March 2016, the Juncker Commission decided to launch a new proposal for a revision of the PWD, four years after the failure of the Monti II regulation. This chapter investigated the conflict dynamics that underpinned the political debate on the revision of the posting of workers within the European Parliament and the Council. What emerged is that such a debate is characterised by a complex interplay of overlapping divides and tensions. These divides have both ideological and territorial natures and address the policy-makers' views on the role of the EU (market-making vs market-correcting); the ability and power to cede to Brussels (national social sovereignty vs EU law); and the priority given to national standards of worker protection or freedom to establishment in the Single Market ('old versus new' or 'western versus central and eastern' Member States). The combination of such divides changes according to the arena in which the debate takes place (Council or Parliament), the actors involved (MEPs, Ministers and social partners), the rules of the game (regulation or directive) and the issue at stake (e.g. regulation of the right to strike, definition of the elements of remuneration, etc.).

Moving on from the *arenas*, we observed that at the intergovernmental level, in the EPSCO Council, the conflict mainly revolves around two divides, the former pitting low-wage Member States (supporters of market deregulation) against high-wage Member States (advocates of a market re-regulation and higher protection of workers' rights), and the latter revolving around a clear divide between EU supranational regulation and spaces of national social sovereignty (especially on the definition of remuneration). By contrast, at the parliamentary level, the conflict constellation becomes more complex. The functional dimension of conflict in fact trumps the territorial. In the European Parliament, a third functional divide between market-correcting and market-making forces emerges, overlapping with the territorial tension between eastern and western MEPs and the divide between

advocates of EU law conditionalities and defenders of national social sovereignty spaces. As expected, the functional polarisation prevails only in the case of left-wing groups, while it does not hold for centre-right and liberal groups, who instead split along with their territorial origin.

This said, the positioning within the Council and the Parliament is not sufficient to fully explain the policy outcome of the political debate. Indeed, the European Commission played a fundamental role in ‘setting the rules of the game’. The choice of the Juncker Commission to propose a revision of the existing 1996 PWD rather than a Council regulation, as was the case of Monti II, facilitated the final adoption of the text. As a the revision of the PWD under co-decision, in fact, this opened up the debate to the European Parliament, and, at the same time, changed the voting rule within the Council, from unanimity to qualified majority rule. This suggests that the conflict configuration is significantly affected not only by the *arenas* where the debate takes place, but also by the *rules* of the political confrontation.

However, the role of the Commission is not limited to setting the rules of the game, but rather, extends to the orientation of the policy debate itself. Indeed, the clear market-correcting approach of the Commission’s proposal, built on the idea of equal pay for equal work in the same workplace, facilitated the creation of a large coalition in favour of the revision of the directive and allowed the Juncker Commission to overcome the obstacles that hampered the Monti II regulation by building a wide pro-regulation coalition, which involved the support of left-wing political parties and trade unions. With respect to the latter, we observed that vis-à-vis all three initiatives, both the trade unions and businesses associations stood united. Namely, no territorial divides emerged between, for instance, between eastern and western trade unions or businesses. Overall, the ETUC consistently maintained a clear market-correcting approach to the posting of workers, while BusinessEurope maintained a clear market-making attitude. Interestingly, trade unions and businesses stood together against the Commission proposal for the Monti II regulation. However, while the opposition of BusinessEurope to the proposal is to be explained in light of its market-making approach, the ETUC opposition can be understood in light of the Commission’s interference with trade unions’ authority concerning the right to strike. This suggests that the conflict configuration significantly changes not only according to the arenas and the rules of the game, but also depending on the *actors* involved and the *issues* under debate.

To sum up, the complex and multi-level conflict configuration that emerged from our analysis of the debate over the posting of workers confirms our initial expectations. Indeed, none of the multiple lines of conflict that emerged in debate both in the Parliament and the Council can alone explain the conflict constellation around the posting of workers, but it is rather the combination and criss-crossing of these multiple overlapping tensions.

In the next section, we will analyse the political debate over the proposal to create a European Unemployment Benefit Scheme as an automatic fiscal stabiliser for cross-national redistribution of resources to those Member States severely hit by macroeconomic asymmetric shocks that result in a sudden rise in unemployment rates.

## 4.8 Key players, key events and technical information

### **REGULATION ON THE EXERCISE OF THE RIGHT TO TAKE COLLECTIVE ACTION WITHIN THE CONTEXT OF FREEDOM TO ESTABLISHMENT**

#### Key players

*Council of the European Union*

Council Configuration: Employment, Social Policy, Health

*European Commission*

DG Employment, Social Affairs and Inclusion

#### Key events

21/03/2012 Legislative proposal published (see European Commission 2012a)

22/05/2012 Deadline for the presentation of national parliaments' reasoned opinion

23/05/2012 Activation of the Early Warning Mechanism (Yellow Card Procedure)

21/06/2012 Debate in EPSCO Council

11/09/2012 Commissioner Andor announced EC intention to withdraw the proposal

16/04/2013 Formal withdrawal of the Commission's proposal

#### Technical information

Procedure reference: 2012/0064(APP)

Procedure type: APP - Consent procedure

Legislative instrument: Regulation

Legal basis: Treaty on the Functioning of the EU TFEU 352-p1sub1

### **ENFORCEMENT OF THE POSTING OF WORKERS DIRECTIVE**

#### Key players

*European Parliament*

Committee responsible: Employment and Social Affairs

Rapporteurs: PPE Jazłowiecka Danuta (appointed 16/02/2012)

Shadow-rapporteurs: S&D Hughes Stephen, ALDE Bennion Phil, Greens/EFA Schroedter Elisabeth,

ECR Cabrnock Milan, GUE/NGL Händel Thomas, EFD Cymański Tadeusz

Committee for opinion: Internal Market and Consumer Protection (IMCO) and Legal Affairs (JURI)

*Council of the European Union*

Council Configuration: Employment, Social Policy, Health

*European Commission*

DG Employment, Social Affairs and Inclusion

#### Key events

21/03/2012 Legislative proposal published (see European Commission 2012c)

18/04/2012 Committee referral announced in Parliament

21/06/2012 First debate in EPSCO Council

08/11/2012 Presentation of the draft report in the EP by the rapporteurs (see European Parliament 2012)  
17/01/2013 Deadline for presentation of the amendments (see European Parliament 2013d, 2013e, 2013f, 2013g)  
20/06/2013 Debate in EPSCO Council  
04/07/2013 Committee report tabled for plenary, 1st reading/single reading (see European Parliament 2013h)  
15/10/2013 Debate in EPSCO Council  
09/12/2013 Debate in EPSCO Council  
16/04/2014 Text adopted by Parliament, 1st reading/single reading (see European Parliament 2014)  
13/05/2014 Act adopted by Council after Parliament's 1st reading  
15/05/2014 Final act signed

#### Technical information

Procedure reference: 2012/0061(COD)

Procedure type: COD - Ordinary legislative procedure (ex-codecision procedure)

Legislative instrument: Directive

Legal basis: Treaty on the Functioning of the EU TFEU 053-p1; Treaty on the Functioning of the EU TFEU 062

### **REVISION OF THE POSTING OF WORKERS DIRECTIVE**

#### Key players

##### *European Parliament*

Committee responsible: Employment and Social Affairs

Rapporteurs: PPE Morin-Chartier Elisabeth and S&D Jongerius Agnes (appointed 10/05/2016)

Shadow-rapporteurs: ECR McIntyre Anthea, ALDE Dlabajová Martina, GUE/NGL Kari Rina Ronja, Greens/EFA Reintke Terry, EFDD Agea Laura, ENF Martin Dominique

Committee for opinion: Internal Market and Consumer Protection (IMCO) and Legal Affairs (JURI)

##### *Council of the European Union*

Council Configuration: Employment, Social Policy, Health

##### *European Commission*

DG Employment, Social Affairs and Inclusion

#### Key events

08/03/2016 Legislative proposal published (see European Commission 2016b)

14/04/2016 Committee referral announced in Parliament, 1st reading/single reading

26/05/2016 First debate in Council

02/12/2016 Presentation of the draft report in the EP by the rapporteurs (see European Parliament 2016m)

08/03/2017 Deadline for the presentation of the amendments to the draft proposal (see European Parliament 2017d, 2017e)

16/10/2017 Vote in committee, 1st reading/single reading and decision to open interinstitutional negotiations with report adopted in committee (see European Parliament 2017f)

23/10/2017 General approach agreement in the EPSCO Council

25/04/2018 Approval in committee of the text agreed at 1st reading interinstitutional negotiations

29/05/2018 Debate by Parliament and Decision, First reading/single reading (see European Parliament 2018)

21/06/2018 Act adopted by Council after Parliament's 1st reading  
 28/06/2018 Final act signed

Technical information

Procedure reference: 2016/0070(COD)

Procedure type: COD - Ordinary legislative procedure (ex-codecision procedure)

Legislative instrument: Directive

Legal basis: Treaty on the Functioning of the EU TFEU 053-p1; Treaty on the Functioning of the EU TFEU 062

**SUMMARY OF THE CONFLICT CONSTELLATIONS**

Table 14 Summary of the conflict constellation over the revision of the posting of workers directive (rules, issues, arenas, actors)

	<b>Revision of the Posting of Workers Directive</b>	
<b>Rules</b>	<b>European Parliament</b>	<b>EPSCO Council</b>
	Simple majority	Qualified Majority
<b>Issues</b>	<b>Main divides</b>	
Extend legal basis to free movement of workers	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty	
Labour cost as a competitive factor	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty	
Extend scope PWD to temporary agency workers	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty	
Application of national rules on posted workers	- Market-making vs Market-correcting view on the overall mission of the EU - Intra-EU "system competition" High-wage/high welfare MS vs low-wage/low welfare MS ("old vs new" Member States or "West vs East")	
Determination of habitual place of work by host MS	- Market-making vs Market-correcting view on the overall mission of the EU - Intra-EU "system competition" High-wage/high welfare MS vs low-wage/low welfare MS ("old vs new" Member States or "West vs East")	
Calculation of cumulative working period	- Market-making vs Market-correcting view on the overall mission of the EU - Intra-EU "system competition" High-wage/high welfare MS vs low-wage/low welfare MS ("old vs new" Member States or "West vs East")	
Definition of elements of remuneration	- Supranational centralization vs national social sovereignty	
<b>Arena</b>	<b>Main divides</b>	
European Parliament	- Market-making vs Market-correcting view on the overall mission of the EU - Supranational centralization vs national social sovereignty - Intra-EU "system competition" High-wage/high welfare MS vs low-wage/low welfare MS ("old vs new" Member States or "West vs East")	
Council	- Supranational centralization vs national social sovereignty - Intra-EU "system competition" High-wage/high welfare MS vs low-wage/low welfare MS ("old vs new" Member States or "West vs East")	
<b>Actors</b>	<b>Pro-regulation</b>	<b>Against-regulation</b>
	European Commission Western MS (notably AT, BE, FR, DE, LU, NL, SE) Majority European Parliament (S&D, GREEN, GUE/NGL, western MEP of ALDE and EPP) Trade Unions (ETUC) European Construction Industry Federation European Business Confederation European Federation of Building and Woodworkers	Eastern MS (notably BG, CZ, EE, HU, LT, LV, PL, RO, SK) Minority European Parliament (ECR, EFDD, eastern MEP from ALDE, EPP, ENF) Business Europe UEAPME CEEP European Confederation of Private Employment Services

Source: own elaboration

# Chapter 5. The European Unemployment Benefit Scheme: Between political conflicts and windows of opportunity

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## 5.1 Introduction<sup>66</sup>

In the aftermath of the Euro crisis, there have been widespread calls to reform the EMU. The global financial crisis of 2008 and the subsequent Eurozone crisis indeed exposed the structural weaknesses of the EMU, which led to a broad consensus that the EMU had to be reformed. How to do so, however, was not straightforward. On the one hand, some parties called for better enforced fiscal discipline and, on the other hand, certain parties called for a cross-national redistribution mechanism to tackle (a)symmetric shocks that hit Member States. The former claim that national fiscal policies – in a centralised monetary system – could prevent, by themselves, economic shocks and mitigate their impact on employment and incomes, that current account imbalances could be addressed through capital and labour adjustments and that labour mobility and wage flexibility could serve as important mechanisms to absorb asymmetric shocks. The latter consider the lack of powerful, automatic, macroeconomic stabilisers, which would contribute to counter-cyclical policy, stabilising and smoothing the cycle, as the principle reason that explains the economic crisis that hit the EU.

Negotiations among Member States on how to reform the Eurozone demonstrated how challenging it is to overcome the political conflicts, even though consensus is broad on the necessity of reforms to be taken (Lehner & Wasserfallen, 2019). In this chapter, we focus on a specific initiative that has been extensively discussed in the aftermath of the Euro crisis, namely, the possibility to create a European Unemployment Benefit Scheme (EUBS). EUBS is a supranational, automatic, institutional stabilisation mechanism, which has two main purposes. From an economic perspective, it provides a counter-cyclical stabiliser to the economy, while acting as a shock absorber for both asymmetric and symmetric shocks. From a social point of view, while introducing a mechanism for long-term/permanent redistribution, it alleviates the pain of unemployment by providing income

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<sup>66</sup> This chapter is based on the technical report prepared by the European Social Observatory for the European Economic and Social Committee: see Sabato, S., Corti, F., Vanhercke, B. and Spasova, S. (2019) “Integrating the European Pillar of Social Rights into the roadmap for deepening Europe’s Economic and Monetary Union”. Brussels: European Economic and Social Committee. I am extremely grateful to my colleagues at the European Social Observatory: Sebastiano Sabato, Slavina Spasova and Bart Vanhercke. I would also like to personally thank László Andor for an extensive and invaluable exchange of views on the European Unemployment Benefit Scheme.

security and, at the same time, demonstrates European solidarity in a visible and tangible way to citizens.

The idea of EUBS is certainly not a novelty of the post-crisis debate. It was already in play in the mid-1970s, when the debate on a Monetary Union started and the idea of a fiscal capacity for the euro area was analysed as an instrument of stabilisation and redistribution. In this respect, scholars identified at least three different waves in the debate on the possibility of creating a EUBS (Schmid, 2019; Strauss, 2016; Vandenbroucke, 2016, Sabato et al., 2019). The first wave appeared in the mid-1970s. At that stage, an appeal to a community initiative in the unemployment field appeared in the Marjolin Report (1975), which proposed the creation of a community unemployment insurance fund, as an independent administrative body, managed together with social partners and financed by employers and employees' contributions. A second wave of the debate on EUBS started at the end of the 1980s, when the creation of the EMU became a concrete project (Majocchi & Rey, 1993; Italianer & Vanheukelen, 1993). Finally, the third wave of studies on EUBS emerged in the aftermath of the financial crisis in 2008/2009 (Duillen, 2012, 2013; Beblavý, Lenaerts & Maselli, 2017, Duillen et al., 2018; Dolls, 2019).

While at the academic level, the debate on the possibility to establish EUBS had started in the 1970s, at the political level, it was the outbreak of the economic and social crisis in 2008 that brought the topic onto the political agenda of the EU. At the beginning (2012-2014), it was former Commissioner for Employment, Social Affairs and Inclusion, László Andor, who strongly supported the idea to establish a fiscal capacity for the EU in the form of EUBS. As a result, the Commission published two important communications: 'A blueprint for a deep and genuine economic and monetary union. Launching a European Debate' and 'Strengthening the social dimension of the Economic and Monetary Union', in which the idea of EUBS, as an automatic fiscal stabiliser, was endorsed. A second phase of the debate (2014-2018) was launched by the Juncker Commission's consultation on the Five Presidents' Report on completion of the EMU. More recently, in June 2018, in the so-called Meseberg Declaration, France and Germany relaunched the debate on automatic stabilisers and EMU-wide fiscal capacity and proposed to establish a counter-cyclical 'solidarity-based' reinsurance fund.

Despite detailed economic analyses and long-standing political debates, no significant steps towards the adoption of EUBS have been taken so far, and Member States have consistently failed to find a political consensus. The objective of this chapter is to provide an in-depth investigation of the political contestation over the idea of EUBS, with the aim to investigate the conflict dynamics which characterise the post-crisis political debate on the issue.

To empirically investigate the dimensionality of political conflict on the adoption of EUBS, we reconstruct the political debate at European level in the aftermath of the European crisis, while presenting the positions of the institutional actors involved (European Parliament, Commission and Council) and social partners (ETUC and BusinessEurope). A specific focus on conflict dynamics on the adoption of EUBS could be interesting for at least two reasons. Firstly, the traditional literature on EMU politics have rarely focused on the dimensionality of politics over EMU social integration. Therefore, further investigation into the conflict dimensionality over EUBS, which is a macroeconomic automatic stabiliser with an explicit social function, could help to fill this gap. Secondly, while several authors have speculated about whether the proposal for a European Unemployment Benefit Scheme is technically feasible and desirable, only a few have provided structured analysis on the political feasibility of such a proposal.

This chapter proceeds as follows. Section 2 briefly presents the idea of EUBS and its substantive structural dimensions. Section 3 presents the theoretical framework and the methodology. Section 4 presents the first-phase debate on the idea of EUBS that was presented (2012-2014). Section 5 focuses on the second-phase debate on EUBS (2014-2018) and systematically analyses the positioning of policy-makers in the Council and the Parliament on the Commission's proposal for automatic fiscal stabilisers. Section 6 concludes.

## 5.2 The European Unemployment Benefit Scheme: A brief introduction

EUBS is an institutional automatic fiscal stabiliser, which fulfils three functions. Firstly, it achieves reallocation of resources across Member States within a given period ('geographical insurance'). Member States pool together resources according to a commonly accepted rule and then distribute them to those who may be in greater need. Secondly, it performs a reallocation of resources across time ('intertemporal insurance'). This can be achieved through debt issuing or allowing a supranational fund to go into deficit in recession times while compensating in good times. Third, it enhances national unemployment benefit schemes through the introduction of common minimum standards, to improve their coverage and stabilisation capacity, and possibly contribute to an upward convergence. To fulfil its purposes, EUBS can act in two ways: either partially replacing or reinsuring MS unemployment schemes. Following Beblavý and Lenaerts (2017), we call the first variant 'genuine' EUBS, and the second 'equivalent' EUBS.

In a **genuine European Unemployment Benefit Scheme**, employers and employees directly finance the creation of a European fund, which continuously pays out the benefits to unemployed

people. This requires a certain harmonisation of the national unemployment benefit schemes and the introduction of common minimum standards. In such a scheme, the level of the unemployment benefits is decided at the EU level and is based on three parameters: reference wage, replacement rate and benefit cap. The first corresponds to the worker's last gross wage, to which a specific rate of replacement is then applied. The cap sets the maximum level of the benefit, calculated on the basis of the national average wage. Eligibility criteria are equally established at the EU level. These consist of setting the minimum amount (consecutive or non-consecutive) of months during which an employee should have worked over a reference period to be eligible for the benefit. Eligibility rules are highly important because they determine the coverage and stabilisation capacity of EUBS. In an **equivalent European Unemployment Benefit Scheme**, Member States transfer the amount needed from a European fund, financed by Member States' contributions, to those countries hit by a symmetric or asymmetric shock. In this case, an equivalent EUBS variant would leave Member States more flexibility in the implementation of their national unemployment benefit schemes, although a set of common standards is to be set. The activation of the supranational support to an MS is automatic and depends on a trigger indicator (e.g. short-term unemployment rate in every quarter), which has fixed thresholds agreed by MSs (e.g. variation of the current short-term unemployment rate from the ten-year average).

Evidently, the introduction of a possible automatic supranational redistributive mechanism – both genuine and equivalent variants – would not be problem-free and raises different economic, political and practical challenges. To understand the dimensionality of political conflict over EUBS and the factors which determine the political (non-)feasibility of its adoption, it is important to identify and understand such challenges.

The first regards the so-called *institutional moral hazard*, that is, the risk that the EUBS fund's resources would flow permanently from certain countries (with structural low unemployment rates) to others (with structural high unemployment rates). In this regard, the dimension of the EUBS which is affected by this challenge regards the nature of payments amongst Member States, notably, whether Member States should homogeneously contribute to the common European fund, although they benefit differently from it. To avoid such a problem, two solutions are proposed. The first is to introduce mechanisms such as experience rating or clawbacks, which tie the pay-in into the supranational fund to the likelihood to use it, taking into account either how often the fund has been used in the past (in an equivalent EUBS) or by linking the pay-in to a country's past unemployment record (in a genuine EUBS). The second mechanism proposed to avoid permanent transfer is to use the short-term unemployment rate as an indicator: the trigger to activate the EUBS scheme would be

the deviation from the average short-term unemployment rate. In this way, ‘every country would be likely to become a recipient of transfers at some point, and the incentives to avoid implementing policies yielding long-term economic growth would be limited because the transfers would not be long lasting’ (Beblavy et al., 2017, p. 19). Despite these proposals, however, some concerns persist as to the risk of permanent transfer. One issue that remains unresolved is whether the past unemployment experience of a Member State at the moment in which EUBS is established should be taken into consideration.

The second challenge regards the fiscal rule to be adopted for EUBS. As stressed by Beblavý and Maselli (2014), the new European unemployment fund can have either an annual balance, no fiscal rule or can be balanced over the economic cycle. In the first case, the new fund would not need to address borrowing capacity but would not be able to respond to a combination of symmetric and asymmetric shocks. In the second case, the fund would have a strong anti-cyclical effect, but this would require strong political support from all Member States. The third case would mean a combination of countercyclical policy and overall constraints in the long term, but would be technically complex to implement.

The third challenge regards the nature of the shocks that EUBS can absorb. Notably, discussions have been done on whether the EUBS should absorb shocks of all amplitudes, or just the most significant ones. This discussion revolves around the unemployment rate indicative threshold to be set to activate EUBS. The aim of a higher threshold is to avoid a constant activation of EUBS and to limit its use only to cases of significant shocks.

The third challenge regards the role of social partners in the new EUBS scheme, since their involvement in the design and management of the national unemployment benefit schemes varies significantly from country to country. In some countries, they are directly involved in the design of schemes; in others, they have a moderate role in the design; and in still others, they are heavily involved in the management. In certain countries, they are partially involved in the management. Table 15 summarises the social partners’ involvement in unemployment regimes in Europe.

Table 15 Social partners’ involvement in unemployment benefit regimes in Europe

Type of involvement	Self-perceived influence	Countries
Institutionalised involvement and participation in stable tripartite (state, employers, employees) bodies (intervening in policy design/reforms)	High	AT, BG, DE, HU, LV, LT, LU, NL, PT, SK and SI
	Low	CY, DK, EL, PL, RO, ES

Institutionalised involvement and participation in bipartite (employers, employees) bodies	High	BE, FR
Systematic involvement in ad hoc tri/bipartite committees	High	FI
Not institutionalised involvement in information/consultation practices	High	IT
	Low	SE, UK
Participation without involvement	Low	IE, MT

Source: Claeys et al., 2014.

The fourth challenge concerns the legal basis of a possible EUBS, in terms of payments, financing and the minimum requirements. On payments, according to art. 122 (2) TFEU, the EU can provide financial assistance to an MS which is in difficulty because of exceptional circumstances beyond its control. Therefore, an automatic fiscal stabiliser would not respect the condition of ‘exceptional circumstances of the EU intervention’. According to article 175 (3) TFEU, the Parliament and the Council can adopt specific actions outside the EU funds in order to strengthen the EU’s economic, territorial and social cohesion. Such an action, however, should not undermine the existing restrictions in other legislation. In the case of social policy, Member States have the right to define their national social security systems. Against this background, a possible legal solution for payments under EUBS could be article 352(1) TFEU, also known as the ‘flexibility clause’, according to which if there is no sufficient legal basis, but a political action is to be taken in order to achieve a priority objective identified in the Treaties, then a special unanimity procedure can be activated with unanimous agreement in the Council and consensus in the EP.

Moving to the legal aspect of how to finance the EUBS, there are two options. Firstly, a new budget line could be created (art. 314 TFEU), raising additional revenue for the equivalent EUBS (art. 352(1) TFEU). Secondly, a specific budget could be created outside the EU for the EUBS fund, with its own legal basis. Both options would be difficult politically, given Member States’ reluctance to increase the EU budget or to introduce another budget outside the mechanism of the Treaties.

Finally, as regards the possibility of introducing legally binding European minimum standards, several concerns emerge as to the feasibility of such a proposal. In particular, in a genuine EUBS, the implementation of such a mechanism would be very demanding in terms of the harmonisation of local, regional and national schemes. For instance, as regards the personal scope of EUBS, should the coverage be mandatory or voluntary? Should it include self-employed individuals? As regards the level of benefits, what will be the replacement rate, the reference wage and the cap? How could the new scheme be harmonised with flat-rate benefits which do not depend on previous

earnings? Finally, how should the new EUBS interact with the other branches of national social protection systems? Table 16 presents the heterogeneity of national unemployment benefit systems with respect to duration of the benefit and the replacement rate.

Table 16 Heterogeneity of national unemployment benefit systems

Country	Max. duration unemployment benefit	Replacement rate (%)
Austria	12 (months)	55
Belgium	48 (months)	65
Bulgaria	12 (months)	60
Croatia	15 (months)	70
Cyprus	6 (months)	50
Czech Republic	5 (months)	65
Denmark	48 (months)	60
Estonia	12 (months)	50
Finland	16 (months)	45
France	26 (months)	75
Germany	24 (months)	60
Greece	12 (months)	No ceiling on reference earnings
Hungary	3 (months)	60
Ireland	9 (months)	Flat-rate benefit
Italy	14 (months)	75
Latvia	9 (months)	65
Lithuania	9 (months)	No ceiling on reference earnings
Luxembourg	12 (months)	80
Malta	6 (months)	Unemployment insurance benefits are not earnings-related.
Netherlands	38 (months)	75
Poland	12 (months)	Unemployment insurance benefits are not earnings-related.
Portugal	12 (months)	65
Romania	12 (months)	No ceiling on reference earnings.
Slovakia	6 (months)	50
Slovenia	25 (months)	80
Spain	24 (months)	70
Sweden	14 (months)	80
UK	6 (months)	Benefits not based on earnings.

Source: based on MISSOC database.

All these challenges make the path towards the introduction of EUBS politically and technically complex. Table 17 summarises the main dimensions of EUBS on which political conflicts and concerns may arise.

Table 17 Dimensions of EUBS

<b>Dimensions</b>	<b>Possible options</b>
Nature of payments among Member States	Homogeneous payment rate/Heterogeneous payment rate (=claw-back mechanism)
Fiscal balance	No fiscal balance/Fiscal balance over the cycle/ Annual fiscal balance
Nature of economic shock absorbed	All amplitudes/Only significant shocks (=set minimum activation thresholds)
Governance: implementation and oversight	Independent authority/Commission/Member States/social partners
Budget	Within the EU budget/Outside the EU budget
Definition of common minimum standards	All at the EU level/Only some standards
Source of funding	Member States (equivalent EUBS)/employees and employers (genuine EUBS)
Recipients of disbursement	Member States (equivalent EUBS)/unemployed (genuine EUBS)

Source: Own elaboration.

Once the dimensions of EUBS are identified, the question rests on which of them has conflict dynamics emerged during the political debate in the aftermath of the Euro crisis. In the next section, we present the theoretical framework and the expectations on the basis of existing literature.

### 5.3 Hypotheses and methodology

The political economy literature (for an overview, see Armingeon & Skyler, 2018; Lehner & Wasserfallen, 2019) has described the political conflict over the EMU as mainly one-dimensional, pitting supporters of fiscal stability against advocates of cross-national transfers. The so-called divide between creditor and debtor Member States concerns the tensions around the issues of fiscal discipline and cross-national economic redistribution (fiscal transfer) and is linked to a potential conflict on solidarity and reciprocity that may concern issues ranging from anti-cyclical policy proposals to structural reforms of the EU's economic governance (Hutter et al., 2016). The major divide here sets core against peripheral Member States, is rooted in both economic interests (creditors versus debtors) and highly entrenched cultural worldviews and mainly runs from North to South.

Notably, the advocates of fiscal discipline argue that violations of debt rules risk destabilising the EMU and, therefore, call for strict fiscal supervision. On the other hand, supporters of fiscal transfers identify in the structure itself of the EMU the cause of the crisis and therefore call for a permanent and comprehensive fiscal transfer system. In this respect, Lehner and Wasserfallen (2019) show that the political contestation in EMU reforms is characterised by a divide between fiscal transfer supporters and advocates of fiscal discipline, while traditional left-right and pro-against (further) EU integration divides do not play a significant role.

Based on political economy literature, we might hypothesise that the debate on the creation of EUBS is also characterised by a one-dimensional divide pitting creditor against debtor countries. However, the in-depth analysis of the dimensions of EUBS, on which political conflict can emerge, reveals that several sub-issues are raised when we debate EUBS, which can lead to different conflict dynamics. Notably, we observed that the creation of EUBS would imply not only concerns as regards the cross-national redistribution of resources, but also the definition of common minimum standards at the EU level on the design and management of national unemployment benefit schemes. Moreover, the creation of EUBS directly touches upon policy-makers' views on the overall function and design of the EMU. Against this background, we can hypothesise that the debate over the creation of an EMU-wide common fiscal capacity, and especially of EUBS, is also characterised by the overlapping of multiple lines of conflict. Notably, building on Ferrera's clash syndrome, we can expect that in the case of the creation of an automatic fiscal stabiliser, such as EUBS, the political conflict is the result of the combination of three lines of conflict:

- Market-making vs market-correcting priorities of the European Union;
- National social sovereignty/discretion vs EU law/conditionality; and
- Supporters versus opponents of fiscal stability or cross-national transfers (creditors versus debtors).

The first two lines of conflict stem from the traditional divides between left and right and pro- versus anti- (further) European integration. The former rests on different visions and programmatic ideas about the overall mission of the EU and pits the supporters of a neoliberal project, centred on market-making, against a market-correcting oriented project, focused on a stronger EU intervention. In the case of EUBS, we can expect, for instance, a tension between left-wing and right-wing policy makers on the overall view on an EMU fiscal capacity and the necessity to create an EMU-level solidarity instrument in case of asymmetric shocks. The second line of conflict refers to the tension between advocates of the 'more power to Brussels' attitude and the defenders of domestic models and

practices. In the case of EUBS, we can expect tension on the definition of the minimum standards to be applied on national unemployment benefit scheme to benefit from the EU transfer.

While these two lines of conflict have a markedly functional nature, the third divide is mainly territorial and pits creditor against debtor countries' views on how to reform the Eurozone. As argued by Lehner and Wasserfallen (2019), the creditor-debtor divide can be one-dimensional or bi-dimensional. In the first case, the ideological divide tends to show a territorial characterisation based on the distinction, between two potentially conflicting sub-groups of countries: the creditor nations, mainly (old) Northern Member States (Germany *in primis*), versus the debtor nations, mainly Mediterranean Member States (Johnston & Regan, 2016; Laffan, 2016). In the second case, the Lehner and Wasserfallen (2019) present the two dimensions of fiscal transfer and discipline as distinct, yet related. Namely, it is possible to support fiscal discipline without fiscal transfer (austerity: stabilisation through fiscal consolidation); fiscal transfer without fiscal discipline (un-conditionality: stabilisation through transfer); but also fiscal discipline and fiscal transfer (conditionality: compensating discipline with transfer); or neither of them (no fiscal commitments: integration sceptical). In this respect, we can expect a tension between policy-makers from creditor and debtor countries, for instance, on the fiscal stance of the EUBS, the possibility to attach a conditionality and the budget to be allocated.

Based on the hypotheses presented in Chapter 1, we can advance two further expectations. Firstly, we expect the functional divides to prevail in the debate in the EP, and the territorial tension between creditor and debtor countries to prevail in the Council. Secondly, we expect left-wing MEPs to be more cohesively supporting policy measures that by guaranteeing a shock-absorption EMU-fiscal capacity in case of asymmetric shocks show concrete solidarity between Member States. By contrast, we expect right-wing MEPs to split on the basis of their territorial origin.

To empirically investigate the dimensionality of political conflict on EUBS, we proceed as follows. We reconstruct the political debate at the European level in the aftermath of the European crisis, by presenting the positions of the institutional actors involved: the European Commission, Parliament and Council. As regards the Commission's position, we systematically analyse all the communications, reflection papers and working notes in which the idea of EUBS were mentioned and which were published between 2012 and 2018. As regards the Parliament, we analyse the draft resolutions, amendments, compromise text and final texts of the two EP-initiative reports in which the idea of EUBS was discussed: namely, the 2013 EP report on the Commission's Communication Strengthening the Social dimension of the EMU and the 2017 EP report on a budgetary capacity for the Eurozone. As regards the Council, we analyse – where available – official governmental position papers and heads of governments', financial ministers' and opposition's leaders' public statements

on EUBS, as well as public records of the ECOFIN and EPSCO Council debates. Moreover, we rely on 44 national position papers produced by each Member State during the debate on the Commission’s Five President Report. The position of social partners (ETUC and BusinessEurope) is also presented. The analysis is completed with seven semi-structured, in-depth elite interviews with key policy-makers, who were directly involved in the post-crisis political debate on EUBS. Table 18 summarises the sources we used for the research.

Table 18 Sources used for the analysis of the position of actors

	Frist-phase debate (2012-14)	Second-phase debate (2014-2018)
European Commission	Communication on “A blueprint for a deep and genuine economic and monetary union. Launching a European Debate” Four Presidents’ Report on “Towards a genuine and economic monetary union” Communication on “Strengthening the social dimension of the Economic and Monetary Union” 2 public speeches 3 expert interviews	Five Presidents’ Report on “Completing Europe’s Economic and Monetary Union” Reflection Paper on the “Deepening the economic and monetary union” EMU deepening package (Communication on the further steps towards completing the Economic and Monetary Union; A proposal to bring the European Stability Mechanism (ESM) into the EU legal framework, transforming it into a European Monetary Fund) 1 public speech 1 expert interview
EPSCO/ECOFIN Council	2 EPSCO meetings (records) 2 national governments’ contribution 1 expert interview	42 national governments’ contributions to the future of EMU 1 ECOFIN meeting (records) Prime/Finance Ministers public statements/interviews (ES, IT, DE, NL, FR, FI, SK, PT)
European Parliament	INI report on ‘Strengthening the social dimension of the Economic and Monetary Union (EMU)’ 124 amendments 1 expert interview	INI report on “A budgetary capacity for the Eurozone” 836 amendments 1 expert interview
ETUC	5 public speeches	2 interviews 1 position paper
BusinessEurope	2 position papers 1 speech	2 letters 1 position paper

Source: Own elaboration.

## 5.4 The launch of the idea of EUBS (2012-2014)

### 5.4.1 The role of the European Commission

The idea for EUBS was brought for the first time into the European political debate in the aftermath of the economic and social crisis, notably between 2012 and 2013. As argued by one of the interviewees: ‘At that time, the debate on the EUBS was just an idea that was emerging through different spaces. László Andor is certainly the one that persuaded us about the importance to go in this direction’ (S&D2). Indeed, it was the Commissioner for Social, Employment Affairs and Inclusion Andor who in 2012 explicitly asked the President of the European Commission, Barroso,

to introduce the proposal for an automatic fiscal stabiliser to be activated according to the variation in unemployment rate into the Commission's Communication 'A blueprint for a deep and genuine economic and monetary union. Launching a European Debate', which would be released in December 2012. At that time, the proposal to establish a European Unemployment Insurance for the Eurozone, however, was not part of the European agenda. Indeed, the Commission's priority was to create Stability Bonds (Eurobonds, i.e. common sovereign bonds issued by the Eurozone Member States). To this end, in November 2011, a Green Paper was published with a view to launching a broad public consultation on the concept and the feasibility of common issuance of sovereign bonds by the countries of the Euro area, and to discuss the required conditions. However, a few months after the launch of the green paper on the creation of Stability Bonds, in June 2012, the German chancellor Angela Merkel came out against Euro-zone debt sharing, telling a group of liberal parliamentarians that there would be no euro bonds 'as long as I live' (Der Spiegel, 2012). The reason for this opposition was also explained by the head of the Bundesbank, Jens Weidmann: 'The creation of a debt union in which decisions are not anchored in responsibility, and in which liability for others takes place without controls, would only increase the current political and economic instabilities' (Süddeutsche Zeitung, 2012). This position was harshly criticised by Italian Prime Minister, Mario Monti (La Repubblica, 2012), and French President, François Hollande (Le Figaro, 2012), and even by German SPD leader Sigmar Gabriel, who declared that the Euro can only be saved by pooling debt and sovereignty (Euobserver, 2012). However, Merkel's adversity to Eurobond was backed by other head of governments in Europe, most notably Dutch prime minister Mark Rutte, who had always been straightforward on the topic: 'I find all speculation about eurobonds out of line, if you don't handle this issue (of automatic sanctions) first' (Financial Times, 2011). Similarly, Finnish prime minister Jyrki Katainen declared: 'Too many EU Member States have been getting loans too cheaply for too long. Eurobonds would just institutionalise the problem' (Finland Abroad, 2012). It was at that point, as stressed by Commissioner Andor himself, that 'a plan B was needed, since plan A failed. The plan B was the creation of a European Unemployment Benefit Scheme. Therefore, I proposed it' (COMM1).

When the proposal for EUBS was advanced by Commissioner Andor, however, it was immediately criticised by the Commissioner for Economic and Monetary Affairs and the Euro, Olli Rehn, who was officially in charge for the drafting of the Blueprint (EMPL4). In this respect, it was necessary that an official letter was sent by Commissioner Andor to the Commission President Barroso to convince the latter to also introduce into the debate the proposal for an EMU budget providing for a fiscal capacity with a stabilisation function in the Eurozone, which was then for the first time mentioned in an official document of the Commission (COMM1). Notably, the proposal

contained in the Blueprint was that of a tool to support adjustment to asymmetric shocks, facilitating stronger economic integration and convergence and avoiding the setting up of long-term transfer flows. In the Commission's Communication, such a mechanism would be designed to address short-term asymmetries and cyclical developments in order to avoid permanent transfer over the cycle, and 'it would be subject to strict political conditionality to avoid moral hazard' (European Commission 2012, p. 32). The example provided by the Commission is that of the US unemployment benefit system, 'where a federal fund reimburses 50% of the unemployment benefits exceeding standard duration up to a given maximum, conditional on unemployment being at a certain level and rising' (European Commission, 2012, p. 32). With respect to the institutional design of this EMU-level fiscal capacity, the Commission proposed to create a new explicit legal basis and to dedicate a new budget line, financed through the EU's own resources, within the EU multiannual financial framework. In this respect, the proposal contained in the Blueprint recalled what would be suggested a few weeks later, in December 2012, in the so-called Four Presidents Report, namely, the document prepared by European Council president Van Rompuy. In this document, different options for a shock absorption function of the Euro area fiscal capacity were investigated, among which was the possibility to create an EMU-level unemployment insurance scheme. Notably, according to the Four President's Report, 'the fiscal capacity would then work as a complement or partial substitute to national unemployment insurance systems. Transfers would, for example, be limited to cyclical unemployment by covering only short-term unemployment' (Van Rompuy et al., 2012 p. 11).

Immediately after the publication of the Blueprint, Commissioner Andor started working on a second Communication, which was launched by the European Commission in October 2013, with the title 'Strengthening the social dimension of the EMU'. In this, the Commission explicitly reiterated the need for a European fiscal capacity with the aim to stabilise the macroeconomic cycle in the case of asymmetric shocks (European Commission 2013c). Notably, it called for a common instrument for macroeconomic stabilisation that could provide an insurance system to pool the risks of economic shocks across Member States, thereby reducing the fluctuations in national incomes. Such an automatic stabilisation mechanism could require monetary net payments that are negative in good times and positive in bad times. Alternatively, the scheme could be based on earmarking payments from the fund for a defined purpose, with counter-cyclical effects. The model mentioned again was the US unemployment benefit system. The scheme could operate in such a way as to avoid 'permanent transfers' across countries. In other words, they should be designed to avoid that – over a long period of time – any country is a net loser or gainer from the scheme.

Finally, more details on the how to design EUBS were ultimately presented by Andor in two renowned lectures held at the Hertie School of Governance in Berlin on 13 June 2014, with the title ‘Social dimension of the Economic and Monetary Union: what lessons to draw from the European elections?’ (Andor, 2014a), and in Vienna at the University of Economics and Business on 29 September 2014, with the title ‘Basic European Unemployment Insurance’ (Andor, 2014b). On those occasions, Andor argued that the economic and social crises that affected the EU had their roots in an incomplete design of the EMU, especially in the absence of a lender of last resort and a common fiscal capacity. To this end, the creation of a fiscal capacity for the Eurozone, and especially a genuine EUBS, would serve to mitigate short-term cyclical downturns occurring in parts of the EMU, by ‘holding aggregate demand in the short term, before factors of production can be reorganised in the affected economy and recovery can resume’ (Andor, 2014a). In the Commissioner’s proposal, EUBS would replace the corresponding part of national schemes. The levels of the contribution and of the benefit should represent a relatively low common denominator amongst the rules of the various national schemes. This genuine EUBS would be paid for six months, and the benefit would represent 40% of the reference wage. Conditionality would be attached to the benefit in terms of the job-search and training effort. Each Member State would be free to levy an additional contribution and pay out a higher or longer unemployment benefit on top of this European unemployment insurance. Member States would finance EUBS through monthly contributions up to 1% GDP. Experience rating and clawback mechanisms would be established to prevent permanent transfer from one group of countries to another and avoid moral hazard.

#### *5.4.2 The first debate in the European Parliament*

Regarding the Commission’s proposal for EUBS, the reaction of the institutional actors was overall lukewarm. In the European Parliament, only a small group of MEPs demonstrated some personal interest: S&D-FR Pervenche Berès, S&D-ES Alejandro Cercas and Greens/EFA-NL Marije Cornelissen. In July 2013, S&D MEP and president of the EMPL committee at the European Parliament, Pervenche Berès, organised a public hearing, where Georg Fischer, Director for ‘Analysis, Evaluation, External Relations’ at DG EMPL, Thomas Philippon, Ferdinand Fichtner and Manuel Caldeira Cabral intervened. This public hearing echoed a previous informal meeting that had taken place in February 2012 at the European Parliament, in the presence of the Commission (DG EMPL and DG ECFIN), in which prominent economists were invited to discuss the feasibility of EUBS. Jacques Delpla, Sebastian Dullien and Holly Sutherland were invited to take part in that debate (EMPL4). During the public hearing, titled ‘The social dimension of the EMU - European

unemployment benefit scheme', the possibility to establish automatic stabilisers at the Eurozone level was explored, as well as the possible modalities of their introduction. At the same time, MEP Berès worked on the preparation of an initiative report on 'Strengthening the social dimension of the Economic and Monetary Union' (European Parliament, 2013). In her initial draft report, MEP Berès explicitly called on the Council to introduce a European Unemployment Benefit Scheme as an automatic fiscal stabiliser for the Eurozone, thus building a genuine social and employment pillar as part of the EMU on the basis of the community method (Paragraph 16). Such a proposal, however, did not receive the support of the majority of the MEPs. A closer look at the amendments tabled in the EMPL committee show that stronger opposition came from the delegations of the EPP (notably, AMs 31, 32, 120, 122, 123) and ALDE (notably, AMs 33, 34, 121), together with all delegations from the ECR and other far-right groups. Support was only expressed by left-wing groups, which, however, did not have the majority necessary to get the proposal to pass. As a result, the text proposed by the rapporteur Berès was ultimately deleted and was not included in the final report of the Parliament. As claimed by MEP Berès herself: 'It was not possible to find an agreement with the EPP and other right-wing groups. They just wanted to cancel any reference to the EUBS' (S&D2). Indeed, in a political note published by the EPP group, Csaba Óry MEP, EPP Group Coordinator in the Employment and Social Affairs Committee of the European Parliament, declared:

We refuse the introduction of an unemployment benefit scheme applied at European level. Due to their heterogeneous economic development, this competence should stay within the responsibility of the Member States. Rather, it is far more necessary to better coordinate the social and employment policies of the Member States and to strengthen the social dialogue in order to jointly strengthen the Economic and Monetary Union's social and economic dimension.<sup>67</sup>

Similarly, ALDE leader Guy Verhofstadt declared that EUBS was not a priority for the ALDE group. When asked about certain EUBS measures, he deemed it required to build an EMU social pillar, and he answered: 'I would hit this question from another angle and focus on a two-tier solution to the crisis, fiscal discipline on the one hand, and a growth strategy on the other, simultaneously. The latter is still missing in the EU response to the crisis. The best social protection is having a job. That's where our main priority should be'.<sup>68</sup> On the contrary, the GUE/NGL leader Gabriele Zimmer, answering the same question, declared: 'We are open to discuss the idea of European unemployment insurance, but it must not lead to forced mobility. A European Union without a Social Union cannot work. So, it has to go from having a social dimension to a Social Union'.<sup>69</sup> Support was also expressed

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<sup>67</sup> Statement available here: <https://www.eppgroup.eu/newsroom/news/strengthening-the-social-dimension-of-the-emu>.

<sup>68</sup> Statement available here: <https://www.europese.org/en/7410/>

<sup>69</sup> Statement available here: <https://www.europese.org/en/answers-of-the-guengl-group-to-ipse/>

by the Greens/EFA, whose President Daniel Cohn-Bendit declared: ‘We highlighted that a detailed vision on the role and modalities of automatic stabilisers was lacking in the Commission Communication of 2 October 2013 and called on the Commission to present a green paper with detailed options for automatic stabilisers including a European unemployment benefit scheme (before the end of 2013)’.<sup>70</sup> As regards the S&D group, it was in favour of EUBS, but delegations were divided on the modalities to be adopted to implement it. As stated by Berès herself:

I was personally in favour of a European Insurance Scheme (genuine EUBS). However, there were delegations, like the Germans and the Scandinavians, who supported a Re-insurance scheme. I understood their position and I think now as well the most politically feasible option is a reinsurance scheme (S&D2).<sup>71</sup>

#### *5.4.3 The quasi-isolation of Italy in the Council*

If in the Parliament the proposal launched by the Commission was mainly debated by a small group of MEPs in the EMPL committee, in the Council, the EPSCO configuration almost ignored it. Indeed, during the meeting held on 15 October 2013 to discuss the Commission’s Communication on the social dimension of the EMU, no Member State intervened in support of the proposal. Although the issue was scheduled in the agenda presented by Commissioner Andor, Member States in their reply to the Commission focused their intervention on the proposal to introduce new social indicators in the Macroeconomic Imbalance Procedure, which was also contained in the Communication, but ignored that of creating an automatic mechanism to counter-cyclically stabilise the economic cycle in the case of sudden rises in unemployment rates in individual Member States.

The proposal for EUBS was put on the Council’s table for the first time by the Italian Finance Minister Pier Carlo Padoan in an informal ECOFIN meeting in September 2014 in Milan. Indeed, the new Italian presidency of the Council of the EU in its programme explicitly indicated the strengthening of the social dimension of the EMU and the establishment of a Eurozone EUBS among its priorities:

The development of the EMU’s social dimension will be one of the priority themes during the Italian Presidency. The long-lasting financial and economic crisis has demonstrated that structural economic reforms must be accompanied by measures aimed at economic recovery and ensuring social cohesion. The Presidency will continue ongoing discussions on this issue. Special attention will be paid to the

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<sup>70</sup> Statement available here: <https://www.euroipse.org/en/answers-of-the-verts-efa-group-to-ipse/>

<sup>71</sup> Despite the lack of success in including the proposal for EUBS in the EP initiative, MEP Berès obtained the approval from the European Parliament of a pilot project on how to design a European Unemployment Benefit Scheme, which then ended up in the study produced by the Center for European Policy Studies (CEPS).

issue of automatic stabilisation through discussions on the possible establishment of an *EMU-wide unemployment benefit system*<sup>72</sup> as a tool for asymmetric shock absorption at central level, without undermining the obligations of individual Member States to carry out structural reforms aimed at improving resilience, productivity and long-term economic fundamentals (Italian presidency, 2014).

According to Padoan, ‘the Eurozone needs better institutional mechanisms to deal with macroeconomic shocks, which in a monetary union tend to hit the labour market more than other fields, bringing falls in employment and wages. One way to make the Eurozone more resilient was to introduce a cyclical unemployment benefit scheme’ (Interview IT PARL 1). More specifically, the Italian proposal consisted of an EMU-wide reinsurance unemployment benefit scheme. As was then illustrated in a formal political note prepared in October 2015,<sup>73</sup> the Italian Finance Ministry called for an insurance mechanism that would make it possible to reduce negative spillovers in the event of future crises, by building a consistent aggregate fiscal stance at the Euro level and ensuring that countries under fiscal constraints do not need to cut national unemployment schemes. The scheme would be financed from resources usually spent on a variety of national benefits, which would be partially pooled in a common European fund. The funding would come from state contributions as well as contributions from employers and employees.

Support for the proposal was also expressed by the Greek,<sup>74</sup> Slovakian and French governments (Interview IT PARL 1). A favourable position was expressed by French finance and economy minister, Pierre Moscovici, who supported the idea of establishing a common basic unemployment benefit scheme, to consolidate the Eurozone, improve macroeconomic and financial stabilisation and move towards enhanced coordination of labour market policies.<sup>75</sup> In this respect, the French Ministère de l’Économie et des Finances, direction générale du Trésor, in June 2014 issued a paper in support of a Eurozone Unemployment Insurance Scheme, defined as ‘un instrument de solidarité nouveau, à même de donner une véritable incarnation à l’Europe sociale tout en renforçant la stabilisation de la zone dans son ensemble’ (Trésor, 2014). In the short term, the French Trésor

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<sup>72</sup> Bold mine.

<sup>73</sup> This note was accompanied by three working documents with clarifications on the most controversial issues (risk of permanent transfer, legal basis and financing) and simulations for the period 1999-2015 (Italian Ministry of Finance and Economics 2016).

<sup>74</sup> Greek Finance Minister, Gikas Hardouvelis, expressed full support for the Italian presidency programme and called for an EU-level mechanism that could support especially Southern European Countries experiencing economic downturns.

<sup>75</sup> In this respect, already in 2013, the French minister had expressed his support for the creation of an EUBS. In an intervention at the Berggruen Institute on Governance, Moscovici stated: ‘Je plaide, avec François Hollande, pour une capacité budgétaire propre à l’UEM, distincte du budget des 27, financée sur des ressources autonomes, éventuellement avec une capacité d’endettement. Elle permettrait de stabiliser les économies de la zone euro en cas de crise et pourrait jouer une véritable fonction contra-cyclique, via par exemple le financement partiel d’un socle commun d’assurance chômage. Ce socle pourrait être construit d’abord en faveur des jeunes. Cela permettrait de les accompagner, et donnerait du sens à l’Europe sociale’.

proposed a sort of genuine EUBS that takes the form of a *socle commun d'indemnisation*, to take into account the high degree of heterogeneity of the operation of national compensation schemes. This *socle commun* would compensate short-term unemployed individuals (less than one year) by up to 50% of their past salary, with funding based on a harmonised basis (for example, the wage bill). It would be supplemented by national compensation according to the preferences of each Member State, and thus ensure the maintenance of the current level of unemployment compensation, while preserving the prerogatives of the national social partners. In order to limit the risks of moral hazard, the Trésor proposed that the financing of the *socle commun d'indemnisation* could initially be calibrated in such a way as to be neutral in the medium term with regard to transfers between Member States and suggested the adoption of experience rating and clawback mechanisms. Finally, the French Trésor envisaged in the longer term, and after a convergence of unemployment rates between the different Member States, a system showing greater solidarity between Member States, with funding via a single contribution rate. To avoid moral hazard, such a system would require stronger coordination of employment and labour market policies, to which the European social partners should be closely involved. The latter system presupposes an assumed degree of solidarity and interstate transfers going beyond mere cyclical stabilisation (Trésor, 2014). The same proposal for a Eurozone EUBS was relaunched by French government think-tank France Stratégie, which issued a paper in December 2014 in which the creation of EUBS was indicated among the priorities to stabilise the EMU and affirm European solidarity (France Stratégie, 2014).

Despite the approval of France, Slovakia and Greece, the proposal launched by Minister Padoan did not receive the support of the rest of the Council's members. Notably, a strong opposition was raised from the northern countries, who feared that EUBS would have led to a permanent transfer scheme and would have required a change in the Treaty. The Dutch Finance minister explicitly claimed that EUBS was not a necessary tool to reform the Eurozone, unlike, for example, completion of the Banking Union and the Capital Market Union. German finance minister Wolfgang Schäuble argued strongly against this idea, because German people would react by asking for the reason why they should pay for the 'lazy Italians and Greeks' (Der Tagesspiegel, 2017).

#### *5.4.4 The reaction of social partners*

Moving to social partners' reaction to the Commission proposal, BusinessEurope explicitly rejected the proposal to establish a common fiscal capacity for the Eurozone which aimed to tackle asymmetric shocks in the case of sudden rise in unemployment rates in individual Member States. In a public speech on the pros and cons of an automatic fiscal stabiliser for the Eurozone, Maxime

Cerutti, Head of the Social Affairs department of BusinessEurope, declared that the proposal for EUBS was politically unfeasible, impractical and unacceptable. According to the business association, setting up EUBS was not acceptable because it would mean ‘a significant removal of existing national competences in the area of social protection, and a level of harmonisation of key elements of national systems’ (BusinessEurope, 2013), while unemployment insurance to be effective must be shaped at national level. Secondly, BusinessEurope argued that EUBS would not be practical because of the diversity in Member States’ social protection, for instance, in terms of the gross replacement rates, net replacement rates, duration, eligibility criteria and contribution rate. Thirdly, EUBS was deemed to be ineffective because: ‘from an economic point of view, it would have the adverse effect of reducing incentives for structural labour market reform (...) and fiscal consolidation that are the primary route through which Member States, and in turn the euro area can strengthen its ability to respond to economic shocks’ (BusinessEurope, 2013a). Notably, business associations criticise the risk of permanent transfer from the EU level to certain Member States, thus undermining the responsibility element, which is fundamental to counterbalancing the solidarity element in a fiscal transfer mechanism. Moreover, BusinessEurope criticised the stabilisation capacity of EUBS because of the timeliness of transfers. Namely, businesses argued that unemployment rate ( $U_r$ ) is an indicator that does not immediately grasp changes in the labour market, and therefore transfers based on agreed variation of  $U_r$  risk either when the labour market conditions may already have deteriorated, thus render the action ineffective in terms of its stabilising impact, or when labour market conditions have already improved, thereby render the transfer unnecessary. Another issue raised by BusinessEurope concerned the aim of EUBS. Notably, businesses criticised the objective of EUBS as a tool aimed at making provisions for unemployment compensation more generous. In this respect, establishing EUBS would be a disincentive for Member States to reform their social protection systems. Moreover, BusinessEurope argued that establishing EUBS would contradict the Treaties, since it violates the principle of subsidiarity in the field of social affairs, whereas EUBS would require a harmonisation of national social protection systems. Finally, businesses stressed that the Treaties do not envisage common elements of fiscal policy at the euro area level and the EU has no jurisdiction over the budgetary responsibilities of its Member States.

As regards the reaction of trade unions to the Commission’s Communication on strengthening the social dimension of the EMU, the ETUC did not take an official position. Indeed, the ETUC could not easily find common ground on this matter, to satisfy the different views of their members. As early as January 2013, when Commissioner László Andor delivered a speech at the ETUC high-level conference ‘Celebrating the past, looking to the future’ in Madrid and launched the idea of EUBS scheme, the reaction of the trade unions was already lukewarm (ETUC2). There were two main

reasons for the trade unions' reluctance to get involved in this debate. On the one hand, some affiliates (especially in Scandinavian countries) felt that EUBS would have undermined their involvement in the design and management of national unemployment benefit schemes, thus weakening the relationship between unions and workers (ETUC1). On the other hand, many trade unions, especially in creditor countries (primarily the German DGB), were unwilling to support a scheme whereby their members would be seen as financing structurally higher unemployment in countries in the periphery of Europe (ETUC2). As a result, in the position paper created by the unions in response to the Commission's Communication to the social dimension of the EMU, the ETUC generally appealed for the full inclusion of social partners 'on an equal footing in the debate about the design of new instruments, such as automatic stabilisers that mitigate the social effects of asymmetric shocks' (ETUC, 2013). However, no official position was expressed by the unions on the EUBS. As argued by one of the interviewees:

The European Unemployment Benefit Scheme was taboo for us and could not be even mentioned. Moreover, you have to remind that at that time the proposal of the Commission was a fully-fledged European Insurance Scheme (i.e. genuine EUBS), which was simply unacceptable for trade unions, because our affiliates would have been deprived of their right to participate to the design or implementation of national social security system (ETUC2).

#### 5.4.5 Preliminary conclusions

The first phase of debate on Commissioner's Andor proposal for EUBS as an automatic fiscal stabiliser to absorb asymmetric shocks unveiled a complex conflict constellation. In the parliamentary arena, MEPs are divided on the base of their political ideology according to the classic left-right split. Left-wing MEPs, especially from the Greens/EFA and the S&D, support the idea of an automatic fiscal stabiliser, with a clear preference expressed for a reinsurance scheme that would preserve Member States' autonomy in setting social standards. On the contrary, right-wing groups rejected the idea of EUBS because it risks violating the principle of subsidiarity and shifts the focus away from structural reforms and fiscal consolidation. In the intergovernmental arena, the reaction to the Commissioner's proposal was lukewarm. Only Italy and France, and later Slovakia, expressed their support for the creation of EUBS, considered to be a necessary instrument to absorb asymmetric shocks and to support the citizens most hit by the crisis, while all the other Member States either did not intervene in the debate or rejected the proposal. Finally, social partners were against the proposal for EUBS. Both deemed such a mechanism to be a threat to the autonomy of trade unions and businesses and a violation of the principle of subsidiarity. Moreover, businesses criticised the scheme

that would dis-incentivise Member States in pursuing responsible fiscal consolidation policies and stressed the practical difficulties in harmonising all the European unemployment insurance schemes.

## 5.5 The political debate on EUBS and automatic fiscal stabilisers: 2015-2019

### 5.5.1 *The position of the European Commission*

Despite the overall negative reactions to the proposal to establish an automatic stabilisation mechanism in the form of EUBS, the Juncker Commission did not abandon the idea to create a fiscal capacity for the Eurozone, aimed to facilitate convergence and absorb asymmetric shocks. In this respect, a consultation with Member States was launched in February 2012 to explore their preferences on the reforms of the EMU to be implemented in the following years (see next section). The result of this consultation was translated in the so called Five-Presidents<sup>76</sup> report on ‘Completing Europe's Economic and Monetary Union’, which can be considered as the programmatic document of the new Commission for the following five years. In this document, the Commission stressed that an automatic fiscal stabiliser should be implemented at the EU level to be activated in the case of large macroeconomic shocks, whereby the national budget can be overwhelmed and national fiscal stabilisers might not be sufficient to absorb the shock and provide the optimal level of economic stabilisation. Moreover, it outlined four criteria that any EMU stabiliser should meet. Firstly, it should not lead to permanent transfer (risk of institutional moral hazard). Secondly, it should not question the need for sound fiscal policy-making at the national level. Third, it should be developed within the EU’s legal framework, to guarantee consistency with the existing EU fiscal framework and with procedures for the coordination of economic policies. Fourth, it should not be an instrument for crisis management, which is a function that the Commission attributed already to the European Stability Mechanism (Juncker et al., 2015). According to the Commission, concrete initiatives in this field were to be taken after mid-2017.

Indeed, two years after the publication of the Five Presidents’ Report, the Commission published a ‘Reflection Paper on the Deepening of the Economic and Monetary Union’ (European Commission, 2017). In this document, the Commission again stressed the necessity for the creation of a macroeconomic stabilisation function for the euro area. Notably, while recalling the principles of such a stabilisation function outlined in the Five Presidents’ Report, the Commission further

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<sup>76</sup> The report was written by the President of the European Commission, Jean-Claude Juncker, in close cooperation with the presidents of the European Council (Donald Tusk), the Eurogroup (Jeroen Dijsselbloem), the European Central Bank (Mario Draghi) and the European Parliament (Martin Schulz).

specified that ‘access to the stabilisation function should be strictly conditional on clear criteria and continuous sound policies, in particular those leading to more convergence within the euro area’ (European Commission, 2017n, p. 25). As regards the financing of this new stabilisation mechanism, the Commission indicated the possibility of using an existing instrument such as the ESM or the EU budget, or creating new instruments. Finally, the Commission presented three different options for such a macroeconomic stabilisation function for the Euro area. The first is a European Investment Protection Scheme, which ‘would protect investment in the event of a downturn, by supporting well-identified priorities and already planned projects or activities at national level, such as infrastructure or skills development’ (European Commission, 2017n, p. 26). The second option is a European Unemployment Reinsurance Scheme, which would reinsure national unemployment schemes. Finally, the third option is a Rainy Day Fund, which could accumulate funds on a regular basis, the disbursements of which would be triggered on a discretionary basis to cushion a large shock. Contrary to the reinsurance EUBS, a Rainy Day Fund would limit its payments strictly to the accumulated contributions, thereby limiting its absorption capacity in case of large shocks.

Both in the case of the elaboration of the Five President’s Report and the Reflection Paper on the Deepening of the EMU, the European Commission involved Member States and the European Parliament to gather ideas and understand different actors’ preferences on how to reform the Economic and Monetary Union. Therefore, contrary to the proposal for a European Unemployment Benefit Scheme, which was mainly created within DG EMPL and then the Parliament and the Council were involved (top-down process), the EMU reform package launched by Juncker tried to be more inclusive and ‘bottom-up’. In what follows, we will analyse this debate in the European Parliament and in the Council.

#### *5.5.2 Member States’ contributions to the Five Presidents’ Report*

As mentioned above, before the publication of the Five Presidents’ Report, the Commission opened up a debate amongst Member States, who were asked to present their contributions regarding the future of the EMU. On 12 February 2015, an analytical note was prepared by Juncker, in which the economic situation in the EMU was summarised, and eleven questions were indicated as a basis for the discussion. Notably, three questions (numbered 3, 8 and 9) can be regarded as concerning a fiscal capacity. The questions read as follows:

- (3) Is the current governance framework – if fully implemented – sufficient to make the euro area shock-resilient and prosperous in the long run?

(8) To what extent is the present sharing of sovereignty adequate to meet the economic, financial and fiscal framework requirements of the common currency?

(9) Is a further risk-sharing in the fiscal realm desirable? What would be the preconditions?

All Member States submitted their contribution to the Commission. After national contributions were submitted, on 21 April 2015 the Commission prepared a document for Sherpas (i.e. the officials who represent heads of states or governments and prepare the summits). This document contained seven questions to be addressed in a meeting to be held one week later. These questions were selected on the basis of the issues identified as a priority in the national contributions. In the case of a fiscal capacity to address asymmetric shocks, two questions deserve attention (numbered 3 and 4):

(3) Regarding a prospective fiscal capacity for the Euro Area, should it be linked to progress on structural reforms, and if so in what form? What other functions should such a fiscal capacity serve (e.g. investment, asymmetric shock absorption)? How could it be phased in?

(4) Several contributions refer to the need to take better account of the social dimension of EMU. How could this be done in practice?

Together with the questions, a note for the Sherpas was prepared by the Commission on the basis of the contributions received by Member States, in which an initial draft of the Five Presidents' Report was presented. As concerns the fiscal capacity for the Euro-area, the Commission stressed that it was an issue raised in several contributions. In this respect, the note stressed that there are different ways to implement a fiscal union, and all mature currency unions are endowed with some sort of common fiscal capacity. Among the options that the Commission mentioned, there was also the possibility to shape a fiscal capacity to address asymmetric shocks through the creation of a complementary unemployment insurance scheme.<sup>77</sup> On the basis of this draft, new negotiations took place between the Commission and the Member States' Sherpas, who again submitted a document with the answers to the seven questions raised by the Commission. On this basis, on 22 May 2015, the Commission published a second note in view of the meeting to be held on 26 May 2015, with a second draft of the report. The final version of the Five President report was ultimately finally presented on 22 June 2015.

Against this background, the Five President report is a crucial source to investigate the conflict dynamics at the intergovernmental level on the possibility to establish a common fiscal capacity for the Eurozone to absorb asymmetric shocks through fiscal transfer. Consequently, it also represents a

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<sup>77</sup> Available here: [https://ec.europa.eu/commission/sites/beta-political/files/note\\_for\\_discussion\\_by\\_sherpas\\_-\\_overview\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/note_for_discussion_by_sherpas_-_overview_en.pdf).

privileged source to understand the conflict dynamics that emerged around the proposal for EUBS and to understand the reason why, although EUBS was contained in the first draft report, it was then discarded in the final version. In what follows, therefore, we systematically analyse the contributions presented by Sherpas between February 2015 and June 2015 during the consultation launched by the Commission. In so doing, we will focus on the answers that the Sherpas provided to the question identified above. Overall, we have access to 42 contributions from the Member States (some countries provided two documents). Only Greece did not provide any written contribution. Germany and France presented a joint contribution in which, however, they avoided providing their clear stance on fiscal union – the reason being that they were working on a separate proposal to be presented at the Council, which was to be delivered only in June 2018 (Meseberg Declaration). Therefore, to reconstruct the position of these two countries during the consultation on the Five President Report, we look at the documents published by the French and German governments or finance ministers.

Table 16 summarises the positioning of Member States on the possibility of establishing a Euro-area fiscal capacity to absorb asymmetric shocks. To do so, we distinguish Sherpa’s contributions according to their stance towards the possibility to establish automatic fiscal stabilisers for the Eurozone and whether they explicitly mention the possibility of EUBS: (i) explicit call for a European Unemployment Benefit Scheme; (ii) support for €A fiscal capacity to absorb asymmetric shocks in the short–medium term; (iii) support for €A fiscal capacity to absorb asymmetric shocks in the long term; (iv) scepticism on €A fiscal capacity to absorb asymmetric shocks, but openness to discuss in the long term only if under strict conditionality; (v) opposition to any €A fiscal capacity to address asymmetric shocks; (vi) and no mention of €A fiscal capacity to address asymmetric shocks.

Table 19 Member States positioning on €A fiscal capacity to absorb asymmetric shocks

Call for an EU unemployment benefit scheme	Italy, Slovakia, Portugal, France
€A fiscal capacity to absorb asymmetric shocks in the short-medium term	Spain
€A fiscal capacity to absorb asymmetric shocks in the long term	Cyprus
Sceptical but open to discuss €A fiscal capacity to absorb asymmetric shocks in the long term and only under strict conditionality to avoid moral hazard	Austria, Belgium, Ireland, Slovenia, Czech Republic*, Poland*
Completely against €A fiscal capacity to absorb asymmetric shocks	Denmark*, Bulgaria*, Estonia, Finland, Latvia, Lithuania, the Netherlands, Germany
No mention in €A fiscal capacity to address asymmetric shocks	Sweden*, United Kingdom*, Luxembourg, Malta, Croatia*, Hungary*, Romania*

Note: \*=Non-Eurozone countries

Source: Own elaboration.

Table 19 reveals a quite clear divide between creditor and debtor countries on the overall positioning towards an EMU-wide automatic fiscal stabiliser in the case of asymmetric shocks. Notably, clear opposition came from members states mainly from northern creditor countries (Estonia, Finland, Latvia, Lithuania, The Netherlands and Germany). Moreover, strong concerns were raised also by Austria, Belgium, Ireland, Slovenia and by non-Eurozone countries such as Denmark, Czech Republic and Poland. On the contrary, support for a macroeconomic stabilisation function was expressed only by southern debtor countries, such as Portugal, Spain, Italy, France, Cyprus and Slovakia. Seven countries (Sweden, the United Kingdom, Luxembourg, Malta, Croatia, Hungary, Romania and Bulgaria) did not mention the issue of automatic fiscal stabilisers in their contribution.

In terms of the critics of automatic fiscal stabilisers to absorb asymmetric shocks, they advanced three main arguments. The first is the risk of permanent transfer between countries. Denmark argued that a central spending capacity, such as a euro area budget for automatic stabilisation or discretionary spending, would lead to ‘permanent transfers from Member States with for instance low structural unemployment to those with high structural unemployment’ (Denmark, 2015). Estonia also rejected the possibility of fiscal transfers between the Member States and stressed that the focus should be on actions at the national level, either in the form of sound economic policies (‘delivering key reforms and meeting fiscal targets’) or a ‘reserve fund’, as a preferred alternative to a fiscal capacity at the Euro Area level (Estonia, 2015). Similarly, Finland rejected the idea of a fiscal capacity for the Euro Area, as long as it ‘would in effect entail a transfer union and expand joint liability’ (Finland, 2015a, 2015b). The second risk envisaged by opponents/sceptics of a €-Area stabilisation function through fiscal transfer is the classic ‘moral hazard’. For instance, Austria stressed that:

...any proposals on further risk sharing on the Eurozone/ EU-level (i.e. a fiscal capacity as a shock absorption mechanism) would have to go hand in hand with better enforcement of national budgetary policies in order to avoid the problem of moral-hazard. Further sharing of sovereignty, however, would pose far reaching constitutional questions’ (Austria, 2015).

Similarly, Ireland explained that:

...a well-designed fiscal capacity would have three features, namely it would be: economically significant, automatic, and be fiscally neutral over the long term. However, adequate consideration must be given to addressing the risk of moral hazard which would arise with the creation of any form of insurance mechanism at the central level. Any form of risk mutualisation would require strong conditionality.

Similarly, Slovenia argued that: ‘Further risk sharing should be additionally strengthened to encourage sound fiscal positions and prevent moral hazard and the danger of lax implementation of reforms, which could arise as a consequence of existence of common risk sharing instruments’. Finally, the third argument against a stabilisation function was the lack of necessity of such a mechanism, whereas fiscal consolidation remains the priority and is sufficient to stabilise the economic cycle. In this regard, for instance, the Netherlands argued that: ‘Addressing questions in the realm of further risk sharing, new competences or institutions in the Four Presidents’ Report is premature. It is essential to regain confidence and trust by making the current system work better, at an EU level and at a national level, and deliver the results that people rightfully demand’ (the Netherlands, 2015a, 2015b). Similarly, Finland stressed that: ‘Even in a long-term there is no need to create a financial mechanism compensating for structural reforms which are beneficial as such. Moreover, a well-functioning banking union would be much more effective in buffering asymmetric shocks than a Euro Area fiscal capacity’ (Finland, 2015). Finally, Germany deemed the proposal to be unnecessary. As stressed in the renowned ‘Non-paper for paving the way towards a Stability Union’, circulated by then-Finance Minister Wolfgang Schäuble:

A macroeconomic stabilisation function e.g. through a new fiscal capacity or unemployment insurance is economically not necessary for a stable monetary union. Countercyclical public spending is never in time and a Euro zone-wide unemployment insurance would have to deal with very different income levels in the Euro area (Schäuble, 2017).

To sum up, opponents of automatic fiscal stabilisers at the EMU level to absorb asymmetric shocks argued that this solution is not desirable for three reasons: risk of permanent transfer, moral hazard and lack of necessity. Among those countries, we then distinguished between ‘radical opponents’ and ‘sceptics but open to debate in the long term and under strict conditionality’. Denmark, Estonia, Finland, Latvia, Lithuania, the Netherlands and Germany belong to the first groups, while Austria, Belgium, Ireland, Slovenia, Czech Republic and Poland<sup>78</sup> to the latter. Among the conditionalities to be attached to a possible stabilisation mechanism to accommodate asymmetric shocks, sound fiscal policies and better national budget surveillance enforcement, are those indicated by sceptical Member States. On the one hand, for instance, Belgium argued that in the long term, a euro area fiscal capacity and treasury function could be envisaged only when all Member States are ‘on a proven and determined path towards the Pact for Stability and Growth’s debt reference value, and the necessary

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<sup>78</sup> Poland only shortly mentioned the possibility of a debate on the issue of fiscal stabilisers only in the long term: ‘In the long term, the fiscal integration would also increase the effectiveness of adjustment mechanisms to asymmetric shocks in the Eurozone. However, it would require an appropriate deepening of political integration’ (Poland, 2015).

degree of economic, social and fiscal convergence has been achieved' (Belgium, 2015). Similarly, Austria stressed that any proposal for a fiscal capacity as a shock absorption mechanism should go 'hand in hand with better enforcement of national budgetary policies' (Austria, 2015). On the other hand, Slovenia argued that further risk-sharing could be examined 'if the existing budget and economic policy monitoring and surveillance framework is vigorously enforced and implemented' (Slovenia, 2015). Czech Republic stressed as well that better coordination of the national fiscal policies should be a precondition for the fiscal capacity: 'To ensure that sharing of fiscal risks does not lead to a substantial moral hazard of countries because of their fiscally or in other way irresponsible behaviour, it should be enabled only if there is a better enforcement of responsible behaviour of national authorities' (Czech Republic 2015a, 2015b).

In terms of the Member States whose Sherpas supported the idea of creating a new, EMU-wide fiscal capacity to absorb asymmetric shocks, Table 16 shows that they mainly belong to the southern regions: Italy, Spain, Cyprus, Portugal, Slovakia and France. Two main reasons were advanced by the Sherpas of these countries in support of the creation of a Euro area stabilisation mechanism: the inadequacy of the current EMU governance; and the necessity to complete the EMU with a fiscal capacity to face severe asymmetric shocks. For instance, Spain argued that a European fiscal capacity is needed to complement the fiscal discipline enshrined in the Stability and Growth Pact. Indeed, 'The economic crisis unveiled significant weaknesses in the design of the Economic and Monetary Union. The Euro Area lacks efficient mechanisms to absorb asymmetric shocks' (Spain, 2015a, 2015b). Slovakia argued that, although the EMU governance framework – once implemented – will improve the Euro area resilience, there are still 'important institutional gaps within the architecture of the EMU exist and these will also have to be addressed if we want the eurozone to survive in the long term' (Slovakia 2015a, 2015b). Similarly, Cyprus' Sherpas argued that, although the current governance framework can be considered as sufficient to make the euro area shock-resilient and prosperous in the medium term, issues related to the crisis remain to be addressed. To this end, Cyprus indicated as an option to be investigated the creation of a 'Fiscal Union that would enable down the road fiscal transfers across Eurozone economies to counter idiosyncratic negative shocks to particular economies over the cycle in a similar way like the EU Budget essentially provides for fiscal transfers for the EU 28 Member States' (Cyprus, 2015). A more critical position was adopted by the Italian Sherpa, who argued that a fiscal capacity is needed because the existing set of rules:

...proved to be rigid and not adequate to deal with prolonged recession and weak growth, resulting in pro-cyclical policies (...).The current wide imbalances are incompatible with an economic union and

their monitoring and reduction should be a main policy concern. There is a fundamental ingredient still missing to genuinely progress towards further integration: a fiscal and borrowing capacity, including possibly an issuing capacity or common stabilization mechanisms. Its absence implies the inability to cope with asymmetric shocks (Italy, 2015a, 2015b).

Similarly, Portugal stressed that the EMU has consistently delivered suboptimal results, and this is the consequence of an excessive focus on reinforcing budgetary rules and economic coordination, while ‘falling short of promoting investment, creating employment and means our output gap is significantly below 0’ (Portugal, 2015a, 2015b). Against this background, the Sherpas of Spain, Italy, Portugal, Cyprus and Slovakia proposed the introduction of automatic stabilisation mechanisms to absorb asymmetric shocks. According to Spain, a fiscal union should have an anti-cyclical function, with the aim of helping countries experiencing economic ‘bad times’, and would be based on a limited fiscal capacity, with borrowing powers, which would be used to finance public investments (Spain, 2015a, 2015b). Cyprus’ document is less precise and calls for ‘a Fiscal Union that would enable down the road fiscal transfers across Eurozone economies to counter idiosyncratic negative shocks’ (Cyprus, 2015). Finally, clear preferences were indicated by the Italian, Slovakian and Portuguese Sherpas. Notably, Slovakia called for both a common unemployment insurance scheme to address asymmetric shocks by absorbing cyclical unemployment fluctuations, noting that a common investment mechanism to address pan-EU shocks could serve this very purpose (Slovakia 2015). In this respect, Slovakia stressed that EUBS would not only fulfil a macroeconomic stabilisation function, but it ‘would certainly enhance the social dimension of the EMU’ (Slovakia, 2015). Similarly, Portugal stressed that ‘a shock-absorbing function would allow some sort of cross-border risk sharing to help reduce adjustment costs for countries affected, limit the need to resort to financial assistance and prevent disruptions in social cohesion’ (Portugal, 2015). To fulfil these goals, Portugal suggested to establish an EMU insurance-type mechanism between the euro area countries that would require a greater degree of harmonisation between economic policies and institutions of the participating Member States. According to Portugal, ‘the most obvious example of such a function would be a European complement or partial substitute to national unemployment insurance schemes’ (Portugal, 2015). Finally, Italy reiterated its call for a European Unemployment Benefit Scheme, which ‘would serve as an EU automatic stabiliser, help moderate the economic cycle, tackle asymmetric shock, address distributive issues. Last but not least, it would also serve as a concrete proof of EU solidarity’ (Italy, 2015).

To sum up, supporters of a European automatic fiscal stabilisation mechanism mainly advance two proofs in favour of their position: the incomplete design of the EMU governance; and its

incapacity to address asymmetric shocks. To this end, they propose the introduction of new instruments that mainly fulfil two goals: stabilising the EMU by absorbing asymmetric shocks; and increasing citizens' trust in the European project, by supporting investment in the case of economic downturn or completing national unemployment schemes.

Against this background, it is possible to conclude that at the intergovernmental level, as expected, the debate on the creation of a fiscal capacity for the Eurozone remains stuck in the conflict between creditor and debtor countries, while the former can also benefit from the external support of non-Eurozone Member States that either prefer not to enter into the discussion or position themselves against – at least in the short–medium term – the possibility of creating a mechanism based on fiscal transfer. This explains the reason why the proposal for EUBS, which was indeed in the initial draft note addressed by the Commission to the Sherpas, was finally deleted. Moreover, it also explains the reason why the Five President report, while stressing the importance of establishing an automatic fiscal stabiliser, also underlines that any fiscal stabiliser would come under strict conditionality in the long term.

### *5.5.3 The European Parliament's debate on a budgetary capacity for the Eurozone*

In response to the Five President's report, the European Parliament, which was only partially involved in the consultation process,<sup>79</sup> drafted an initiative report on a budgetary capacity for the Eurozone. The rapporteurs were two experienced MEPs: Reimer Böge and Pervenche Berès. At the core of the report the idea that a 'common monetary policy without common fiscal policy cannot address asymmetric shocks to the euro area' (paragraph 6). Notably, the rapporteurs stress that 'a shock absorption capacity at euro area level is needed to complement automatic stabilisers at national level, whose functioning is limited, as was shown during the crisis; (paragraph 10). To this end, the rapporteurs suggest that the fiscal capacity for the euro area should be integrated into the EU budget, but over and above the ceilings of the Multiannual Financial Framework (MFF) (paragraph 21). Moreover, in order to facilitate convergence and competitiveness, the rapporteurs proposed an instrument to financially support the implementation of structural reforms and called for a Convergence Code 'as a legal act resulting from the ordinary legislative procedure, to streamline the existing coordination of economic policies into a more effective convergence of economic policies within the European Semester' (paragraph 25). Such a Code would be based on defined convergence criteria to be reached within five years, in the field of taxation, labour market, investment and in

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<sup>79</sup> President Martin Schulz was not initially involved in February 2015, and only joined later. The European Parliament contribution was therefore limited to a position paper elaborated by the Parliament's presidency, but there was no debate among MEPs.

accordance with the Maastricht Treaty objectives (paragraph 26). As regards the absorption capacity function, the rapporteurs stressed that ‘no matter how great the efforts regarding convergence and sustainable structural reforms, asymmetric shocks with an impact on the stability of the euro area as a whole cannot be ruled out completely, given the strong integration of the euro area Member States’ (paragraph 28). Therefore, two models for the shock absorption function were proposed by the rapporteurs: a Rainy Day Fund, funded by all Member States on the basis of a cyclically sensitive economic indicator and used for payments to all Member States suffering from economic downturns (paragraph 30); and a European Unemployment Benefit Scheme that would foster convergence of labour markets in the medium term (paragraph 31). To finance the fund, the rapporteur proposed to transform the European Stability Mechanism into a European Monetary Fund and pointed out that such a fund should be balanced over the economic cycle (paragraph 32). Member states’ contributions to the fund, however, should be fiscally balanced over the economic cycle in order to avoid long-term redistributions effects. Finally, as regards the management of the fund, the rapporteurs proposed that it should be managed by the Commission and accountable to the European Parliament, while they explicitly asked not to reinforce the intergovernmental method (paragraph 20).

Against this background, the parliamentary report prepared by MEPs Böge and Berès represents a unique source to investigate how MEPs position themselves on the proposal to create an EMU-level automatic shock-absorption fiscal capacity, especially related to the idea of EUBS. In this respect, 836 amendments were tabled between 4 May 2016 and 9 June 2016 by the members of the EP committee on Budgets (BUDG) and the EP committee on Economic and Monetary Affairs (ECON). In what follows, we perform a qualitative analysis of all these amendments, with the aim of considering how MEPs position themselves on each dimension of a possible fiscal capacity for the Eurozone to tackle asymmetric shocks. Following the division of the report proposed by Böge and Berès, we divide the amendments into different areas. Firstly, we group the amendments related to the overall view on the EMU, its functions and its shortcomings, and on the necessity to establish an EMU-wide fiscal capacity. Secondly, we group the amendments tabled on the different dimensions of a possible fiscal capacity for the EMU indicated by the rapporteurs: budget, source of funding, governance and fiscal balance. Thirdly, we group the amendments tabled on the proposal to establish an automatic fiscal stabilisation mechanism to absorb asymmetric shocks, where the idea of EUBS was presented by the rapporteur. Table 20 summarises all the amendments tabled by MEPs in ECON and BUDG committees on the most controversial issue related to the establishment of a fiscal capacity for the Eurozone.

Table 20 Amendments tabled on most controversial issues on EMU-wide fiscal capacity

Böge-Berès text	Amendments in favour	Amendments against
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Overall view on an EMU fiscal capacity		
Call for an EU fiscal capacity to tackle asymmetric shocks (§6 and §10)	Greens/EFA (196); NL-DE-S&D (198); MT-CY-S&D (199); FR-ES-ALDE (203); DE-GUE/NGL (206); PT-EPP (207); ES-S&D (209); FR-ES-BE-BG-ALDE (210); GUE/NGL (250); Greens/EFA (253)	EL-ECR (192); FI-DE-ECR (193); DE-EPP (194); RO-DE-IE-EPP (195); NL-EPP (200); PL-ENF (201); FR-ENF (201); PL-EPP (204); FI-ALDE (205); CZ-EPP (208); DE-FI-ECR (211); RO-FI-EPP (249); NL-EPP (251); DE-FI-ECR (254)
Fiscal capacity is vital for the EMU, where solidarity is linked to responsibility (§12)	FR-ES-BE-ALDE (269); ES-EPP (272); MT-CY-S&D (274); DE-GUE/NGL (275); ES-S&D (276)	FR-ENF (266); RO-DE-EPP (267); FI-ALDE (268); DE-EPP (270); DE-ECR (273); PL-EPP (277)
Considers fiscal capacity should address €-Area shock absorption (§14)	NL-DE-ES-S&D (291); S&D (2963); FR-S&D (297); FR-ES-ALDE (298); PL-EPP (300); FR-ES-BE-ALDE (302); ES-DE-PT-GUE/NGL (303); ES-GUE/NGL (305)	CZ -EPP (292); FI-ALDE (294); DE-FI-ECR (295); NL-EPP (296); PL-ENF (299); DE-ECR (301); RO-EPP (304); FR-ENF (306)
Dimensions of a fiscal capacity		
Fiscal capacity to be financed through a European Monetary Fund (EMF), former European Stability Mechanism. The EMF should be managed by the Commission and be accountable to the Parliament (§20)	NL-DE-S&D (405); Greens/EFA (407); ES-S&D (408); FR-ES-BG-ALDE (410); FR-ES-ALDE (412); MT-CY-S&D (413); DE-ES-PT-GUE (414); PT-EPP (416)	DE-EPP (398); IT-EFDD (399); FR-ENF (400); PL-ENF (401); PL-EPP (402); DE-FI-ECR (403); NL-EPP (406); FI-DE-ALDE (415); RO-DE-EPP (417)
Fiscal capacity should be in the framework of MFF and on the top of the current EU budget (§15 and §21)	PL-EPP (315); FR-ES-ALDE (316-329); FR-ES-ALDE (317-427); PT-EPP (318-322-431); NL-ES-FR-S&D (425); NL-DE-S&D (324); NL-DE-S&D (430); DE-S&D (438); FR-S&D (352-428); LV-EPP (434); S&D (437)	PL-ENF (312-413); FI-DE-ALDE (313-422); DE-FI-ECR (314); DE-ECR (319); FR-ENF (320-421); IT-EFDD (323-424)
Conditionality attached to fiscal capacity (paragraph 23)	NL-S&D (456); PL-EPP (457); FI-ES-DE-ALDE (458); RO-EPP (459); DE-EPP (462); FR-ALDE (461)	FR-ENF (451); Greens/EFA (452); GUE/NGL (454); PL-ECR (455)
Absorption of asymmetric shocks: Rainy Day Fund and EUBS		
Structural reforms are not sufficient to prevent asymmetric shocks. Need for an instrument available for emergencies which provides immediate stabilisation effect. (§28)	NL-ES-Greens/EFA (595); NL-S&D (598); DE-ES-PT-GUE (600); ES-S&D (601)	RO-DE-EPP (593); FR-ENF (594); NL-EPP (596); DE-FI-ECR (597); FI-DE-ALDE (602); PL-ENF (603); PL-EPP (599); PL-ENF (603)
The two models for the shock absorption function are featured by: a Rainy Day Fund and EUBS (§29)	NL-ES-Greens/EFA (611); DE-NL-S&D (613); FR-S&D (614); IT-S&D (616); ES-S&D (617); FR-ES-BG-ALDE (618)	DE-EPP (606); PL-ENF (607); DE-FI-ECR (608); RO-DE-EPP (612); FR-ENF (615); IE-EPP (619); DE-FI-ECR (620); DE-ECR (621); BE-ECR (622)

Proposal for a Rainy Day Fund funded by all MSs on the basis of cyclically sensitive economic indicator and used for payments to all MSs suffering economic downturns (§30)	NL-ES-Greens/EFA (629); DE-EPP (630); CZ-EPP (631); UK-S&D (632); FR-ES-BG-ALDE (634); PL-EPP (635)	FR-ENF (623); RO-EPP (624); NL-EPP (626); DE-FI-ECR (627); FI-ALDE (628); PL-ENF (636); IE-EPP (637); GUE/NGL (625)
Acknowledge that EUBS would foster convergence of labour markets in the medium terms (§31)	PL-EPP (645); CZ-EPP (650); PT-S&D (646); FR-S&D (652); FR-ES-BG-ALDE (648); IT-S&D (649); NL-DE-S&D (655); DE-ES-PT-IE-GUE/NGL (651); UK-S&D (656); ES-S&D (647)	DE-EPP (639); FI-ALDE (644); PL-ENF (639); FR-ENF (640); NL-EPP (654); IE-EPP (641); RO-EPP (642); DE-FI-ECR (643); NL-EPP (654)

Source: Own elaboration.

Moving from the amendments tabled on the overall view of the necessity to establish an EMU-wide fiscal capacity, three main findings emerge. Firstly, all MEPs belonging to left-wing European Parliamentary Groups (GUE/NGL, Greens/EFA and S&D) table amendments in favour of the establishment of an EMU fiscal capacity, with the dual function of supporting structural reforms in Member States experiencing an economic downturn and to absorb economic shocks. According to these MEPs, a common EMU-wide fiscal capacity is necessary in order to address the shortcomings within the EMU, which attributes monetary policy to the European level, while budgetary policy remains within the competences of Member States. The consequence of this asymmetry between monetary and fiscal policy, in fact, is the elimination of tried and tested policy options for counterbalancing asymmetric shocks, such as exchange rate fluctuation. Therefore, alternative adjustment mechanisms to cope with asymmetric macroeconomic shocks are required in order to make the euro zone an optimal currency area. In this respect, S&D MEPs Paul Tang (The Netherlands) and Jakob von Weizsäcker (Germany) argued that the crisis has proved that a common monetary policy cannot address asymmetric shocks to the euro area without a common fiscal policy, which organises risk-sharing and clearly addresses the responsibility between Member States and the euro area as whole so as to address problems of moral hazard (AM 198). Similarly, Greens/EFA MEPs Bas Eickhout (the Netherlands) and Ernest Maragall (Spain) stressed that the mere coordination of national fiscal policy without a credible enforcement mechanism during the crisis has not prevented the creation of an investment gap and has not enhanced the national capacity to absorb economic shocks (AM 196). More explicitly, S&D MEPs Alfred Sant (Malta) and Costas Mavrides (Cyprus) stressed that – beyond the inherent instabilities generated by the gaping structural divergences embedded in the euro area (such as the north-south divide) – the crisis demonstrated that a common fiscal policy is necessary to address asymmetric shocks to the euro area (AM 199). To sum up, left-wing MEPs considered the creation of an EMU-wide fiscal capacity as a necessary instrument

to complete the design of the EMU, with the dual function of facilitating convergence among Member States and providing an automatic fiscal stabiliser to absorb asymmetric shocks.

A completely opposite position is held by far right-wing MEPs (belonging to the EFDD, ENF and ECR), who stressed that neither the coordination of fiscal policy nor the implementation of a Eurozone fiscal capacity would be the right solution to address the shortcomings within the EMU. By contrast, they argued that the return to national currencies would be the ‘obvious choice’ (AM 202) and considered that ‘where a Member State whose currency is the euro is unwilling to further surrender its budgetary sovereignty, it should be given the option of leaving the euro area without leaving the EU’ (AM 211). In this respect, for instance, French MEP Sophie Montel, on behalf of the ENF group, argued that the coordination of national fiscal policy already ‘represent[s] infringements of national sovereignty which are hard for peoples to tolerate, thus demonstrating that any step forward is politically inconceivable’ (AM 153). Similarly, Italian MEPs Marco Valli and Marco Zanni, on behalf of the EFDD group, argued that ‘structural shortcomings have existed in the Economic and Monetary Union (EMU) since its inception due to the fact that it is not an optimal currency area and has, over the years, generated unsustainable macroeconomic imbalances especially for many peripheral countries’ (AM 158). In this respect, however, the solution is not further integration (AM 166), but rather, ensuring that Member States wishing to leave the euro may do so (AM 264). A slightly different position is maintained by the ECR group MEPs, who deemed that the EMU should not be dismantled and the problems within the EMU are to be explained in light of the failure of several Member States ‘to comply with the Maastricht Criteria, both regarding their annual budgets and their total indebtedness’ (AM 144). Therefore, they argued that no common EMU fiscal capacity is needed, but rather, a better enforcement of the fiscal surveillance mechanisms, and stressed that any mechanism, such as EUBS, ‘by its mere institutional set-up, risks to lack accountability and democratic legitimacy if it becomes just a new layer of governance which risks to cause moral hazard’ (AM 254).

Finally, the third finding with respect to the overall MEP positioning on the creation of an EMU-wide fiscal capacity is situated within the split between the EPP and the ALDE. On the one hand, MEPs mainly belonging to southern country delegations (debtor countries) supported the position of the rapporteurs and called for an EMU-wide fiscal capacity with the aim to support the implementation of structural reforms in Member States and to address asymmetric shocks (AM 207, 210). They argued that the EMU presents several shortcomings, especially the asymmetry between centralised monetary policy and national fiscal policy, and argued in favour of a genuine economic government for the euro zone (AM 176) and the creation of a fiscal capacity to address asymmetric

shocks (AM 203). On the other hand, ALDE and EPP MEPs mainly belonging to northern country delegations (creditor countries) supported the proposal to financially support the implementation of structural reform, facilitating convergence among Member States. However, they opposed the proposal for an EMU-wide fiscal capacity to support Member States affected by asymmetric shocks. In this respect, they stressed that the coordination of national fiscal policy would be sufficient to trigger growth-enhancing, sustainable and socially balanced structural reforms and to enhance the national capacity to absorb economic shocks. In this respect, for instance, EPP MEPs Siegfried Mureşan (Romania) and Werner Langen (Germany) argued that ‘coordination of national fiscal policies, notably through adhering to the fiscal rules such as the SGP and transposing relevant reforms as outlined in the country specific recommendations (CSRs), is necessary to boost competitiveness and structural convergence, making Member States more resilient against asymmetric shocks’ (AM 195). Similarly, ALDE MEPs Nils Torvalds (Finland) and Ulrike Müller (Germany) stressed that the crisis has proven that what a monetary union needs is a credible fiscal surveillance framework that guarantees convergence among Member States, rather than the creation of a common fiscal capacity for the EMU (AM 205). As a consequence, EPP and ALDE MEPs from creditor countries rejected the rapporteurs’ text, according to which a fiscal capacity for the EU is a vital element for the EU to deliver on its promise of stability, convergence, growth and jobs (AM 267,268, 270, 277). By contrast, ALDE and EPP MEPs from southern delegations tabled amendments in favour of the rapporteurs’ proposal, arguing that a fiscal capacity would guarantee the EMU the tools to deliver on its growth, convergence, stability and jobs ambitions (AM 269, 272).

Moving to the dimensions of a possible EMU fiscal capacity, the same conflict dynamics also emerge in the case of how to finance the new fiscal capacity and whether it should be part of the EU budget or above its ceilings. In this respect, again, left-wing MEPs (GUE/NGL, S&D, Greens/EFA) agree with the proposal of the rapporteur to transform the existing European Stability Mechanism into a new European Monetary Fund with adequate lending and borrowing capacities, managed by the Commission and accountable to the European Parliament (AMs 405, 407, 408, 413, 414, 428, 430). On the other hand, as expected, all the right-wing group MEPs (ECR, EFDD, ENF) deleted the proposals of the rapporteurs (AM 399, 400, 401, 403, 421, 422, 423, 424). Finally, the ALDE and EPP again split on the base of the MEPs’ territorial origin. On the one hand, MEPs from creditor country delegations tabled amendments against the proposal to create a new EMF as a base for an EMU-wide fiscal capacity, above the MFF ceilings and with borrowing and landing capacity (AM 398, 402, 406, 415, 433). Conversely, EPP and ALDE MEPs from debtor country delegations supported the rapporteur’s proposal (AM 409, 410, 412, 416, 425, 427, 429, 431). A different dynamic emerged as regards the possibility to attach conditionalities to the activation of the fiscal

capacity. In this respect, the rapporteurs stressed that compliance with a convergence code should be the condition for access to funding from the ESM/EMF (paragraph 23). Such a code would be introduced as ‘a legal act resulting from the ordinary legislative procedure, to streamline the existing coordination of economic policies into a more effective convergence of economic policies within the European Semester’ (paragraph 25). Therefore, the EMU-wide fiscal capacity would be conditional on the respect of the macroeconomic criteria set by the Maastricht Treaty (macroeconomic conditionality) and on a set of convergence indicators that the rapporteurs indicate as to be reached within five years in three different policy fields: taxation, labour market and investment (paragraph 26). Such a proposal was supported by S&D, ALDE and EPP MEPs, who tabled amendments in favour of the possibility of establishing a convergence code. On the contrary, Greens/EFA and GUE/NGL criticised the macroeconomic conditionality attached to the financial help to Member States in need. Notably, GUE/NGL MEPs considered the conditionality as a contradiction with the stabilisation and redistribution function of a fiscal capacity (AM 454, 493). Slightly different is the position of the Greens/EFA MEPs, who accepted the proposal for a convergence code in labour market, investment and taxation standards, but criticised the introduction of the Maastricht criteria within the code’s objectives. EFDD, ENF and ECR MEPs tabled amendments against the proposal for a fiscal capacity *tout court*.

Moving to the proposal for a fiscal capacity to absorb asymmetric shocks, as observed above, the proposal of the rapporteurs is to establish either a Rainy Day Fund or a fully fledged EUBS. In this respect, the analysis of the amendments shows three main findings regarding the position of MEPs on a possible EUBS. The first is that all left-wing MEPs (S&D, Greens/EFA and GUE/NGL) agree that structural reforms are not sufficient to address and prevent asymmetric shocks and that automatic fiscal stabilisers are therefore needed (AM 595, 600, 601). On the contrary, ALDE and EPP MEPs split according to their territorial origin. For instance, EPP MEPs Siegfried Mureşan (Romania) and Werner Langen (Germany) stressed that: ‘no instrument or mechanism, like the ESM or any fiscal capacity, has sufficient means to stabilise the euro area as a whole in face of shocks that endanger the solvency of countries or the euro area as a whole, therefore the best way to prepare, prevent and minimise shocks is to strengthen the economy at national level’ (AM 593). Therefore, the objective of a fiscal capacity should not be to absorb asymmetric shock by fiscal transfer, but rather, to financially support Member States implementing structural reforms which improve their competitiveness in the long term and increase their resilience. Similarly, Dutch EPP MEP Esther de Lange argued that the capacity of Member States to absorb asymmetric shocks can increase not through fiscal transfer, but rather, by ‘abiding by the rules set out in the Stability and Growth Pact’ (AM 597).

In terms of the two models of asymmetric shock absorption mechanisms proposed by the rapporteurs, the Rainy Day Fund was supported by the S&D and Greens/EFA MEPs, who considered it as ‘a first step of the roadmap towards a genuine Fiscal and Budgetary Union’ (AM 629), and by a smaller group of EPP and ALDE MEPs, including the rapporteur Reimer Böge; Luděk Niedermayer (Czech Republic); Jean Arthuis (France); Gérard Deprez (Belgium); Enrique Calvet Chambon (Spain); Nedzhmi Ali (Bulgaria); Brian Hayes (Ireland); and Dariusz Rosati (Poland). On the other hand, GUE/NGL MEPs rejected the proposal, as well as ECR, EFDD, ENF MEPs and another group of EPP and ALDE MEPs, which included Siegfried Mureşan (Romania), Esther de Lange (the Netherlands) and Nils Torvalds (Finland).

As regards the proposal for EUBS, this was supported by all left-wing groups (S&D, GUE/NGL and Greens/EFA). For instance, S&D MEPs Maria João Rodrigues (Portugal), Paul Tang (the Netherlands) and Jakob von Weizsäcker (Germany) argued that a reinsurance EUBS ‘would foster convergence of labour markets in the medium term while playing a useful role in supporting economic and social stabilisation of Member States during future cyclical downturns with asymmetric impact’ (AM 646). More precisely, S&D MEPs Roberto Gualtieri (Italy) and Pervenche Berès (France) stressed that a reinsurance EUBS ‘should address short term cyclical unemployment supporting national schemes in case of severe downturn’ (AM 649, 653). The reason for left-wing MEPs’ support of EUBS is twofold. On the one hand, providing income support to the unemployed, who are the most hit during a crisis, creates a direct link between citizens and the EU. On the other hand, it would introduce a counter-cyclical mechanism for the EMU. For instance, S&D Spanish MEP, Jonás Fernández, claimed that a reinsurance EUBS ‘would include an anti-cyclical component in the Eurozone economic policy, foster convergence of labour markets in the medium run, introduce a social dimension to the EMU, and establish a direct link between the European institutions and citizens’ (AM 647).

By contrast, the proposal for EUBS was rejected by all far-right groups (ECR, ENF and EFDD), the reasons being their Euroscepticism vis-à-vis the Euro project as such and their preference for dissolving the Eurozone rather than fixing it. Such a preference emerges clearly if we look at the contents of the tabled amendments. For instance, French ENF MEP Sophie Montel states that ‘with a view to absorbing asymmetric shocks, monetary adjustment is the simplest, most flexible and least costly tool’ (AM 594) and refuses both a European stabilisation mechanism and the notion of implementing structural reforms. German ECR MEP Bernd Kölmel explicitly states that asymmetric shocks cannot be ruled out completely ‘given the neglected preconditions for an optimal currency area’ and, therefore, called for an instrument ‘to make possible a withdrawal from the euro area

without withdrawing from the EU' (AM 597). Another reason that led conservative and far-right wing MEPs, mainly from northern countries, to oppose the creation of EUBS is the risk of a 'transfer union'. An amendment tabled by Finnish ECR MEP Pirkko Ruohonen-Lerner and German ECR MEP Bernd Lucke is explicit in this regard:

...proposals for a shock absorption function at euro area level reflect the dominance of macro-managing than curing structural problems; believes that, while it may be tempting at first sight to allow counter-cyclical policies via a euro area treasury for highly indebted countries that would otherwise face market pressure, this possibility would reduce the need for consolidation since the ability to conduct counter-cyclical policies is a good reason to seek for fiscal space; considers therefore that a euro area fiscal capacity would make it even harder to reach the goals of the Stability and Growth Pact as amended by the SixPack and the Two-Pack (AM 620).

Similarly, Belgian ECR MEP Sander Loones warned that 'the set-up of a euro area fiscal capacity even in the form of an insurance system could result in permanent transfers' (AM 622).

More ambiguous is the position of the EPP and ALDE MEPs. On the one hand, northern delegations, who stressed that establishing an automatic fiscal stabiliser in the Eurozone might risk creating moral hazard in the EMU, rejected the proposal of EUBS. For instance, Dutch EPP MEP Esther de Lange argued that 'a European Unemployment Benefit Scheme with debt-based funding would be a Ponzi scheme and that it would not be able to foster true and sustainable convergence of labour markets' (AM 654). Moreover, they claim that the risk linked to the establishment of a European Unemployment Benefit Scheme is that it would create a permanent transfer towards southern countries. For instance, according to German EPP MEP Burkhard Balz, EUBS is 'an economic and political problem, by forcing Member States in recession to transfer resources to Member States experiencing stronger recession' (AM 612). On the other hand, Christian Democrat and liberal MEPs, mainly belonging to southern as well as Eastern delegations, took a more nuanced position. Namely, only a few MEPs tabled amendments supporting the idea of EUBS. For instance, ALDE French and Spanish MEPs supported the idea of EUBS and stressed that 'this option would require a Eurozone Treasury based on genuine own resources and the relevant transfer of competence to the Eurozone level' (AM 648). Similarly, Polish EPP MEP Danuta Maria Hübner argued that a European Unemployment Insurance Scheme would foster convergence of the labour market. However, she stressed that a balance has to be found 'between the need to address a common issue through a common instrument and this of respecting national political and social preferences' (AM 645) and recalled the example of the US unemployment insurance scheme. At the same time, the other ALDE and EPP MEPs belonging to southern delegations did not take a clear position.

To sum up, the analysis of the amendments tabled by MEPs on the draft report on the budgetary capacity for the Eurozone unveiled a complex scenario, which turned out to be extremely informative on the conflict dynamics characterising the debate over the possible establishment of EUBS. The first finding that emerged is a clear divide on the overall view of the Economic and Monetary Union and the necessity to establish a fiscal capacity for the Eurozone. In this respect, we observed that left-wing MEPs (GUE/NGL, Greens/EFA and S&D) argued that a common, EMU-wide fiscal capacity is necessary in order to address the shortcomings within the Economic and Monetary Union, which attributes monetary policy to the European level, while budgetary policy remains within the competences of Member States. On the contrary, right-wing MEPs from the EFDD, ENF and ECR groups stressed that neither the coordination of fiscal policy nor the implementation of a Eurozone fiscal capacity would be the right solution to address the shortcomings within the EMU, and, therefore, they asked either for a return to national currency (ENF, EFDD) or for a further strengthening of the fiscal surveillance mechanisms (ECR). Finally, we observed a clear creditor versus debtor divide within the EPP and ALDE groups in the EPP, whereby southern MEPs argued in favour of a fiscal capacity to be used both to financially support Member States' structural reforms and to absorb macroeconomic asymmetric shocks, while northern MEPs explicitly excluded any possibility for a shock absorption capacity, maintaining that financial support can be provided only to guarantee the implementation of the structural reforms.

In terms of the dimension of an EMU-wide fiscal capacity, we observe that, as concerns the financing, left-wing MEPs were again in favour of transforming the ESM into an EMF with lending and borrowing capacity, to be included in the MFF, thus raising the ceilings of the latter.<sup>80</sup> The proposal was instead rejected by far-right groups (ENF, EFDD, ECR) and by creditor countries' MEPs from ALDE and EPP, while southern delegations tabled amendments in support. A different conflict configuration emerges on the proposal to attach to convergence criteria to the accessibility to the funds by establishing a new Convergence Code. In this case, a divide occurred between the so-called mainstream parties (S&D, ALDE and EPP), who supported the introduction of such conditionality, and the other groups. On the one hand, Greens/EFA and GUE/NGL MEPs rejected the idea of a macroeconomic conditionality. On the other hand, the Eurosceptic groups rejected the entire proposal *tout court*.

Finally, as regards the proposal for an absorption capacity for the fiscal capacity to be implemented in the form of a Rainy Day Fund or a re-insurance European Unemployment Benefit Scheme, we observed two different conflict constellations. In the case of a Rainy Day Fund, the

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<sup>80</sup> Exception made, however, for the GUE/NGL, which would prefer the creation of a completely new fund.

proposal is supported by S&D, Greens/EFA and the southern delegations of the EPP and ALDE groups, while it was rejected by GUE/NGL, the Eurosceptic groups (ECR, EFDD, ENF) and the northern delegations of the EPP and ALDE. As regards the proposal for a re-insurance EUBS, it was highly supported by all the left-wing MEPs, included the GUE/NGL, but received strong opposition from the right-wing groups, with the exception of the EPP and ALDE MEPs. In the case of EUBS, no explicit support, with the exception of few amendments, was expressed by ALDE and EPP MEPs belonging to southern delegations.

As a result of these complex conflict constellation, some of the proposals advanced by the rapporteurs were approved thanks to the support of the aforementioned transversal coalitions, namely, all those where the left-wing groups remained united and southern EPP and ALDE MEPs positioned themselves against their group. Amongst the proposals' maintained in the final text was the reference to the necessity of a fiscal capacity to complete the monetary union and absorb macroeconomic shocks. Similarly, the reference to the conditionality was maintained, as well as the convergence code in order to avoid moral hazard and facilitate convergence, the proposal to transform the ESM into and EMF and the request that the Eurozone budgetary capacity be part of the Union budget, over and above the current ceilings of the multiannual financial framework and financed by the Euro area. However, where left-wing MEPs were not united (such as in the case of the Rainy Day Fund) or where support from EPP and ALDE southern delegations was partially missing (such as in the case of EUBS), the proposals were eliminated from the final compromise.

#### *5.5.4 The reactions of social partners*

The reaction of social partners to the Commission's Five President Report was positive overall. Indeed, both ETUC and BusinessEurope welcomed the call for automatic fiscal stabilisers for the Euro-area.

BusinessEurope (2015b) published a long position paper in which it addressed the main issues raised in the Commission's documents. Notably, as concerns the possibility of establishing fiscal stabilisers for the Euro-area, businesses stressed that in the short-term period, priority should be given to responsible budgetary policies, ensuring fiscal sustainability and healthy public finances for the EU and the Euro area as a whole. However, in the medium term, BusinessEurope called for a macroeconomic stabilisation function for the EMU, in order to increase its resilience and deal with shocks that cannot be managed at the national level alone. According to BusinessEurope (2015b), such a fiscal capacity should be designed to prevent moral hazard and strengthen individual responsibility. Notably, businesses stressed that any stabilisation function for the Euro-area should

be conditional on the implementation of structural reforms. The same support was later expressed by the BusinessEurope President's letter to Juncker after the publication of the Reflection Paper on Deepening the EMU. In this letter, BusinessEurope President Emma Marcegaglia stressed that businesses support strengthening the long-term stability of the EMU and its ability to handle asymmetric shocks to one of more of its economies through the creation of a €A stabilisation fund. This fund, however, should be conditional on the implementation of structural reforms. Its activation should be rapid and temporary to ensure an effective stabilisation effect. Finally, BusinessEurope again excluded the possibility of EUBS for the reasons mentioned above.

In terms of the reactions of trade unions, ETUC published two position papers (ETUC, 2017a, 2017c) as an answer to the Five Presidents' Report and the Reflection Paper on deepening the EMU. In these documents, trade unions criticised the governance of the EMU, especially the fiscal rules embedded in the Stability and Growth Pact, which does 'not allow both well-functioning automatic stabilisers and the maintenance and development of private and public stocks of capita' (ETUC, 2017a). Moreover, the ETUC stressed that the focus only on structural reforms is not sufficient to tackle asymmetric shocks and stimulate growth. Therefore, ETUC supported the introduction of fiscal automatic stabilisers. Notably, the proposal is to establish a European Treasury, which 'would allow Member States in difficult situations, especially in economic downturn, to avoid cutting public investment' (ETUC, 2017b). On the contrary, the ETUC again excluded the possibility of establishing EUBS and stated that it 'would seek for more clarifications on the European Unemployment Reinsurance Scheme suggested in the Commission's paper and continues to assess the issue with its affiliates' (ETUC, 2017b).

## 5.6 Conclusions

The evolution of the post-crisis political debate on the possibility to create a European Unemployment Benefit Scheme and, more generally, to create automatic fiscal stabilisers to absorb asymmetric shocks, showed a complex interplay of overlapping divides and tensions. Again, these divides have an ideological and territorial nature and are related to the policy-maker's view on the role of the EU (market-making or market-correcting); the capacities and power to give to Brussels (national social sovereignty vs EU law); and the priority given to fiscal discipline or cross-national solidarity (creditors versus debtors). As was the case of the debate on the posting of workers, the conflict constellation over the creation of a EU-level automatic fiscal capacity, in general, and of EUBS, in particular, changed according to the *arena* in which the debate took place (Council or

Parliament); the *actors* involved (MEPs, Ministers or social partners); and the *issue* under debate (e.g. financing of the EUBS, conditionality to be attached, etc.).

Moving from the *arenas*, we observed that at the intergovernmental level, in the Council, the conflict mainly revolves around one territorial divide that pits supporters of fiscal consolidation against advocates of fiscal transfer. The former stressed the risk of moral hazard and permanent transfers, which are connected to the creation of an automatic stabilisation mechanism. The latter highlighted the incompleteness of the Economic and Monetary Union and criticised the insufficiency of fiscal consolidation to relaunch economic growth and sustain job creation. By contrast, at the parliamentary level, the conflict constellation becomes more complex. The functional dimension of conflict in fact trumps the territorial dimension. As we observed, a clear opposition to the creation of an automatic fiscal stabiliser was expressed by all Eurosceptic groups, who indeed deemed the EMU architecture to be the cause of the economic crisis and therefore argued in favour of its dissolution. Full support for an EMU-wide fiscal stabilisation mechanism was instead expressed by left-wing groups in the EP, who also explicitly expressed their preference for a European Re-Insurance Unemployment Scheme as a tool to address asymmetric shocks and guarantee social cohesion. Finally, a territorial divide characterises the positioning within the liberal and Christian-Democratic groups, who split along with the divide between creditor and debtor national delegations.

As was the case of the debate over the posting of workers, the combination of these three divides is not static, but rather, varies according to the *issue* under discussion and the *actors* involved. In the first case, for instance, although left-wing political groups formed a coalition in favour of the creation of an EUBS, their position slightly varied on specific issues, such as the possibility of attaching conditionality to the activation of EUBS or the decision on how to finance this scheme. In the second case, the conflict configuration changes according to the actors involved. With this respect, it is interesting to observe the position of social partners. Contrary to the debate over the posting of workers, in fact, both trade unions and business associations are quite lukewarm on the possibility of EUBS. Notably, the reason for their contestation of the idea of EUBS is twofold. On the one hand, they raise a subsidiarity concern regarding the competences of the EU in designing and managing national unemployment benefit schemes. On the other hand, businesses associations and, initially, also some trade unions members – notably, from creditor countries – argue that priority should be given to fiscal stability and the implementation of structural reforms.

To sum up, the conflict constellation that emerges around the possibility to establish a European Unemployment Benefit Scheme brings further evidence to the clash syndrome theory. Indeed, the political confrontation is characterised by multiple and crisscrossing divides, which determine the emergence of different conflict configuration, depending on the arenas in which the

debate takes place, the actors involved and the issues under discussion. Contrary to the debate over the posting of workers, however, the overlapping of conflicts turned into a political deadlock, whereby no room for manoeuvre is left for policy-makers to find a compromise and overcome existing divides. In this regard, the constraints posed by the unanimity rule significantly hamper the possibility to find an agreement in the Council.

## 5.7 Key players, key events and technical information

### COMMUNICATION ON THE SOCIAL DIMENSION OF THE ECONOMIC AND MONETARY UNION

#### Key players

##### *European Parliament*

Committee Employment and Social Affairs

##### *Council of the European Union*

Employment, Social Policy, Health and Consumer

##### *European Commission*

DG Employment, Social Affairs and Inclusion

#### Key events

02/10/2013 Non-legislative basic document published (see European Commission 2013c)

15/10/2013 Debate in EPSCO Council

06/11/2013 Amendments on the draft motion for a resolution (see 2013b)

21/11/2013 Motion for a resolution of the European Parliament (see European Parliament 2013c)

19/06/2014 Debate in EPSCO Council

#### Technical information

Procedure reference: 2013/2841(RSP)

Procedure type: RSP - Resolutions on topical subjects

Legal basis: Rules of Procedure EP 136-p5

### FIVE PRESIDENTS' REPORT

#### Key players

##### *European Parliament*

Presidency

##### *Council of the European Union*

European Council

##### *European Commission*

Secretary General

#### Key events

15/07/2014 Presentation of Juncker's political guidelines (see European Commission 2014)

12/02/2015 Presentation of the draft analytical note to informal European Council (see European Commission 2015d, 2015e, 2015f)

11/03/2015 First Sherpas' meeting

21/04/2015 Note and issues for discussion by Sherpas (see European Commission 2015g, 2015h)  
 27/04/2015 Second Sherpas' meeting  
 22/05/2015 Note for discussion by Sherpas (see European Commission 2015i)  
 26/05/2015 Third Sherpas' meeting  
 22/06/2015 Presentation of the Five Presidents' Report (see European Commission 2015j)

#### Technical information

Procedure reference: -  
 Procedure type: -  
 Legal basis: -

## **EP REPORT ON BUDGETARY CAPACITY EUROZONE**

### Key players

#### *European Parliament*

Committees responsible: Budgets and Economic and Monetary Affairs  
 Rapporteurs: EPP Böge Reimer and S&D Berès Pervenche  
 Shadow-Rapporteurs: PPE Muresan Siegfried, S&D Tang Paul, ECR Kölmel Bernd  
 ECR Ruuhonen-Lerner Pirkko, ALDE Arthuis Jean, ALDE Torvalds Nils, GUE/NGL De Masi  
 Fabio, GUE/NGL Nî Riada Liadh, Greens/EFA Eickhout Bas  
 Greens/EFA Maragall Ernest EFDD Valli Marco, EFDD Zanni Marco, ENF Annemans Gerolf, ENF  
 Montel Sophie

Committee for opinion: Budgetary Control, Employment and Social Affairs and Constitutional  
 Affairs

### Key events

21/01/2016 Committee referral announced in Parliament, 1st reading/single reading  
 04/05/2016 Presentation of the draft report by rapporteurs (see European Parliament 2016a)  
 09/06/2016 Deadline for presentation of the amendments to the draft report (see European  
 Parliament 2016b, 2016c, 2016d)  
 13/02/2017 Vote in ECOFIN and BUDG committees (see European Parliament 2017g)  
 16/02/2017 Debate in the Parliament and vote, 1st reading/single reading (see European Parliament  
 2017h)

### Technical information

Procedure reference: 2015/2344(INI)  
 Procedure type: INI - Own-initiative procedure  
 Procedure subtype: Initiative  
 Legal basis: Rules of Procedure EP 54; Rules of Procedure EP 58

## **SUMMARY OF THE CONFLICT CONSTELLATIONS**

Table 21 Summary of the conflict constellation over the proposal to establish an EMU common fiscal capacity (rules,  
 issues, arenas, actors)

	<b>Revision of the Posting of Workers Directive</b>	
<b>Rules</b>	<b>European Parliament</b>	<b>EPSCO Council</b>
	Simple majority	Qualified Majority
<b>Issues</b>	<b>Main divides</b>	

Call for an EMU fiscal capacity	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> </ul>		
Convergence and Competitiveness Instrument	<ul style="list-style-type: none"> <li>- Supranational centralization vs national social sovereignty</li> </ul>		
Support to structural reform	<ul style="list-style-type: none"> <li>- Supranational centralization vs national social sovereignty</li> </ul>		
Conditionality attached to fiscal capacity	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>		
Rainy Day Fund	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> <li>- Supranational centralization vs national social sovereignty</li> </ul>		
European Unemployment Reinsurance Scheme	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> </ul>		
<b>Arena</b>	<b>Main divides</b>		
European Parliament	<ul style="list-style-type: none"> <li>- Market-making vs Market-correcting view on the overall mission of the EU</li> <li>- Supranational centralization vs national social sovereignty</li> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> </ul>		
Council	<ul style="list-style-type: none"> <li>- Supranational centralization vs national social sovereignty</li> <li>- Supporters versus opponents of fiscal stability or cross-national transfers (creditor versus debtor conflict)</li> </ul>		
<b>Actors</b>	<b>Pro-EUBS</b>	<b>Against-EUBS</b>	<b>EUBS-sceptics</b>
	Southern MS (notably IT, SK, ES, PT, FR) S&D, GREEN, GUE/NGL, southern MEPs of ALDE and EPP	Northern MS (notably NL, DE, FI, SE, DK) ECR, EFDD, ECR northern MEPs from ALDE, EPP	Trade Unions

Source: own elaboration

# Chapter 6. When politics steps in. The socialisation of the Semester and the role of the European Commission

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## 6.1 Introduction<sup>81</sup>

In the last decade, in many Member States, especially those severely hit by the recession and austerity measures, political parties have increasingly blamed the EU as one of the causes of national socio-economic strains. This mounting dissensus towards the EU is not a new phenomenon (Hooghe and Marks 2009) and, among other things, it is linked to the contentious relationship between the EU integration process and national welfare states (Ferrera 2017). Since the 1990s, the latter have been gradually transformed into parts of a multi-tiered system of social policy, partially losing their sovereignty and autonomy (Leibfried and Pierson 1995). Nevertheless, the adoption of the new EU post-crisis economic governance architecture marked a quantum leap forward in the EU's capacity to affect national decision-making processes (de la Porte and Heins 2015).

A case in point is the creation of a new hybrid policy-coordination framework, the European Semester (henceforth the Semester), which further deepens the EU interference in domestic decision-making processes (Maricut and Puetter 2018). The adoption of recommendations that are 'country-specific', the threat of financial penalties, and 'back and forth' scrutiny and intervention in the management of national budgets are rather important novelties that have strongly increased the level of EU 'intrusiveness' in domestic social-policy spaces. This is especially true of those Member States in the euro area that are more exposed to the pressures of international financial markets and the risk of being put under the strict surveillance of EU institutions (Costamagna 2018). According to many scholars, the creation of the Semester represents also a step backward in the attempt to reconcile the logic of 'economic stability' and the logic of 'social solidarity' at the EU level (Ferrera 2017), since it reinforces the subordination of social goals to the imperatives of economic competitiveness and fiscal discipline (Crespy and Menz 2015; Dawson 2018). Moreover, even when the Semester deals with social issues, the latter are mainly treated from a 'market-making' rather than a 'market-correcting' perspective (Copeland and Daly 2018).

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<sup>81</sup> This chapter is based on an article written together with Patrik Vesan and Sebastiano Sabato. At the moment of writing it is under review for the *Journal of Common Market Studies*. I am extremely grateful to Patrik Vesan and Sebastiano Sabato with whom I had extensive exchanges and long and fruitful discussions. I am also personally grateful to Pierre Vanheuverzwijn, with whom I had very helpful discussions on the social dimension of the Semester and who kindly shared with me 6 interviews he realized in 2015 and 2016.

This argument has been partially challenged by other scholars. Notably, Zeitlin and Vanhercke (2018) provide empirical evidence to support the thesis of a progressive ‘socialization’ of the Semester, defined as a growing emphasis on social objectives and an enhanced role for EU social and employment policy actors in the policy coordination process. Similarly, Bekker (2015) and Clauweart (2018) show that the number of socially oriented Country Specific Recommendations (CSRs) adopted within the Semester cycle have been progressively increased.

This chapter directly engages with this debate by focusing on the following research question:

I. How has the ‘social dimension’ of the European Semester developed over the years?

To answer this question, this chapter provides a new characterization of the social dimension of the Semester, i.e. how the Semester deals with national social policies, by revising and updating previous studies with original data. Notably, it extends the analysis of CSRs from the 2011 to the 2019 cycle and proposes an original coding scheme that aims at distinguishing three specific orientations of social policy prescriptions (social protection, social investment and social retrenchment) addressed to Member States.

The focus on the social dimension of the Semester is even more interesting after the proclamation of the European Pillar of Social Rights (EPSR), the flagship initiative launched in 2015 by the President of the European Commission, Jean-Claude Juncker, with the stated aim of steering a renewed process of upward convergence towards better working and living conditions in the EU. Since its formal launch in March 2016, the Commission made it clear that the Semester would be one of the main vehicles for the implementation of the Social Pillar. Therefore, our second research question reads as follows:

II. Has the European Pillar Social Rights impacted on the social dimension of the Semester?

To answer this question, we build upon Zeitlin and Vanhercke’s (2018) political sociology approach to EU governance. However, we complement this approach by highlighting also the role of political agency and its interplay with the bureaucratic arena as a driver of change. Our main expectation is that, while depending on changed socioeconomic conditions, reflexive learning and creative adaptation processes, the socialization of the Semester can also be activated by political intentional action.

Contrary to the previous chapters of this thesis, this one will focus only mostly on one institutional actor, the European Commission, and only to a less extent on the Council<sup>82</sup>. In this regard, the term *politics* of the European Semester does not refer to intra institutional competition and party polarization on the Semester, but rather, as it will be illustrated below, to the role of political actors in orienting the content of the recommendation addressed to Member States. In this respect, the focus is on the Commission's role, given the EC centrality in the Semester process. As stressed by several scholars (Bauer and Becker 2014; Becker et al. 2016; Copeland and James 2014; Kassim et al. 2017), the EMU post-crisis governance reinforced role of the Commission in the economic policy surveillance. This is particularly true for the European Semester. Indeed, the adoption of the so-called Six-pack has enhanced the sanctioning power of the Commission by introducing the Reverse Qualified Majority Voting (RQMV) rule to reverse the Commission's decision to sanction a Member State which does not meet the criteria set in the Macroeconomic Imbalance Procedure (MIP) and EDP. At the same time, as pointed out by Vanheuverzwijn (2018), what strengthens the role of the Commission in the Semester is also the application of the reinforced QMV when amending any proposal of recommendation from the Commission regardless of its legal basis, which makes the Semester a highly centralized process. Scholars have demonstrated, however, that the Commission tends not to abuse of this position, while favoring a more collaborative approach, based on technical analyses, trying to be less intrusive as possible in national economic and social-employment policies (Vanheuverzwijn 2018; Zeitlin and Vanhercke 2018). This said, the technical and impartial approach hold by the Commission in the Semester is not synonym of neutrality. To the contrary, several scholars have shown how the ambition of the Juncker Commission was exactly to combine technocratic excellence with a clear 'political' agenda (Borchardt 2016; Kassim et al. 2017; Peterson 2017; Dinan 2016). Against this background, the objective of this chapter is to explain how the politics of the Juncker Commission affected the orientation of the Semester recommendations.

The chapter proceeds as follows. Section 6.2 briefly introduces the European Semester and describes its procedures and the main actors involved. Section 6.3 presents the theoretical background that guides the investigation. Section 6.4 clarifies the methodology adopted, notably the new coding scheme for CSRs. Section 6.5 illustrates the main findings of the empirical research on the content of the Semester. Section 6.6 provides an explanation of the social dimension of the Semester by focusing on the most recent Semester cycles and the role played by the European Pillar of Social Rights. Section 6.7 summarises the main findings and concludes.

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<sup>82</sup> The role of the European Parliament in the European Semester is limited to a consultation, after the publication of the winter-package, while no role is played with respect to the final recommendations to Member States.

## 6.2 The European Semester and the Social Scoreboard: procedure and actors

The European Semester is the cornerstone of the post-crisis regime of socio-economic policy coordination in the EU. Launched in 2010 and further codified by the so-called ‘Six Pack legislation’, it takes the form of an annual cycle that integrates the Stability and Growth Pact (SGP), the Macroeconomic Imbalance Procedure (MIP), and the Europe 2020 Strategy. Each cycle of the Semester starts with the publication of the ‘Autumn Package’ in late November. The latter is composed of the Annual Growth Survey (AGS), the Euro area recommendations, the draft Joint Employment Report (JER), and the Alert Mechanism Report (AMR).

The AGS is the European Commission's main tool for setting the general economic and social priorities for the EU for the following year, while the Euro area recommendations focus on collective challenges in the Euro area. The JER is initially drafted by the Commission, but it must be agreed with the EPSCO Council, and especially by its advisory committees (EMCO & SPC), which are involved in the drafting process. It outlines the key employment and social developments in Europe as well as Member States' reform actions, in line with the Guidelines for the Employment Policies of the Member States (henceforth ‘guidelines’). The reporting on these reforms follows the structure of the guidelines: boosting demand for labour (guideline 5), enhancing labour supply and improving access to employment, skills and competences (guideline 6), enhancing the functioning of labour markets and the effectiveness of social dialogue (guideline 7), and promoting equal opportunities for all, fostering social inclusion and combatting poverty (guideline 8). The JER relies on a set of socio-economic indicators, gathered in a scoreboard. In the 2018 Semester cycle, a new ‘Social Scoreboard’ was adopted with the explicit aim of monitoring Member States’ performances in light of the European Pillar of Social Rights. The Social Scoreboard is composed of some of previous social-economic indicators, which are grouped under 12 headline indicators, (see Table 22).

Table 22. The new Social Scoreboard

Equal opportunities and access to labour market	1.	Early leavers from education and training (% of population aged 18-24)
	2.	Gender employment gap
	3.	Income quintile ratio (S80/S20)
	4.	At risk of poverty or social exclusion (in %)
	5.	Youth NEET (% of population aged 18-24)
Dynamic labour markets and fair working conditions	6.	Employment rate (% of population aged 20-64)
	7.	Unemployment rate (% of population aged 15-74)
	8.	GDHI per capita growth

Social protection and inclusion	9.	Impact of social transfers (other than pensions) on poverty reduction
	10.	Children aged less than 3 years old in formal childcare
	11.	Self-reported unmet need for medical care
	12.	Individuals' level of digital skills

Source: our elaboration

Finally, the AMR is the first step of the MIP annual cycle, through which the Commission identifies the Member States which need an In-Depth Review (IDR)<sup>83</sup>. In line with the Broad economic policy guidelines, the objective of the AMR is to identify 'unsustainable trends' in the macroeconomic performance of a Member State through a set of indicators.

After the release of the Autumn Package, Member States must discuss and adopt conclusions on the Commission's proposal in the responsible Council configurations (see below), before it reaches the table of the Spring European Council table. At this point, the Commission carries out an in-depth analysis of the socio-economic situation in each Member State, which results in the publication of the Country Reports (CRs) as part of the 'Winter Package' released in February.

The Country Reports were introduced in the reform of the Semester in 2015, which brought together the two previously existing documents (Staff Working Document and In-depth Review). In the CRs, the Commission presents the socio-economic performance of a Member State and states the extent to which each country presents problems and has acted to tackle the imbalances identified in the previous Semester cycles. The analysis of the macroeconomic and fiscal performance of each Member State is summarised in a box in which the Commission evaluates the result of the MIP and SGP indicators. Since 2017-2018 cycle, following the proclamation of the European Pillar of Social Rights, another box, which however focuses on the Social Scoreboard, has been included in the CRs. As shown in Table 23, this 'social box' highlights the most critical situations with colour red.

Table 23 An example of 'social box'

Spain		
Equal opportunities and access to labour market	Early leavers from education and training (% of population aged 18-24)	Critical situation
	Gender employment gap	On average
	Income quintile ratio (S80/S20)	Critical situation
	At risk of poverty or social exclusion (in %)	To watch
	Youth NEET (% of population aged 18-24)	To watch
	Employment rate (% of population aged 20-64)	Weak but improving

<sup>83</sup> The IDR is published by the Commission as part of the Country Report in the Winter Package of the Semester.

Dynamic labour markets and fair working conditions	Unemployment rate (% of population aged 15-74)	Weak but improving
	GDHI per capita growth	To watch
Social protection and inclusion	Impact of social transfers (other than pensions) on poverty reduction	To watch
	Children aged less than 3 years old in formal childcare	Better than average
	Self-reported unmet need for medical care	Better than average
	Individuals' level of digital skills	On average

Source: Spain Country Report 2018

At this stage, Member States are expected to prepare a reaction to the Country Report by publishing their National Reform Programmes (NRP) and Stability (Euro area) or Convergence (non-Euro area) Programmes.

In May, the Commission adopts the draft of the Country-Specific Recommendations (CSRs). In June, the latter is approved by the EPSCO Council, as regards the employment and social issues, and by the ECOFIN, as regards the economic/financial and MIP-related topics. At the end of June, the European Council endorses the annual CSRs which are formally adopted by the ECOFIN in July.

### *6.2.1 The actors involved in the Semester process*

The main European institutions involved in the Semester process are the Commission and the Council. Nevertheless, other actors take part to different phases of the Semester process. For example, several experts from trade unions, non-government organisations and academia are involved in the drafting of the Semester's documents. This involvement comes about through several activities in which Member States can feed into the Commission's assessment, such as the technical missions to the Member States of Commission staff (the so-called 'fact finding missions'), the bilateral meeting between the Commission and Member States' representatives in Brussels and the political missions to the Member States carried out under the leadership of the vice-President Dombrovskis.

Within the Commission, there is a 'core group' of DGs which are entitled to operate the Semester: Directorate General for Economic and Financial Affairs (DG ECFIN), Directorate General for Employment, Social Affairs and Inclusion (DG EMPL) and Secretariat General (SECGEN). Two other DGs are involved to provide information on specific issues: DG GROW on internal markets and DG TAXUD on tax policies. The objective of the core group is to bring together the representatives of the above-mentioned DGs, and its role is to steer the process, ensure cross-country consistency, and make the final trade-offs. At the technical level, the analysis of each country is performed by the country desk officers or analysts in the different DGs involved in the policy fields

touched upon by the European Semester. These officials form part of a 'country team', which is chaired by an official from the SECGEN and meet approximately once a month to discuss the range of policy challenges faced by their country of assignment.

Each DG has a specific role within the Semester process. In 2014, a note from the SECGEN was distributed to the country teams at the beginning of the cycle. It defined each DG's responsibilities regarding the drafting of the Country Report. According to that note, DG EMPL oversees all the issues related to employment and social policies and it has the last word in any dispute that might arise on any aspect of the employment-related part of the Country Report. For its part, DG ECFIN is responsible for everything related to the Macroeconomic Imbalance Procedure and the Stability and Growth Pact. DG ECFIN has the last word on the Country Report, while SECGEN has it on the Country Specific Recommendation.

Moving to the Council, the main configurations of ministers that have a role in the Semester are the Economic and Financial Affairs (ECOFIN) and the Employment, Social Policy, Health and Consumer Affairs (EPSCO) Councils. Both the Council configurations act through committees, which provide technical support to the Commission through Member States' experts committees and oversee the Semester process. In ECOFIN, there are three committees: Economic Policy Committee (EPC), Economic and Financial Committee-Alternates (EFCa) and Economic and Financial Committee (EFC). On the EPSCO side, there are two committees: Employment Committee (EMCO) and the Social Protection Committee (SPC).

The adoption of CSRs proposed by the Commission is a competence of the Council. The formal procedure to adopt CSRs is based on the so-called 'comply or explain' rule. According to this rule, the Council is expected to follow the recommendations and proposals of the Commission or explain its position publicly. An amendment to the Commission's text requires the support of a qualified majority of at least 72% of the members of the Council, representing at least 65% of the overall population.

### 6.3 Analysing the 'social dimension' of the European Semester

To explain how the social dimension of the Semester has developed over the years, this chapter contends that the Semester can be considered a 'constrained supranational arena' when it comes to the development of a more social-sensitive policy coordination at the EU level.

In this respect, Costamagna (2018) argues that, with the creation of the Semester, the choice of bringing social and labour market policy coordination under the 'shadow' of the Stability and Growth Pact (SGP) and of the Macroeconomic Imbalance Procedure (MIP) has contributed to the ongoing marginalization of social issues at the EU level (Maricut and Puetter 2018). As a result, the

creation of the Semester has further reinforced what Scharpf (2002) calls the broad ‘constitutional’ asymmetry between economic and social objectives which has characterized the European integration process in the past three decades. This said, however, although the Semester represents an unfavorable setting for the development of a socially-sensitive policy dialogue among national governments and EU institutions, this does not exclude the adoption of social policy prescriptions that respond to goals other than economic competitiveness and fiscal discipline. Indeed, Zeitlin and Vanhercke (2018) show that a gradual socialization of the Semester can be observed over the years. Such socialization has been achieved because social and employment actors<sup>84</sup> learnt from past experience and/or creatively adapted their own practices to interact with their economic policy counterparts, thus overturning any implicit hierarchy among the units participating in the Semester process.

Also this chapter focuses on the unravelling of agentic dynamics within what can be call the *expertise sphere* of the Semester, which is populated by EU and national government officials, social partners’ representatives. However, while such ‘horizontal interactions’ among actors directly involved in the drafting of CSRs is important to explain the socialization process, this chapter draws particular attention also to another agentic sphere that operates within the Semester: the *political sphere*<sup>85</sup>. Notably, the expectation is that a marked increase or decrease in social policy recommendations, which departs from strict subordination to the imperatives of economic competitiveness and fiscal consolidation, can be also due to the existence of political pressures that affect the drafting of policy prescriptions. In this regard, our thesis is complementary to other interpretations of the development of CSRs. For instance, Crespy and Vanheuverzwijn (2018) explain the trends in CSRs, especially in what they call social retrenchment CSRs, by looking at the compliance with previous CSRs and the adoption of neoliberal reforms. Guidi and Guardianich (2018) maintain that the CSRs in the domain of pension policy depend on both past reforms and on the evolution and forecast of socio-economic conditions. Finally, as we have argued, Zeitlin and Vanhercke (2018) mainly focus on the activation of learning and creative adaptation processes.

To test the argument on the role of political pressures on the Semester, this chapter takes two steps. Firstly, it proposes a different qualification of the CSRs than that provided by Crespy and Vanheuverzwijn (2017) and Copeland and Daly (2018), notably by distinguishing three types of social policy recommendations: the social retrenchment, the social investment and the social protection recommendations (see the methodological section).

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<sup>84</sup> These actors can be, for example, the Directorate General for Employment and social Affairs (DGEMP), the Social Protection Commission (SPC) and the Employment Committee (EMCO).

<sup>85</sup> Actually, as it will be argued later, already Zeitlin and Vanhercke (2018) acknowledge the existence of political pressures that can influence the socialization process, for instance coming from the European Council or some Commissioners.

Secondly, it focuses on two intertwined causal factors to understand the trends in this socialization process.

The first factor is the existence of a high-level intentional political action, a ‘vertical input’, which consists of a *political pressure* oriented towards the promotion of some specific types of social issues (Maricut and Puetter 2018). Drawing insights from the neo-Weberian perspective on EU governance (Ferrera 2018), this chapter maintains that not simply technocratic rationality, but also political rationality plays an important role in the promotion of social issues within the Semester. This is true in particular with regard to the European Pillar Social Rights. Indeed, the promotion of the Social Pillar responded to the attempt made by Juncker to regain the ‘social credibility’ of the EU in a context marked by several EU’s ‘existential crises’. His Commission was formed after the 2014 European elections, which were marked by the strong advancement of Eurosceptic parties. Juncker was perfectly aware of the threat to the EU legitimacy posed by the rise of anti-EU parties, which present themselves as the defenders of citizens’ (social) rights menaced by EU policies. Several scholars have focused on the mobilization of political parties in defense of national welfare states against the ‘intrusiveness’ of EU in domestic decision-making and on the heightened politicization of EU affairs at the domestic level (Manow, Palier and Schwander 2018; Hutter, Grande and Kriesi 2016). In many Member States, especially in debtor countries, the social consequences of the euro crisis have often been perceived as a cost inflicted by the European Union (EU), since most of the austerity measures implemented at the national level have been adopted under the ‘shadow of hierarchy’ of the new EU economic governance rules (Dawson 2018). In addition to the euro crisis, other crises, such as the migrant crisis and then Brexit, have raised crucial questions concerning the EU as a polity in formation (Börzel and Risse 2018). Against this background, as claimed by an EU official: “The EPSR makes clear what Europe stands for when it comes to social aspects” (SECGEN1). The Social Pillar initiative was therefore inspired by a political rationale which even anticipated the definition of concrete policy goals.

The second factor refers to how political pressure can be channeled through the Semester cycle, i.e. ‘used’ by the experts (mainly EU Commission officials) involved in the Semester’s documents drafting process. To be effective, the political pressure should be translated into the language of bureaucracy and the semantics of indicators. In other words, it should percolate through the ‘rationality criteria’ that inform the Semester expertise sphere, such as the collection of factual knowledge and the definition of a common understanding on the reforms to privilege.

In conclusion, in the empirical analysis of trends in social-oriented CSRs, this chapter will look at evidence of both direct political pressure and of its influence on the expertise sphere of the European Semester.

The next section presents the main methodology adopted in the empirical research.

## 6.4 Methodology

To analyse the development of the Semester, we performed both a manual content analysis of 991 CSRs from 2011 to 2019 and rely on 26 in-depth semi-structured interviews with experts and elites within the European Commission, the Parliament and the Council and among social partners and non-governmental organizations. The empirical analysis of the CSRs proceeded as follows.

Firstly, we classified all CSRs into two main groups: ‘socially oriented’ CSRs and other CSRs<sup>86</sup>. Drawing on Copeland and Daly (2018), socially oriented CSRs referred to the following issues: employment policy, education and training policy, equality policy, health and long-term care, pensions, poverty and social exclusion.

Secondly, since each CSR can contain more than one policy prescription, we divided each of the above-identified socially oriented CSRs into single recommendations, for a total of 1076 recommendations.<sup>87</sup>

Thirdly, we moved from the fact that each social prescription within the CSRs has a specific policy orientation. Therefore, drawing insights from Anton Hemerijck’s classification of welfare policy paradigms (Hemerijck 2017), we categorized all social policy prescriptions into three groups: the social-retrenchment, the social-investment and the social-protection recommendations.

The first group refers to social-policy recommendations that primarily focus on the goal of fiscal sustainability of social policies. These recommendations typically envisage the retreat of the State as the key provider of social solidarity in terms of both benefits and social rights and involve the adoption of ‘retrenchment’ measures, such as social benefit curtailment, cost-containment strategies, labour-market deregulation or pension privatization.

The second group concerns the social-investment recommendations, which mainly aim to prepare, support and equip individuals to increase their chances of participating in the labour market (Ibidem). These recommendations focus on human-capital enhancement activities, such as education or training programs, care services and other measures addressed to children, young people, women and elderly workers.

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<sup>86</sup> Following Guidi and Guardiancich (2018), we excluded those countries that in a given year were under an economic adjustment programme and so did not receive CSRs (Cyprus in 2013, 2014 and 2015; Ireland in 2011, 2012 and 2013; Latvia in 2011; Portugal in 2011, 2012 and 2013; Romania in 2011 and 2012). Croatia is present since becoming a member in 2013, while Greece is present only in 2019.

<sup>87</sup> For a similar approach, see Crespy and Vanheuverzwijn (2015), Guidi and Guardiancich (2018).

Finally, the third group concerns the social-protection recommendations, which are intended to increase the level of income-replacing benefits, the quality and the access to health services or extend the worker’s employment-legislation protection.

It is important to underline that this tripartite classification does not imply any evaluation of the adequacy or equity of policy prescriptions, their purposes, their potential or effective impacts. For instance, a recommendation prescribing to liberalize open-ended contracts is considered as a social-retrenchment prescription even if such liberalization could contribute to limit labour market segmentation or reduce unemployment rate. At the same time, an increase in the generosity of a social benefit or in its coverage is considered a social-protection prescription, despite its potential consequence on equity or long-term fiscal sustainability. Table 24 provides some examples of our coding scheme.

Table 24 Social-policy prescriptions classification

Social-policy recommendations	Main content	Examples
Social-retrenchment	- Curbing social policy expenditure	Continue to improve the long-term sustainability of public finances by curbing age-related expenditure, including health expenditure (Belgium, CSR n. 2, 2012)
	- Retrenchment of social rights to ensure sound financial conditions	Continue reforms to ensure the fiscal sustainability of the long-term care and pension systems, including by limiting early exit possibilities from the labour market. (Belgium CSR n. 1, 2019)
	- Deregulating the labour market	Enhance labour market flexibility by amending the labour legislation to make it more flexible and to allow better use of fixed-term contracts (Lithuania, CSR n. 3, 2011)
Social-investment	- Increasing social expenditure and quality of training and education and, more in general, human-capital enhancing measures	Foster research, innovation, digital skills and infrastructure through better-targeted investment and increase participation in vocational-oriented tertiary education. (Italy, CSR n. 4, 2018)
	- Increasing social expenditure and improving the quality and accessibility of care services addressed to children or other relatives;	Further improve the availability of affordable, high-quality, full-time childcare (UK, CSR n. 3, 2016)
	- Promoting active labour market policies to favour labour market entry especially of female and young persons	Complete reforms aimed at increasing the capacity and effectiveness of the public employment services and reinforce outreach and activation support for young people who are not in employment education or training. (Cyprus, CSR n. 5, 2018)
Social-protection	- Improving the quality of and access to health care	Improve access to health services, including by reducing out-of-pocket payments and addressing shortages of health professionals. (Bulgaria, CSR n. 4, 2019)

	- Increasing the level and coverage of income-support measures, especially to favour low-income persons, and to fight against income disparity and poverty	Address social exclusion notably by improving the adequacy of minimum income benefits, minimum old-age pensions and income support for people with disabilities (Latvia, CSR n. 2, 2019)
	- Facing labour precariousness	Take further action to combat labour-market segmentation, in particular to address the situation of interim agency workers (France, CSRS n. 6, 2013)

Source: Authors' own elaboration.

In order to strengthen the reliability of our classification, we separately classified all recommendations to partially reduce the inevitable degree of subjectivity in the assessment. Moreover, each potentially ambiguous social policy prescription was checked against the information provided in the recitals that introduce the CSR. In this way, our classification took account of the overall evaluation that led to the adoption of the single prescription. If the policy orientation was still uncertain – for instance because the single prescription actually contained more than one policy orientations, its text or the content of the recital did not give us a clear indication of the policy orientation or when a policy prescription was addressed to cost-effectiveness goals along with some forms of expansive recalibration - we adopted a conservative approach to avoid mis-classification. Notably, we included the recommendation into a ‘grey’ category. However, contrary to the mixed-category of CSRs identified by Copeland and Daly (2018) our ‘grey’ category is a residual one since its limited magnitude<sup>88</sup> does not affect the overall trend of social-oriented recommendations.

Finally, the main results of our analysis were submitted to the EU officials we interviewed to further check their consistency.

## 6.5 Towards a more socially-sensitive European Semester?

The first step of our empirical research consisted in assessing the development of the social dimension of the Semester by looking at the evolution of CSRs. Our analysis shows that the share of socially oriented CSRs out of the total of CSRs, which was already relatively high in 2011 (49,7%), partially diminished in 2013 (44,7%), but then increased crossing the threshold of 50% after the 2015 cycle and reaching the peak of 56,2% in the 2018 cycle.

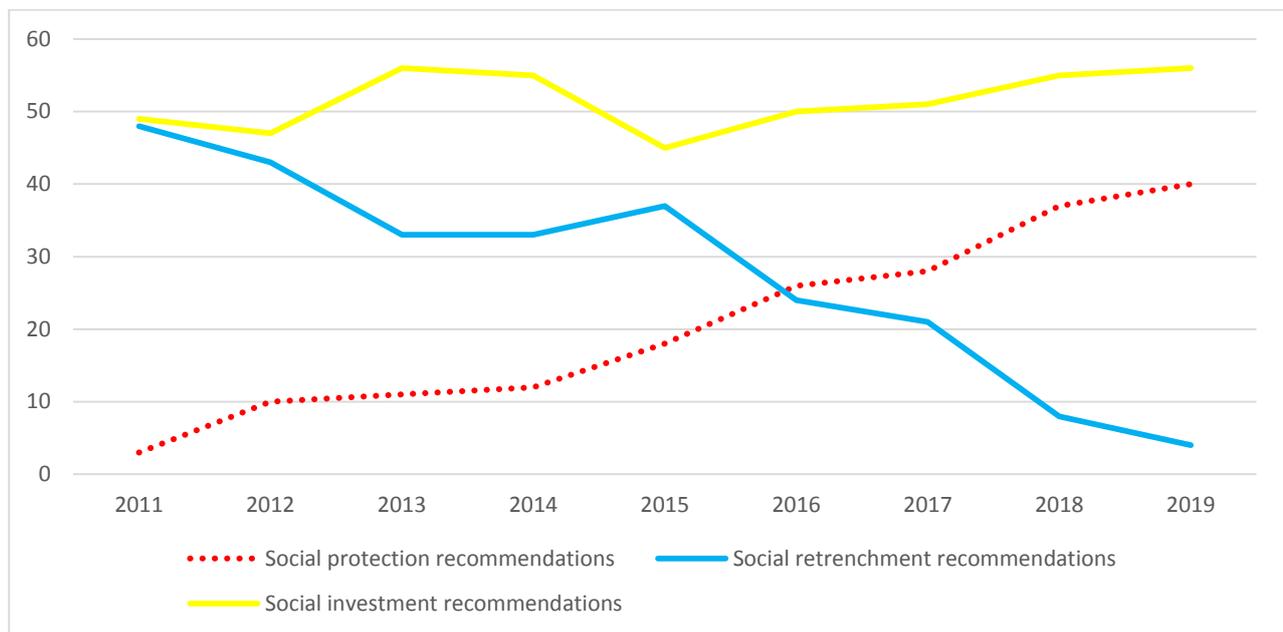
These findings are in line with previous studies (Clauwaert 2018; Zeitlin and Vanhercke 2018) and confirm the existence of growing attention to social issues in the Semester. However, the overall trend in social-oriented CSRs does not say anything about the content of each single policy prescription. The latter could in theory be aimed at deregulating the labour market or supporting

<sup>88</sup> Our ‘grey’ recommendations are equal to 8,3% of the total prescriptions, while Copeland and Daly’s mixed-CSRs category amounts to 52% of the total share of CSRs.

budgetary cuts in healthcare and pension. To resolve this issue, we conducted an in-depth analysis of the orientation of the social policy recommendations according to the coding scheme presented in the previous section.

Figure 6 illustrates the distribution of social-policy prescriptions from 2011 to 2019 cycle, by distinguishing them according to their social-protection, social-investment and social-retrenchment orientation.

Figure 6. Distribution of social-policy prescriptions within the socially oriented CSRs according to their orientation (percentage of the total number of social-policy prescriptions)



Source: Authors' own elaboration

In line with the results obtained by Crespy and Vanheuverzwijn (2017) and Copeland and Daly (2018), Figure 6 shows a decrease over the years of the social-retrenchment recommendations, which diminished from 48% of the total social-policy recommendations in 2011 to 4% in the 2019 cycle. As regards the social-investment recommendations, the trend is more or less stable, with an increase in the 2013 cycle, followed by a decrease in 2015 and then a 'catching up' phase in the last cycles. Again, this outcome confirms and updates the main conclusions of previous studies, which underline the role played by the launch of the Social Investment Package in 2013 and the minor attention paid to the issue of social investment at the beginning of the Juncker Presidency (de la Porte and Natali 2018). The most interesting finding, however, is the trend in social-protection recommendations. In this regard, the share of social-protection oriented policy prescriptions grew incrementally from 3% in 2011 to 28% in 2017 and then jumped to 37% in the 2018 cycle and 40% in the 2019 cycle.

Overall, the analysis of the evolution of the social recommendations yields three main results.

Firstly, our data demonstrate that the attention to social issues in the Semester has increased from its inception onwards. Therefore, along with Zeitlin and Vanhercke (2018), we also observe a ‘structural’ trend towards the socialization of the content of CSRs.

Secondly, the increased social-sensitiveness of the Semester is characterized by a progressive reduction of social-retrenchment recommendations along with a growing emphasis on social investment and social-protection prescriptions.

Finally, this process of socialization has clearly accelerated since the 2015 cycle, and it skyrocketed in the 2018 and 2019 cycles, when it is possible to observe a peak in social-protection recommendations and an equally marked drop in social-retrenchment policy prescriptions.

Against this backdrop, how can we interpret the evolution of the social dimension of the Semester towards a more social-sensitive orientation? Three main arguments can be put forward.

Firstly, Crespy and Vanheuverzwijn (2017) argue that the socialization of the Semester is explained by the fact that national governments had already enacted various reforms addressed to budgetary cuts and labour market deregulation in the previous years. However, while the adoption of social retrenchment reforms can explain the reduction of social retrenchment recommendations across the years, it does not automatically and necessarily explain the increase in social protection or social investment recommendations. In fact, the Commission could have reduced *tout court* the number of social recommendations, once reforms were implemented by Member States, as it did in the case of environment/energy policy domain (Crespy and Vanheuverzwijn 2017).

The second argument can be drawn from Guidi and Guardiancich (2018). By looking at the domain of pension, Guidi and Guardiancich demonstrate that the drafting of policy prescriptions follows a ‘technocratic logic’ (Ibidem) since it depends on actual national socio-economic conditions, the impact of previous reforms and economic or demographic forecasts. Therefore, no room is left for discretionary intervention, such as, for instance, pressures exerted by older and bigger Member States on the drafting of their CSRs. Also in this chapter, we agree with the fact that the CSRs are always based on sound indicators and cannot be considered the result of straight power struggles among competing units, i.e. a sort of pure form of powering (Hecló 1974). Yet, this does not exclude the fact that other kind of political pressures can be exerted during the CSRs drafting process. As a matter of fact, while the content of the CSRs is always based on evidence and arguments, the choice of which kind of evidence and argument is important to stress, especially in the domain of social policy, can be the object of persuasion and of puzzling processes (Ibidem). In this respect, as argued by Vanheuverzwijn (2018), while the certainly the Commission is impartial in monitoring country-specific performance, this does not mean that it is neutral when it comes to the drafting of CSRs. This

is particularly true for the Juncker's Commission, the ambition of which was to combine technocratic excellence with a clear 'political' agenda (Borchardt 2016; Kassim et al. 2016).

The third explanation of the Semester's socialization has been advanced by Zeitlin and Vanhercke (2018). As mentioned before, the authors highlight the strategic use of new procedures and policy tools by some institutional actors, such as the DG EMPL, the SPC and the EMCO. In this respect, all our interviewees confirm the increasing role played by EU socially oriented actors in the overall socialization of the Semester. As regards the Commission, since the inception of the Semester, the process of drafting the CSRs has become increasingly cooperative, allowing DG EMPL to mitigate the implicit hierarchical bias in favor of other participating DGs. As claimed by two ECFIN officials we interviewed (ECFIN1 and ECFIN2), this re-balancing of power was facilitated, for instance, in 2014, by an internal communication from the Secretariat-General (SECGEN), which assigned to the DG EMPL the task of writing the section devoted to the labour market and social issues. Similarly, the SPC and the EMCO established themselves as significant players in monitoring, reviewing and assessing national reforms within the Semester by developing elaborate monitoring tools and strengthening multi-lateral surveillance and peer review procedures. In particular, their increasing technical credibility helped them to have more say in the process. As an EMCO member put it: '[...] it is about building trust and it is about building a sense of a sort of competence [...]' (EMCO2). Our findings therefore confirm Zeitlin and Vanhercke's thesis on the crucial role played by the agentic dynamics within the expertise arena as a factor explanatory of the general trend of the Semester's social dimension.

This said, while the analysis of the horizontal interactions between 'bureaucratic actors' within the Commission and the Council explains the structural and progressive socialization of the CSRs' content, it does not completely account for the peculiar increase in social-investment prescriptions in the 2013 cycle or for the rise in social-protection recommendations in the 2018 cycle. This induces us to better focus on the *role of politics* in the Semester's socialization.

In this regard, already Zeitlin and Vanhercke stressed that in 2012-2013 the reorientation of the Semester and the revision of its governance procedure is to be understood in light of the 'mounting pressure exerted by the EU-wide political debate on the social dimension of the EMU initiated by the President of the European Council, Herman Van Rompuy' (Zeitlin and Vanhercke 2018, 161). On that occasion, EPSCO Ministers responded by demanding the development of mechanisms to facilitate more effective interaction with their fellow colleagues at ECOFIN Council, and especially with respect to the adoption, review and implementation of Country Specific Recommendations. At the same time, between 2012 and 2013, the Commission, and especially DG EMPL, launched a succession of initiatives aimed at strengthening the social dimension of the EU agenda, such as the

Employment Package (2012), the Youth Employment Package (2012) and, most notably, the Social Investment Package (2013), and specified that their implementation was to be reported, monitored and reviewed within the European Semester. Finally, at the initiative of the Social and Employment Affairs Commissioner, László Andor<sup>89</sup>, in 2013, the Commission proposed the addition of social and employment indicators to the Macroeconomic Imbalance Procedure in its Communication on ‘Strengthening the Social Dimension of the EMU’, with the aim to give social issues more prominence and preventing the creation of social imbalances that could affect the stability of the Eurozone (COMM1). Notably, in the Commission’s Communication an explicit reference is made to the Social Investment Package and the necessity for Member States to increase the efficiency, effectiveness and adequacy of their social protection systems, with a focus on social investment (European Commission, 2013c). While presenting the Commission proposal to introduce new social indicators in the MIP at the EPSCO Council on 15 October 2013, Commissioner László Andor explained:

The Commission is proposing to introduce a scoreboard of key employment and social indicators that would allow for early identification of major negative developments of social and employment performances of a Member State as well as significant divergences between countries in the EMU. The proposed scoreboard indicators are the following five: unemployment level and changes; NEET rate (young people not in education, employment or training) and youth unemployment rate; real gross disposable income of households; at-risk-of-poverty rate of working age population; and inequalities (S80/S20 ratio). These indicators will allow for the timely identification of major social and employment problems especially those with cross-border effects. High level of unemployment or inequalities indeed translate in lower demands for other countries’ products, loss of human capital, lower productivity and may lead to political instability that transforms into higher interests’ rate of the country concerned, because of the higher perceived risks. The objective is to identify these problems earlier and preventing them, by addressing social concerns in the CSRs” (EPSCO 2013b).

As we can see, behind the increased socialization that characterize the Semester in 2013, there was clear political pressure exerted by the Commission, and notably, by Commissioner Andor, who, by introducing a set of new social and employment indicators in the MIP, wanted to give a clear signal of its interests in strengthening the social dimension of the Semester. In this respect, it should

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<sup>89</sup> On the importance of the political role played by Andor, see also Copeland and Daly (2018).

be stressed that the Commission's proposal to strengthen monitoring social and employment performance of Member States did not come without problems. Indeed, not all Member States initially supported the introduction of new indicators. In this respect, two were the main concerns raised by Member States. On the one hand, some countries, Germany in primis, argued that monitoring social and employment policies is not the goal of the Semester as far as they do not have economic spillover effect, which might create imbalances in the EMU. Only in the latter case, a strengthened monitoring is acceptable. On the other hand, some countries, such as Denmark and Romania, highlighted that a strengthened attention to social and employment policies should not lead to automatic sanctions. The risk, in fact, is to violate the principle of subsidiarity in the field of social and employment policy and to adopt a 'one-size fits all' approach to social and employment policy that does not take into account of the historical difference among Member States. To these concerns, Commissioner Andor answered by explaining that the introduction of social and employment auxiliary indicators in the MIP did not aim to activate automatic procedures or sanctions, but the goal was to increase the visibility of social issues while elaborating country specific recommendations in a way that macroeconomic objectives would have not come at the expense of social outcomes.

Against this background, in the following section, we focus on the most recent Semester's cycles, the 2018 and 2019 cycles. The significant increase in social-protection recommendations, and the almost specular reduction in the social-retrenchment prescriptions, make these annual cycles emblematic of the overall evolution of the Semester socialization. Moreover, the focus on the most recent developments of the social dimension of the Semester allows us to update previous studies on the same topic by also considering the impact of the European Pillar of Social Rights

## 6.6 Socializing the Semester through the European Pillar of Social Rights

According to our expectation, political pressures have played a role in the recent developments of CSRs. In order to collect evidence of such pressures and their effects, we carried out 26 interviews to key informants and a qualitative analysis of the main documents of the European Semester.

The first evidence we found about the influence of political pressures on the trends in CSRs is provided by the timing of the most relevant shifts we highlighted through our characterization of CSRs. Social policy trends within the Semester have begun to change in a significant way since the 2016 cycle, which was the first cycle after the announcement of the launch of the Social Pillar during Juncker's 2015 State of the Union speech. As clearly stated by our interviewees (SECGEN1, SECGEN2, EMPL4), from the outset of his presidential term, Juncker invested a lot of 'political capital' in increasing the visibility of social issues at the EU level. Already in his first State of the European Union (SOTEU) speech in October 2014, Juncker enunciated his ambition to achieve for

the EU a ‘Social Triple A rating, that is just as important as an economic and financial triple A rating’. One year after, in September 2015, he revealed his intention to adopt a European Pillar of Social Rights (EPSR) and, in March 2016, the Commission launched a broad public consultation on the first draft of the EPSR by involving a large number of social partners, non-governmental organizations, and national governments. After the political endorsement of the Social Pillar obtained from the European Parliament (EP), Juncker devoted much effort to promoting the European Summit for fair jobs and growth, which was held in Gothenburg in November 2017. This Summit was the first EU high level meeting entirely dedicated to employment and social issues, after the 1997 Luxembourg Summit. On this occasion, the Social Pillar gained high political momentum with the adoption of an inter-institutional proclamation. This proclamation did not involve any legal obligation, but it had a high political-symbolic value, since the EPSR was endorsed by the Presidency of the European Commission, European Parliament and the Council, in the presence of all national governments.

As regards the European Semester, the political intention to mainstream the Social Pillar in the EU coordination arena was made clear immediately after Juncker’s announcement of the initiative. Indeed, during the EPSCO Council held on 5 October 2015, Commissioner for Employment, Social Affairs, Skills and Labour Mobility, stated:

One of the objectives of the EPSR consists in identification of benchmarks to monitor Member States performance (...). The current system of governance, included the scoreboard of key social and employment indicators, remains the reference framework. In this respect, the employment guidelines adopted today identify well the priorities: better functioning labour market, enhancing skills, and strengthening social protection (...). After years of widening divergence, the European Union needs to return to the path of employment and social convergence. And this convergence must be upwards, not downwards. Otherwise, the European project will not regain legitimacy in the eyes of our citizens”. Similarly, in the presentation of the 2017 and 2018 Semester’s cycles, Commissioner Thyssen reiterated the centrality of the Social Pillar in the draft of the Employment guidelines, AGSs and Country Specific Recommendations. For instance, in EPSCO Council on 23 October 2017, Commissioner Thyssen declared: “Challenges remain to ensure that no one is left behind in the economic recovery. Therefore, the Pillar will guide the narrative and policy priorities for the Semester, contributing to the upward social convergence process” (Thyssen 2017a).

In sum, there is clear evidence of the renewed centrality of social issues in the Juncker Commission’s political agenda. Moreover, this matured “social-sensitiveness” matches with the

recent trends in the orientation of the CSRs. Nevertheless, one needs to collect further elements to assess whether and how the political pressure applied by Juncker to increase the visibility of social issues at the EU level had an impact on the Semester. In this regard, an official from Directorate-General for Economic and Financial Affairs observed that, since its inception, Juncker's Commission 'took a number of decisions, which made the difference' (ECFIN3). Already in 2014, under the Barroso Commission, as a result of pressures from the EPSCO Council and its Advisory Committees, a note from the SecGen was distributed to the country teams at the beginning of the cycle, which specified each DG's responsibilities regarding the drafting of the Country Report (CR). According to that note, DG EMPL oversees all the issues related to employment and social policies and it has the last word in any dispute that might arise on any aspect of the employment-related part of the Country Report. Such choice was reinforced in 2015 by the decision of the SecGen to move the unit 'Labour Market Policy and Training and Skills' from DG ECFIN and DG EAC to DG EMPL. In the same year, the Commission took steps to enhance the focus on employment and social issues in the context of the European Semester and the process of deepening of EMU and proposed to add three indicators (activity rate, youth unemployment, long-term unemployment) to the existing 11 headline indicators of the Macroeconomic Imbalances Procedure scoreboard (European Commission 2015a). This move was opposed by both the EPSCO and ECOFIN Advisory Committees<sup>90</sup>. Indeed, EMCO and SPC criticized the technical appropriateness of the indicators and were concerned that bringing them into the MIP could enhance the influence over them of the ECOFIN committees, undermining the autonomy of EU social and employment policy monitoring. Conversely, the ECOFIN committees were concerned that bringing social indicators into the MIP could dilute its macroeconomic focus. The Commission overruled both sets of objections, apparently in order to raise the symbolic visibility of social issues within the MIP.

Yet, the most significant innovation occurred certainly in 2017, after the adoption of the European Pillar of Social Rights. As noted by some scholars, the main novelty of the Social Pillar is its greater emphasis on social rights and social protection, while also endorsing social-investment principles (Deakin 2018; Sabato and Corti 2018). To understand how this new emphasis was partially translated into the content of CSRs, one should look at how Juncker's political pressure affected the Semester expertise arena. In this regard, a statement made by a senior official is highly informative:

You should visualize how these things are negotiated. At a certain point, we start drafting the Country reports. Then, at the level of the services there are meetings between the 'core' DGs

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<sup>90</sup> I am grateful to Jonathan Zeitlin, who pointed me out this interinstitutional disagreement on the Commission's proposal to introduce new social indicators in the MIP.

[...]. Imagine these meetings taking place one month after the adoption of the Social Pillar in Gothenburg. We are all people and we know what is going on. People that in that room want more emphasis on social and employment protection, what do they do? They say: Guys, we went to Gothenburg, we cannot ignore this! So they have a strong argument to affect the balance in their favor. So not at the level of analysis, which in the case of employment and social affairs is more or less stable in these years. But in the way the analysis is given weight inside the documents. The difference is that the Gothenburg Proclamation gives you a good political argument to claim for more space (ECFIN2)

The political pressure from Juncker percolated through the Commission's officials, starting from the President's Cabinet and the SECGEN, which, as stated by our interviewees (EMPL3; EMPL2, EC1, EC2), played an important role in the drafting process.

This said, as argued in section 3 of this chapter, the political pressure alone is not enough and needs to pass through the filter of the main rationality criteria of the Semester expertise sphere, i.e. the collection of factual knowledge. In this respect, a further element to assess the influence of the Social Pillar on the CSRs was the proposal in April 2018 and then adoption of a set of indicators that feed into the Semester to monitor the implementation of the EPSR: the so-called Social Scoreboard. As stated by Commissioner Thyssen, during the presentation of the AGS 2018 at EPSCO Council: "The European Semester will be the main instrument for delivering on the Pillar. And from this year onwards the Semester puts the Pillar into practice for renewed convergence to better working and living conditions between and within Member States. To do so, the Semester reports on Member States performance on the base of the new Social Scoreboard" (Thyssen 2017b). As argued by our interviews (ECFIN2, EC1, DG EMPL2), the Secretary General played a major role in pushing for the introduction of this new monitoring tool, even against the doubts expressed by other DGs. In addition, the Scoreboard came as a surprise also for both the SPC and the EMCO, which were puzzled by the decision to include it already in the following JER, without any preliminary discussions about its contents, purpose and rationale (SPC2; EMCO1)<sup>91</sup>. Therefore, the Social Scoreboard was introduced as a monitoring tool, but the input was clearly political.

The strong political pressure of Juncker in mainstreaming the Social Pillar in the early steps of the Semester 2018 gave leverage to EU officials, in particular the 'social' ones, to claim greater

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<sup>91</sup> Indeed, during the EPSCO Council on 7 December 2017, President of EMCO and SPC committee, while expressing their satisfaction for the initiative of the Commission, they nonetheless expressed some concerns about the choice of two headline indicators of the new Social Scoreboard - namely "Activation measures –labour market policies participants per 100 persons wanting to work (total)" and "Compensation of employees per hour worked" – which the Commission included in its AGS and draft JER 2018. EMCO criticism was so strong that, finally, these indicators were not included in the final JER.

consideration of social and employment challenges in the Country reports (CRs). Clear evidence of the use of the Scoreboard in the 2017-2018 Semester cycle emerges in the 'Executive summary' of the CRs and in the subsection on 'Economic situation and outlook', which are the sections where the Commission indicate its political priorities for each Member States. Moreover, a new 'Social box' was introduced in the CRs 2018 for the first time (see section 2 this chapter). The latter presents the Member States' socio-economic performances monitored in light of the EPSR, i.e. on the basis of the headline indicators of the Social scoreboard.

Overall, is it possible to maintain that the introduction of the Social Scoreboard finally impacted on the content of the CSRs? According to our interviewees, the answer is positive: the Scoreboard gave greater visibility to social challenges and contributed to making the social side of the Semester 'more structured and methodical' (EC2). As stated by an EU official from the DGECFIN:

What happened in one of those meetings at the beginning of the 2018 Semester cycle is that DGEMPL simply said: 'we need a box in the Country reports on the Social Pillar'. And we (DGECFIN) accepted it because it was a clear political instruction from the President Cabinet. Two months later, when we were drafting the CSRs, they said that we need to take into account the political visibility (given by the box), *which should have been translated also into the CSRs* (italics added). You build on the visible milestones that then become a path (DGECFIN2).

The use of the Social Scoreboard is therefore an innovation that directly links the Social Pillar to the Semester by potentially affecting also the content of CSRs. Therefore, we conclude that the adoption of the EPSR has influenced the content of the main European Semester documents and the negotiations between the involved units. Put it differently, the overall debate on the Social Pillar and the novelties introduced since the adoption of its Proclamation (e.g. the Social Scoreboard and the Social box) have contributed to reinforce and consolidate the ongoing social-sensitiveness of the European Semester. Such increased social-sensitiveness is testified by rising trends in social protection and social investment prescriptions, as well as by substantial drop in social retrenchment recommendations. Moreover, in some recent cases, the Commission held a position that was clearly far from being solely oriented by fiscal consolidation concerns. For instance, in 2017, it suggested to Finland and Lithuania the adoption of reforms in the domain of healthcare and pension, which were primarily focused on the goal of financial sustainability. Yet, in the following year (2018), it also warned these two governments about the social negative consequences of the adopted or ongoing

reforms. In this regard, the European Commission, while maintaining its endorsement of fiscal consolidation goals, it also scrutinized national governments' decisions by playing the role of social policy advocate (Eihmanis 2018). Table 25 shows how country specific recommendations and the related recitals to Finland and Lithuania changed between 2017 and 2018. As we can observe, the indicators (Self-reported unmet medical needs and AROPE) show that Member States' performance does not worsen from 2017 to 2018, which might have justified a more social-protection oriented recommendations. By contrast, the performance even improved, which suggests us that the drafting of a CSR is not only driven by a mechanical monitoring of a socio-economic performance but also by what can be called a political rationale.

Table 25 Finland and Lithuania's CSRs comparison 2017-2018

	<b>Finland 2017</b>	<b>Finland 2018</b>
CSR	Ensure timely adoption and implementation of the administrative reform to improve cost-effectiveness of social and healthcare services.	Ensure the adoption and implementation of the administrative reform to improve cost-effectiveness <i>and equal access to social and healthcare services.</i>
Recital	Due to an ageing population and a declining workforce, expenditure on pensions, health and long-term care is set to increase from 23 % of GDP in 2013 to 27 % by 2030. In January 2017, a pension reform entered into force that will raise the lowest statutory retirement age from 63 to 65 by 2027 and will link the statutory retirement age to changes in life expectancy. The costs of social and healthcare services, currently a responsibility of the municipalities, amount to 10 % of GDP. <i>Without a reform of the system, that expenditure is forecast to grow by 4,4 % annually in the coming years in nominal terms and increase as a share of GDP. The reforms' main aims include the reduction of the long-run sustainability gap in public finances through better control of the costs.</i> This will be achieved through the integration of services, larger entities as providers of services and digitalisation. The first batch of legislative proposals for the social and healthcare service reforms was presented to the Parliament in March 2017. These laws will establish the legal framework for the 18 new counties that will take over responsibility for the social and healthcare services from the municipalities as from 2019. The legislative proposals for the most controversial parts of the reform, in particular on the patients' freedom to choose their service provider, have been submitted to Parliament in the beginning of May 2017 and will need to be adopted in order to be implemented from 2019 as planned.	Due to an ageing population and a declining workforce, expenditure on pensions, health and long-term care is projected to increase from 22 % of GDP in 2016 to 24 % of GDP by 2030. The administrative reform and the reform of the social and healthcare services, currently under discussion in the Parliament, aim at reducing expenditure growth in this area. <i>Other objectives would be to ensure equal access to healthcare and reduce waiting times for patients, especially in less favoured or remote areas. The ratio of self-declared unmet medical needs is above the Union average. In particular, people outside the workforce are experiencing difficulties getting the necessary medical care. A new level of regional public administration, i.e. counties, will take care of Finland's social and healthcare services from 2020.</i> The reform will pool resources to allow their more effective use at county level. Higher use of digital and electronic services should also increase productivity. Finally, social and primary healthcare services would be available from both public and private social and health centres. This would give patients more freedom of choice, while competition between service providers is expected to yield cost savings. Achieving these ambitious objectives will also depend on the choices made during the implementation phase of the reform.
Self-reported unmet medical needs	4.3% (data used from 2015)	4.1% (data used from 2016)

(Source: Eurostat)		
	<b>Lithuania 2017</b>	<b>Lithuania 2018</b>
CSR	Take steps to address the medium-term fiscal sustainability challenge related to pensions.	Ensure the long-term sustainability of the pension system <i>while addressing the adequacy of pensions.</i>
Recital	The rise in the old-age dependency ratio is set to intensify and under the existing pension rules expenditure on pensions as a share of GDP is projected to rise by some 50 % by the end of the 2030s. Linking the pension benefits with life expectancy is essential to <i>limit the strain the pension expenditure will put on public finances.</i>	With the introduction of a new pension indexation formula in 2018, which links pensions to the wage bill growth, the share of public pension expenditure in GDP is projected to stay flat until 2040. This would ensure the fiscal sustainability of the Lithuanian pension system. However, <i>this is largely driven by a decline in the benefit ratio since the total wage bill is projected to increase at a slower pace than wages due to the rapidly shrinking working-age population. This raises concerns about pension adequacy, which is already among the lowest in the Union. It is also unclear how this reform will work in practice since the Government is legally obliged to propose measures in the event of a falling replacement ratio. If the replacement ratio were kept unchanged, total pension expenditure as a share of GDP would increase by almost 45 % by the end of the 2040s, putting a strain on public finances. It is therefore important to clarify legal uncertainties over pension legislation and to ensure the long-term fiscal sustainability of the pension system while addressing its low adequacy.</i>
AROE people over 65 (Source: Eurostat)	37.7% (data from 2015)	37.4% (data from 2016)

Source: Own elaboration

In conclusion, the political pressure exerted through the Social Pillar served to some EU officials as a further argument to stress the importance of having more socially-oriented CSRs in the Semester. The new usage of the Social Scoreboard and the adoption of the box on the Social Pillar within the country reports were primarily the results of political inputs from the Presidency of the EU Commission that affected the negotiations in the drafting of the CSRs. Our empirical analysis, therefore, confirms the importance of considering the interaction between political pressures and what happens within the expertise sphere, by showing that reflexive learning and creative adaptation processes within the Semester processes can be activated and/or facilitate by political intentional actions.

## 6.7 Conclusions

This chapter has reconstructed the development of the social dimension of the European Semester from its inception to the latest 2019 cycle, with a specific focus on the recent changes occurred after the proclamation of the European Pillar of Social Rights. In so doing, it has proposed

a new coding scheme for the analysis of the social CSRs in the European Semester. Our empirical investigation reveals the existence of the following trends: i) a sharp decrease of social-retrenchment recommendations, particularly accentuated between 2016 and 2019; ii) a relative stability of social-investment recommendations (that, however, still account for the largest share of social CSRs in 2019); and iii) a significant increase of social-protection CSRs, particularly accentuated in the 2018 and 2019 cycles.

This chapter has also contributed to the literature on the European Semester socialization by underlining the role of political and expert agency as driver of change even within highly institutionalized context of action such as that represented by the Semester. Notably, it has highlighted the importance of relationships among actors involved in the drafting of the CSRs, and the role of politics in the EU annual cycles of policy coordination. Our analysis has provided empirical evidence of the political pressure exerted, firstly, by Commissioner Andor, and, secondly, by President Juncker to give more visibility and prominence to social and employment issues also in the Semester. Notably, we have traced how this pressure has been vehiculated to bureaucratic actors through the semantic of indicators, e.g. the introduction of social indicators in the MIP, a new Social Scoreboard and the use of the Social box in the Country reports.

Our findings, therefore, shed light on an additional clash to be added to the four lines of conflict that underpin the political debate over EU social integration. This is the clash between economic/finance ministries and social/employment ministries, which runs through national governments, and is reflected at the EU level in the tensions/conflicts between the ECOFIN and EPSCO Councils, between the committees advising these Councils (EPC, EFC, EMCO, SPC), and between DGs ECFIN and EMPL. As demonstrated, the socialization of the European Semester cannot be interpreted as a mere technocratic process, in which socially oriented officials advance their sectoral goals by mobilizing evidence that can convince their economically oriented counterparts, but also a process of bureaucratic politics, in which officials with different functional responsibilities struggle to advance different sets of priorities and objectives that have a normative and political valence<sup>92</sup>. In this bureaucratic struggle, politics steps in by providing technical tools, dividing tasks and assigning responsibilities to some actors than others. Bureaucracy, therefore, becomes one of the major venues for contestation of EU-level policies of austerity and fiscal consolidation. This is especially true under Barroso Commission, when the strategy pursued by Commissioner Andor was exactly meant to give leverage to ‘social actors’ both within the Commission and within the Council’s formations (SPC and EMCO) vis-à-vis their economic counterpart. As stressed by Vanhercke (2020,

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<sup>92</sup> I am thankful to Jonathan Zeitlin who gave me insightful suggestions on this point.

p. 112), the enhanced monitoring capacity of SPC and EMCO, together with DG EMPL, was fundamental to give social actors the necessary tools both to counterbalance the excessive focus on fiscal and economic considerations and to evert the one-sided focus on social protection as a cost factor in the EU's discourse in the first Semester cycles. With the appointment of Jean-Claude Juncker as President of the Commission and the launch of the Social Pillar, the rebalancing process between economic and social actors became even clearer and contributed the further consolidation of the already ongoing trend of increasing socialization of the Semester. As observed above, since its appointment as President of the European Commission, Juncker took a series of important decisions to give leverage to social actors in the Semester's process, for instance, by integrating new social indicators in the MIP, creating a new Social Scoreboard and moving an entire unit from DG ECFIN to DG EMPL. Such measures, indeed, contributed to give more leverage to social actors and consequently more autonomy to social and employment policy in the Semester, which progressively became less subordinated to the objectives of fiscal stabilization and budgetary stability. The result of this socialization process, as we demonstrated in this chapter, was a quasi-complete reorientation of the social and employment policy prescriptions addressed to Member States. A reorientation that is well represented by the reverse trends of social-retrenchment and social-investment oriented recommendations.

# Chapter 7. Conclusions and perspectives

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## 7.1 What do we learn from the analysis?

The outbreak of the EU's polycrisis exacerbated the debate on EU integration and brought to surface new and simultaneous tensions both between and within Member States, which thereby creates traditional lines of conflict, thus leading to what Zeitlin and colleagues (2019) call the EU *polycleavage*. This overlapping of multiple and crisscrossing tensions for the first time touched upon the so-called 'core state power' (Genschel & Jachtenfuch, 2017), namely, those areas where the EU has limited competencies and Member States are unwilling to cede their sovereignty. In the field of social and employment policy, we observed an increasing centrality of social issues in the European public debate, rising conflicts between political actors and a mounting dissensus towards increasing European intrusiveness. Drawing on de Wilde and Zürn (2012), we called this phenomenon 'politicisation of Social Europe'.

Against this background, the objective of this thesis was to focus on one specific aspect of the politicisation of the EU social and employment policy, namely, the polarisation of political actors and the conflict dynamics that characterise the EU-level post-crisis debate on European social integration. Indeed, while scholars have investigated the politicisation of Social Europe by looking at the increasing mass mobilisation against the EU intrusiveness in national social domain and on the political conflict re-structuring at national level in the aftermath of the EU crises, less attention has been paid to the political confrontation at the European level, namely, to the conflict dynamics within the European Parliament, Council and Commission. Notably, with respect to the Parliament, the question was whether political group membership and/or national affiliation influence MEP positioning on EU social and employment policy. With regard to the Council, the question was whether national interests and/or European political parties' membership influence national governmental positioning on EU social and employment policy.

Drawing on the traditional literature on conflict dynamics in the European Parliament and in the Council, and building on Ferrera's clash syndrome theory (Ferrera, 2017), we proposed our theoretical framework. Namely, we expected the political conflict dynamics at the EU level to be characterised by four lines of conflict of both a functional and territorial nature, which partly intersect and overlap with each other, creating policy dilemmas and mounting political turbulence. Firstly, we expected the emergence of the traditional divide between left and right, centred on different visions and programmatic ideas about the overall mission of the EU, pitting the supporters of a neoliberal project, centred on market-making, against a market-correcting-oriented project, focused on a

stronger social EU regulation. Secondly, we expected the emergence of the traditional conflict between advocates of further EU integration and defenders of domestic models and practices, which mainly revolves around the issue of supranational centralisation versus national sovereignty and more versus less integration. Thirdly, we expected a line of conflict to emerge around the issues of access to domestic welfare for other EU nationals, labour mobility and social dumping, with a clear territorial connotation separating high-wage/high-welfare countries (old Member States, mainly northern core countries) from low-wage/low-welfare ones (new Member States, mainly CEE). Finally, we expected the emergence of a fourth divide around the issues of fiscal discipline and cross-national economic redistribution (fiscal transfer), mainly pitting core countries against peripheral ones. Such a divide is related to the governance of the EMU and its reform and is rooted in both economic interests (creditors versus debtors) and highly entrenched cultural worldviews and mainly runs from North to South.

According to our theoretical framework, these four lines of conflict do not overshadow each other, but rather, they combine and crisscross. Notably, building on the traditional literature on voting behaviour in the Parliament and in the Council, we expected that the overlapping of such tensions mainly depends on four factors: the arena in which the debate takes place, the actors involved, the issue under discussion and the rules of the game. Notably, we expected functional divides to prevail in the parliamentary arena, and territorial tensions to characterise the political confrontation in the Council. We then expected pro-European, left-wing MEPs and ministers to be more in favour of further EU social integration than Eurosceptic and right-wing MEPs and ministers. Thirdly, we expected MEPs and ministers to divide on the basis of their territorial provenance, most likely on cross-national redistribution and fiscal stability policies, labour mobility and access to domestic welfare for other EU nationals. Finally, we expected the rules of the game, namely, whether the debated policy issue is a directive or a regulation, to affect the conflict constellation over EU social and employment policy.

From the analysis of our four case studies, a very interesting conflict configuration emerged.<sup>93</sup> Moving from the European Parliament, the traditional functional lines of conflict seem to prevail over territorial divides. This finding is only partially in line with the traditional literature on party politics in the EP (Hix & Høyland, 2013; Hix et al., 2007). Indeed, what emerges from our analysis is that while the left versus right and pro versus against further European integration explain the political behaviour of left-wing EPGs and Eurosceptic groups, this does not hold in the case of centre-right

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<sup>93</sup> For a summary of the conflict constellation that emerged on the first three case studies, the reader can find a summary at the end of each chapter, with reference to how this constellation varies according to the actors, rules, arenas and issues.

groups, who – on the contrary – split according to their territorial origin along with the two territorial lines identified above. Moreover, the traditional literature does not explain the position of the GUE/NGL group. The latter, in fact, despite being traditionally counted among Eurosceptic political forces (Bakker et al., 2015; Hooghe, Marks & Wilson, 2002), is largely aligned its position with the S&D and Greens/EFA groups, maintaining a majoritarian pro-(further) European integration attitude. Indeed, what we observed is that in the case of the parliamentary debate on the Social Pillar, as well as in the case of the revision of the posting of workers and the creation of a budget for the Eurozone, MEPs belonging to the S&D, Greens/EFA and GUE/NGL were united in supporting a stronger EU intervention in the field of social and employment policy. Although the cohesion of left-wing groups remains high, this does not mean that position on each issue was homogeneous, either between or within these groups. For instance, while the GUE/NGL MEPs were in favour of the creation of an automatic fiscal stabiliser, especially in the form of EUBS, they rejected the idea of attaching a conditionality to the activation of this fund. Similarly, within the S&D group, Scandinavian delegations were initially lukewarm about the possibility to establish EUBS, especially because of the fear that this could have undermined the role of their trade unions in the management of the national social protection schemes. Despite these minor divergences within and between the left-wing groups on specific issues, this did not undermine their cohesion or, above all, their capacity to strategically coordinate and advance their proposals.

We then observed that far-right wing and conservatives MEPs opposed any proposal for further European integration in the field of social and employment policy. More precisely, we explained the behaviour of the European Conservatives and Reformists (ECR) MEPs in light of their market-making views on the European project. Both in the case of the vote on the Social Pillar as well as the posting of workers and the creation of a budgetary capacity for the Eurozone, ECR MEPs stood against any further EU regulation and opposed fiscal transfer between Member States. A different rationale stands behind the opposition to further European social integration of Eurosceptic groups, and notably, the Europe of Nations and Freedom (ENF). In this case, ENF MEPs rejected both further European regulation in this policy field and any automatic fiscal stabiliser, because they deem any proposal to be a violation of their national social sovereignty. In light of this, it is possible to explain the decision of the ENF group, and notably the French Front National and the Italian Northern League MEPs, to abstain on the final vote on the revision of the PWD, which, by extending social protection for posted workers, gives also to Member States more leeway to decide on labour standards and better control labour mobility. This finding further confirms that in the case of Eurosceptic parties, their position's formation is also not static, but rather, varies according to the issue under debate.

Finally, we observed a split within the ALDE and EPP groups along with their territorial origin, and especially when it comes to issues related to intra-EU mobility, cross-national redistribution instruments and the governance of the EMU. On the one hand, we observed that a clear divide emerged between MEPs delegations from low-wage and high-wage countries around the principle of freedom to establish and the right to collective action and national sovereignty in setting labour standards. On the other hand, a cleavage between northern creditor and southern debtor countries clearly emerged on their view on the Economic and Monetary Union and on the possibility to create automatic fiscal mechanisms to stabilise the Eurozone and help Member States in need. The territorial divide within ALDE and EPP does not mean that the two groups are always divided when it comes to social policy, but rather, that when MEPs' territorial interests clash with the position of their political group, the former systematically prevails on the latter.

Considering these findings, we can conclude that MEP positioning on EU social and employment policy is influenced both by national affiliation, in the case of right-wing MEPs, and EPG membership, in the case of left-wing MEPs. As already observed by Crespy and Gajewska (2010), our investigation confirms the importance of looking at national party delegations as the most reliable unit of analysis to understand MEP positioning. In the case of national left-wing party delegations, EPG membership and national affiliation do not seem to be competing factors, and supranational coordination among MEPs prevails over territorial divisions. This is particularly true for the S&D and the Greens/EFA, while the GUE/NGL group is characterised by an internal divide between a minority of Eurosceptic national delegations and a majority of pro-European delegations. By contrast, a marked territorial divide emerges from the positioning of ALDE and EPP MEPs, whereby the national affiliation systematically prevails over the EPG membership whenever a controversial issue, which pits the former against the latter, is under debate. Finally, national affiliation prevails over EPG membership in the remaining right-wing groups.

Moving to the Council, we observed that the debates both in EPSCO and in ECOFIN configurations on the revision of the PWD and on the introduction of fiscal automatic stabilisers were characterised by territorial divides between low-wage and high-wage welfare states and between creditor and debtor countries. Notably, we observed that the arguments used by national governments to oppose a policy proposal are significantly characterised either by what Pierson and Leibfried (1993) call the 'pre-emptive role of national welfare states' or by what Bardi (2014) calls 'horizontal Euroscepticism'. In the first case, Member States in the Council were revealed to be highly sceptical about any possibility to cede national sovereignty in the field of social and employment policy and therefore raised subsidiarity concerns about the proposal under discussion. In the second case, we observed a high degree of mutual mistrust and resentment of political actors from one Member State

towards one or more selected Member States in relation to issues that have consequences on the functioning of the E(M)U. In this regard, the debate in the Council seems to be characterised by a combination of vertical and horizontal conflict dynamics, mainly revolving around subsidiarity concerns and mutual mistrust among Member States, while the functional dimension of conflict that characterises the debate in the EP does not emerge. In this respect, it seems that the political orientation of the national government does not seem to influence its orientation on EU social and employment policy. This is the case, for instance, of the debate on the revision of the PWD, where low-wage countries ministers, who signed the letter addressed to the Commission asking them not to put forward a proposal for a revision of the PWD, also came from social democratic parties.

Against this background, the question is how these findings relate to our initial overall hypotheses on the factors that influence the combination of the four lines of conflict identified in our theoretical framework. In this respect, we can first observe that, as expected, the political debate over EU social and employment policy varies according to the arena in which it takes place. Indeed, the analysis of the parliamentary debate shows the emergence of a clear combination of functional and territorial divides, with the former trumping the latter. At the same time, we observe that in the Council, the logic of consensus that traditionally characterises this institution is broken when an issue that touches upon Member States' competences is touched upon. This emerges clearly both in the case of the PWD and the debate on the creation of a common fiscal capacity for the EMU, in the form of a European Unemployment Benefit Scheme. Secondly, we observe that the debate over EU social and employment policy is affected by the political actors involved. Contrary to our expectations, however, with the exception of the S&D group, the other two traditionally cohesive EPGs, namely, the EPP and the ALDE groups, demonstrated a lack of cohesion, as expected from the analysis of the traditional literature. By contrast, the Greens/EFA group and partially also the GUE/NGL group were highly cohesive in supporting higher EU social integration, thus confirming that left-wing parties are more likely to be in favour of further EU social integration. Thirdly, the analysis of the three case studies shows that the conflict constellations depends on the specific issue under discussion. Notably, we observed that each policy proposal should not be analysed as a whole, but rather, as a combination of multiple sub-issues, on which different conflict dynamics emerge. In the case of EU social and employment policy, our findings confirmed that both MEPs and ministers split on the basis of their territorial provenance on issues concerning cross-national redistribution and fiscal stability, labour mobility and access to domestic welfare for other EU nationals. Finally, in line with our expectations, our findings show that the conflict constellations are also affected, as in the case of the PWD, by the rules of the game, namely, by whether the debated policy issue is a directive or a regulation.

All this said, the configuration and combination of conflict dynamics in the Parliament and in the Council does not exist in a vacuum. Indeed, the European Commission plays a fundamental role and significantly influences the political debate.

The Commission can influence the legislation process in two ways. Firstly, how the Commission frames an issue has a significant impact on the conflict constellation and the coalition formation which then emerges within the Parliament and the Council. As observed in Chapter 2, the market-correcting approach adopted by the Juncker Commission facilitated the creation of a strong support coalition both within the institutions, largely composed of left-wing policy makers, and outside them, with the involvement of trade unions and civil society organisations. Secondly, since the Commission has the power to initiate a legislative proposal, it sets the agenda and decides on the legal basis of the policy proposal under discussion. In this respect, Martin Rhodes (1995) has described the Commission as playing a ‘treaty-base game’, which consists of the creative use of policy rules to overcome Member State resistance and promote policy development. Notably, Rhodes referred to the Delors Commission’s attempt in the mid-1990s to avoid the UK veto in proposing labour regulations. On that occasion, the Commission took advantage of the new rules under the 1987 Single European Act ‘to push its legal competence to the limit by a skilful (and at times rather devious) interpretation of treaty provisions’ (Rhodes, 1995, pp. 99-100), with the aim to move from the unanimity rule required in the field of social policy to the qualified majority vote. As observed in Chapter 4, this was the case, for instance, of the revision of the PWD.

To sum up, in line with our initial expectations, the political debate on the Social Pillar and its related initiatives is characterised by a complex overlapping of multiple lines of conflict that partly crisscross and combine. Such a combination of political tensions is multilevel and changes according to the political *arena* in which an issue is debated, the *actors* involved, the *issue* under discussion and the *rules of the game* (e.g. unanimity or qualified majority). The way these factors interact with each other can have several consequences for the future of (Social) Europe. On the one hand, the combination of the vertical form of Euroscepticism, which is motivated by the EU’s interference in national decision-making, and the new form of horizontal Euroscepticism can render the possibility of reaching agreements more complicated, as in the case of the creation of EUBS. On the other hand, the combination of multiple lines of conflict can also pave the way for the emergence of new political coalitions, as in the case of the revision of the PWD. In this respect, we observed that some factors might facilitate the capacity to find a compromise, while others are more likely to hamper it. Notably, we observed that within the European Parliament that the possible spaces for a compromise increase compared to the Council. Indeed, in the Parliament, the functional divides that overlap territorial lines of tension and the simple majority voting rule increase the number of possible coalition combinations,

while in the Council, the prevalence of territorial dynamics, the qualified majority and unanimity voting rule limit the possibility of compromise. At the same time, the possibility to adopt a new policy proposal also depends on the initial positioning of the Commission, which not only sets the rules of the game but also orients the positioning of political actors by framing the issue under debate. In this respect, we observed how the Juncker Commission's commitment to a stronger Social Europe was fundamental to relaunching the EU social agenda.

As we have observed in Chapter 6, however, the Commission's position is not to be interpreted as monolithic. By contrast, also the debate within the Commission is characterised by political dynamics, which significantly affect the outcomes of the Commission's social agenda. In the case of the European Semester, an explicit clash emerged between economic and social actors, whereby officials with different functional responsibilities struggle to advance different sets of priorities and objectives that have a normative and political valence. In this bureaucratic struggle, politics steps in by providing technical tools, dividing tasks and assigning responsibilities to some actors than others, with the aim to influence the final outcome of the Semester's process. For instance, both under Barroso and Juncker, bureaucracy became one of the major venues for contestation of EU-level policies of austerity and fiscal consolidation. Against this background, we can add a fifth line of conflict over EU social integration that adds to the above-mentioned ones and revolves around the divide between social and economic actors both within the Commission and the Council.

## 7.2 A possible research agenda

This thesis contributes to the academic literature on conflict dynamics on EU integration in two ways. From a methodological perspective, while relying on the analysis of the amendments tabled in parliamentary committee and of the minutes of the Council's meetings, combined with semi-structured elite and expert interviews, it overcomes the RCV bias, which characterises previous quantitative studies on party politics and voting behaviour both in the European Parliament in the Council. From a substantive perspective, this thesis analysed the conflict dynamics that characterise the debate over a still unexplored policy area, namely, EU social and employment policy. Notably, it provides empirical evidence of the existence of a complex clash syndrome over Social Europe, namely, a combination of four overlapping political divides, which crisscross each other depending on the arena of the political debate, the actors involved, the issue at stake and the rules of the game. Notably, these lines of conflict combine old but exacerbated functional tensions with new territorial political divides. On the one hand, we have the conflicts between market-making vs market correcting views on the overall goal of the EU project and between advocates of supranational centralisation vs defenders of national social sovereignty. On the other hand, we observe the divides between

supporters of fiscal stability and advocates of cross-national transfers and between high-wage/high-welfare EU countries and low-wage/low-welfare EU countries. To these four lines of conflict a fifth additional one is added, notably between social and economic actors within the Commission and the Council

All this having been said, the findings of this thesis raise new academic questions that need further research to be addressed. In what follows, I will briefly indicate four questions which arise from my research and which can be the subject of further investigations.

The first question regards the reason why left-wing policy makers remain united, while centre-right EPGs (i.e. EPP and ALDE) split. Indeed, further research would be needed to understand how S&D and Greens/EFA groups were/are able to maintain their cohesion on EU social and employment policy. In this respect, one reason can be to the higher solidarity attitude of left-wing political party voters. For instance, a recent mass elite survey conducted by the REScEU team (Ferrera & Pellegata, 2017) shows that in the so-called creditor countries, left-wing and centre-left voters also declare themselves to be in favour of the provision of financial support to heavily indebted countries, while centre-right voters respond to be in favour of the cross-national resources mechanism only under strict conditionality. Another hypothesis that might be advanced to explain the cohesion of centre-left policymakers is related to the traditional internationalist vocation of left-wing forces, while centre-right groups tend to favour national interests. In this respect, it would also be interesting to investigate the justification used by left-wing MEPs, for instance, from creditor countries, to explain their support for cross-national redistribution instruments or from Eastern Member States to explain their support for the revision of the PWD. Is it a normative, political or functional argumentation?

The second question that emerges from this research is related to the evolution of EPGs' political attitudes during the crisis. This thesis has primarily focused on the political debate during the Juncker Commission. However, in Chapters 4, 5 and 6, we observed a change not only in the Commission's agenda, but also in the political positioning within the EP political groups. As observed in the case of EUBS, the S&D explicitly indicated EUBS as a policy priority in their EU election manifesto in 2019, and they started backing the proposal for a reinsurance EUBS only in the past five years. The question is whether, why and how political groups and parties change their position on certain EU social and employment issues. What is the rationale behind this changing position?

Thirdly, as we observed in Chapters 4 and 5, there seems to be no coordination between MEPs' positioning in the EP and national governments in the Council. In this respect, for instance, we noticed that the liberal government in Estonia voted in favour of the final compromise on the PWD, while the Estonian liberal delegation voted against the same compromise. Other scholars have investigated the EU policy-making process as a bicameral system. However, questions remain open

as to the reason why national parties do not coordinate their national representatives and their MEPs. Therefore, further research should be done on the coordination between MEPs and their national governments.

Fourthly, while tracing the positioning of social partners, we observed that the ETUC played a key role in calling on the Commission to present a proposal to regulate the posting of workers phenomenon. Notably, we noticed that national trade unions stood united, without splitting between Eastern and Western delegations. By contrast, trade unions were divided when it came to the debate on the proposal for EUBS. Further research would be needed to understand the reason behind the cohesion of trade unions on the posting of workers and their division on EUBS. Moreover, further investigations should be carried on the concrete influence of social partners on EU decision makers (national ministers, MEPs and the Commission itself).

Finally, as concerns the European Semester and its socialization, three main questions remain open. The first one certainly concerns the consequence of this socialization process on actual implementation of structural reforms at Member States level. Since the legal basis of the social CSRs has not changed, one may wonder about the possibility to introduce formal mechanisms, parallel to the excessive deficit procedure and the MIP, aimed at better addressing domestic social imbalances to be faced through national or European policy measures. In this respect, together with Sebastiano Sabato and Bart Vanhercke, I recently proposed the creation of a Social Imbalance Procedures (see Corti, Sabato and Vanhercke 2019; Sabato et al. 2019) and I think this idea can be further investigated. A second area which deserves further attention concerns the usage of the Social Pillar at the domestic level to justify the choice for some reform options, especially when clear trade-offs between social objectives and budgetary stability emerge and claim for more flexibility in the interpretation of the SGP rules. An initial study in this direction has been proposed by Björn Hacker (2019), who investigates the usage of the Social Pillar by Member States in National Reform Programs. Further investigation, however, is needed. Finally, the third research question regards the relationship between socially oriented CSRs and other CSRs with the aim to understand whether the EU institutions' orientations in macro-economic policies or in other policy domains have changed in line with social policy prescriptions. On this topic, no research has been conducted, at least to my knowledge, and it deserves, therefore, further investigation.

### 7.3 European social deficit: Where do we stand now and where do we go?

At the beginning of this thesis, we presented the issue of the European social deficit, described in terms of lack of political willingness or incapacity to propose and pursue a fully-fledged social agenda and in terms of absence of a legal and institutional framework that prevents or compensates

for the negative externalities of the economic integration process on the proper functioning and maintenance of flourishing national welfare. We then analysed in depth the political constellations that underpin the debate on EU social and employment policy with the aim of understanding the issues around which political tensions revolve and how the combination of these conflict dynamics affects, both positively and negatively, the adoption of further steps towards a stronger Social Europe.

Despite the complex conflict constellations that characterise the political debate, we observed (see Chapter 2) that significant incremental changes occurred in the EU social and employment policy agenda under Juncker's mandate. Most interestingly, we observed that the European Parliament, together with the Commission, had a key role in promoting and advocating for more Social Europe. This demonstrates that the slow engine of European integration in the social sphere has not jammed, but has begun to run again – even at low speeds (see Vesan & Corti, 2019b). Indeed, the initiatives adopted under the Juncker Commission contributed to revitalising the EU social agenda, thus partially reversing the social deficit trend that characterised the European Union in the past two decades. This said, these initiatives tackled mainly one of the two dimensions of the EU social deficit, namely, what we called the EU social deficit *stricto sensu*. By contrast, the Social Pillar only partially addressed the problems raised by the EU integration process on national social policy areas, especially the problems raised by the new economic governance of the EMU. In this respect, addressing the second dimension of the 'EU social deficit' would have required tackling the structural asymmetry of the European economic integration (Scharpf, 2010), namely, the constitutional imbalance between 'the Market' and 'the Social' in the European Union (Garben, 2017). To do so, however, a unanimity vote in the Council and a majority in the EP are required. As observed in Chapter 5, however, while a majority in favour of a revision of the economic governance of the EMU might emerge in the European Parliament, in the Council, the net opposition between creditor countries and debtor countries makes this possibility very unlikely.

Against this background, the question is whether there is any margin for manoeuvre to adopt policy measures that tackle the structural asymmetry between the economic and the social dimension of the EMU in the years to come. In this respect, a recent elite survey conducted by the REScEU team (Ferrera & Pellegata, 2019),<sup>94</sup> which investigates the opinions of members of national parliaments (MPs) on EU integration process in six countries (IT, DE, ES, FR, PL, SE) unveils very interesting results. Notably, the survey shows that although a relevant North/South divide emerges among political elites for pan-European solidarity measures, such as Eurobonds, and the implementation of

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<sup>94</sup> The survey has been developed and conducted under the framework of the REScEU project "Reconciling Economic and Social Europe: Values, Ideas and Politics" (Grant no 340534, P.I. Maurizio Ferrera) funded by an Advanced Grant of the European Research Council (ERC).

EU-wide schemes against poverty and unemployment, significant divides also emerge within the same country. Notably, a clear divide between left-wing and right-wing MPs emerges on the overall view on the EMU project and the possibility of creating cross-national redistribution mechanisms.

This is the case, for instance, of MPs' positioning on the possibility of establishing EUBS. In this respect, the survey includes an explicit question on the MPs' support for the introduction of a financial help mechanism to aid states that face a sudden rise in unemployment. An initial analysis of the answers to this question shows a clear division between MPs from Germany and Sweden, who largely reject the proposal of such a mechanism, and French, Italian and Spanish MPs, who largely expressed their support for the proposal. However, if we look in greater detail at the answers of respondents by sorting for national party membership, we notice that in Germany, for instance, most of the left-wing MPs are in favour of a scheme to financially help states that face a rise in unemployment, while the strongest opposition comes from centre-right and right-wing MPs. Overall, the survey shows that almost all left-wing MPs in the countries analysed (90% of the respondents from green and far-left wing parties and 85% of the social and democrats)<sup>95</sup> expressed their support for the introduction of an EU-level stabilisation mechanism in the case of sudden rises in unemployment rates. By contrast, a clear territorial division emerges from the answers from liberal and Christian-Democrat MPs, whereby Italian, French and Spanish respondents stated they were in favour of this mechanism, while opposition was expressed by Germans, Poles and Swedes. Finally, 80% of the respondents from radical right-wing parties responded against the creation of such redistribution mechanism (the only exception being the Italian Five Stars Movement).

These findings suggest that the positioning of national governments is not static, but it might be affected by the party orientation of the ruling party or coalition, and, therefore, it can change in the future. This means, for instance, that a majority of left-wing policy makers in northern countries' national governments could actually open up the possibility of reforms of the EMU in the direction of cross-national redistribution measures to absorb asymmetric shocks and increase social cohesion, including a European Unemployment Benefit Scheme. This hypothesis seems to be confirmed by two observations. Firstly, during the crisis, most of the northern Member States' governments were ruled by right-wing forces, who are, as observed above, explicitly against the possibility of creating a common fiscal capacity for the Eurozone. Therefore, we do not know whether the same opposition to any cross-national reinstitution mechanism would have come from governments led by left-wing forces. Secondly, the recent changes in northern countries' governments' coalitions seems to have reopened the debate on the EMU reform and the creation of automatic fiscal stabilisers. For instance,

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<sup>95</sup> Only respondents from Sweden disagree with the possibility of establishing such a mechanism.

soon after its appointment, the new German social democrat minister Olaf Scholz has been calling for a Europe-wide unemployment benefit scheme: a ‘solidarity-based’ reinsurance fund, from which a euro area Member State could borrow when facing an economic crisis that leads to massive job losses (Scholz, 2018). In the same period, Germany and France signed the ‘Meseberg Declaration’ on ‘Renewing Europe’s promises of security and prosperity’, in which their leaders undertook to ‘examine the issue of a European Unemployment Stabilisation Fund, in case of severe economic crises’ (Franco-German Declaration, 2018). At the same time, the fact that, for the first time, in the Party of European Socialists’ manifesto (PES, 2019), the European Unemployment Benefit Scheme was mentioned amongst the priorities for the next Commission and was supported by all national delegations, including Germany, the Netherlands, Finland and the Scandinavian countries, is a further signal that a majority of left-wing governments in northern countries might open a window of opportunity to further progress towards a stronger Social Union in the Council, as well.

Against this background, if margins for manoeuvre are open to find new coalition majorities in support of a stronger social dimension of the EMU, a further question is which scenario we can expect in the forthcoming years. To answer this, we must look at the positions of the political actors that will be involved in the negotiations on the EU social agenda in the next five-year Commission term. In this respect, this thesis provided empirical evidence that the conditions that facilitated the adoption of Social Pillar and its related initiatives were the following: a clear market-correcting approach of the Juncker Commission; the cohesion of centre-left forces in the Parliament and the internal division of centre-right EPG on the base of MEPs territorial origin; and a strong pressure exerted by trade unions on the Commission.

Moving from the European Commission, we observe that the newly-appointed President of the European Commission, Ursula Von der Leyen, while receiving the support of the European Parliament, committed herself to an ambitious social agenda. In the letter sent to the Commissioner for Jobs and Social Rights, Nicolas Schmit, Von der Leyen indicated a list of clear priorities to strengthen the social dimension of the EU and to implement the principles enshrined in the European Pillar of Social Rights, which were then translated in an official Communication on a Stronger Social Europe, published by the Commission on 14<sup>th</sup> January 2020. Notably, in its Communication, the Commission proposes the creation of a European Unemployment Benefit Reinsurance Scheme, the establishment of a legal instrument to ensure a fair minimum wage, the reinforcement of the Youth Guarantee and the adoption of a new Child Guarantee. Moreover, Von der Leyen asked Commissioner Schmit to help establish and support the work of the new European Labour Authority and to improve the labour conditions of platform workers, by guaranteeing to every worker dignified, transparent and predictable working conditions. Finally, an explicit commitment has been taken to

make the most of the potential of the future the European Social Fund Plus and to strengthen the social dimension of the European Semester, with specific attention on improving national social protection systems in Europe. With respect to the European Semester, a first look at the Winter Package and the Country Reports 2020 shows that not only the Social Scoreboard remains the anchor to monitor social and employment performance in EU Member States but a new set of indicators is added to monitor the Sustainable and Development Goals (SDGs), which includes both input and output social indicators.

Moving to the European Parliament, we observe that the left-wing groups in the new EP (2019-2024) lost around 20 seats in 2019 compared to the previous EP (2014-2019). At the same time, the sum of the two centre-right groups (liberals and Christian-Democrats) won five seats, thanks to the result of French president Macron's party *La République en Marche*. If we quickly calculate the sum of the left-wing EPGs MEPs and southern (or western) delegations of the EPP and Renew Europe (former ALDE group), we notice that two different pro-Social Europe coalitions can be formed in the next EP. The first coalition (S&D, Greens/EFA, GUE/NGL, southern delegations of Renew Europe and of EPP) has already emerged on the occasion of the first controversial vote during the current legislature. Indeed, on 10 October 2019, the European Parliament voted on an amendment to the resolution on 'Social and employment policy in the Eurozone', which explicitly 'calls on the Commission to present a European unemployment benefit reinsurance scheme to protect citizens and reduce the pressure on public finances during external shocks' (European Parliament 2019). This amendment was approved with the support of 56% of the MEPs (364 votes in favour against 285 against/abstentions). All the S&D MEPs (with the only exception being the Danish delegation), all Greens/EFA MEPs, the southern delegations of Renew Europe and of the EPP, the Italian Five Star Movement and a majority of pro-European GUE/NGL MEPs voted in favour of the amendment. By contrast, northern delegations of Renew Europe (former ALDE group) and EPP, the ECR and the Eurosceptic groups voted against the amendment.

Finally, if we look at the position of social partners, the ETUC was very active in campaigning in favour of a stronger Social Europe during the EP elections 2019 and presented its manifesto for a fairer Europe. Moreover, in May 2019, the ETUC held its congress to renew the leading positions in its organisation. Luca Visentini was confirmed as Secretary General of the European trade unions with an ambitious programme for the next four years mandate, which for the first time included the proposal for a European Unemployment Benefit Reinsurance Scheme (see ETUC, 2019). Finally, trade unions expressed their full support for the Commission's proposals in the field of social and employment policies considered as ambitious and advanced further proposals to better enforce European workers' social rights.

The emergence of this political configuration seems to be fertile ground for the implementation of a new ambitious policy agenda. Obviously, this is not enough to say that the proposals contained in the Commission's programs, notwithstanding the support of the majority in the EP and the trade unions, will be implemented. Indeed, as observed in this thesis, other factors interact in the policy-making process, such as the rules of the game, the arena of the debate and the issues under discussion. Moreover, we cannot predict the position of the fourth key political actor involved in the debate, besides the Commission, Parliament and social partners – that is, the Council. At the moment of writing (March 2020) most of the Member States are ruled by pro-European political forces, and left-wing forces have come back into power, mainly in coalition with other political parties – such as in Finland, Denmark, Sweden, Italy, Spain, Portugal, Luxembourg and Germany – or alone, such as in Malta. However, Member States' positions can quickly change in the future depending on national politics, which makes the possibility to predict any scenario in the Council very unreliable.

To conclude, the road towards a fully-fledged Social Europe remains long and winding. At the same time, the consciousness of EU policymakers that the future, the European project and its legitimacy will depend on its capacity to deliver on a stronger EU social dimension makes the necessity to take decisions urgent and compelling. Put it differently, 'the road to pursue a strong Social Europe is neither easy nor certain. But it must be followed, and it will be!' (*Ventotene Manifesto, 1941*).

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\* The transcript of this interview was kindly shared by Pierre Vanheuverzwijn, who did the interview face to face in Brussels.

# List of abbreviations

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## [List of acronyms](#)

ALDE	Alliance of Liberals and Democrats for Europe group in the European Parliament
CSR	Country-specific Recommendation
DG	Directorate-General (European Commission)
DG ECFIN	Directorate General for Economic and Financial Affairs
DG EMPL	Directorate General for Employment, Social Affairs and Inclusion
ECOFIN	Economic and Financial Affairs Council
EESC	European Economic and Social Committee
EFC	Economic and Financial Committee
EFDD	Europe of Freedom and Direct Democracy in the European Parliament
EFSI	European Fund for Strategic Investment
EGF	European Globalization Adjustment Fund
EMCO	Employment Committee
EMU	Economic and Monetary Union
ENF	Europe of Nations and Freedom in the European Parliament
EPC	Economic Policy Committee
EP	European Parliament
EPP	European People's Party group in the European Parliament
EPSCO	Employment, Social Policy, Health and Consumer Affairs (Council formation)
EPSR	European Pillar of Social Rights
ERDF	European Regional Development Fund
ESF	European Social Fund
ESI	European Structural and Investment funds
ETUC	European Trade Union Confederation
EU	European Union
EUBS	European Unemployment Benefit Scheme
FEAD	Fund for European Aid to the most Deprived
Greens/EFA	Greens–European Free Alliance group in the European Parliament
GUE/NGL	European United Left–Nordic Green Left group in the European Parliament
JER	Joint Employment Report
MEP	Member of the European Parliament
MFF	Multiannual Financial Framework
MIP	Macro-economic Imbalances Procedure
MS	Member State

NEET	Young people who are <i>Not</i> in Employment, Education or Training
RCV	Roll-Call Vote
RSP	Reform Support Programme
SGP	Stability and Growth Pact
SPC	Social Protection Committee
S&D	Progressive Alliance of Socialists and Democrats in the European Parliament
TFEU	Treaty on the Functioning of the European Union
YEI	Youth Employment Initiative

### Official Member States' abbreviations

<i>EU countries prior to 2004, 2007 and 2013</i>		<i>EU countries that joined in 2004, 2007 or 2013</i>	
<i>Enlargements (EU-15)</i>			
BE	Belgium	BG	Bulgaria
DK	Denmark	CZ	Czechia
DE	Germany	EE	Estonia
IE	Ireland	CY	Cyprus
EL	Greece	HR	Croatia
ES	Spain	LV	Latvia
FR	France	LT	Lithuania
IT	Italy	HU	Hungary
LU	Luxembourg	MT	Malta
NL	The Netherlands	PL	Poland
AT	Austria	RO	Romania
PT	Portugal	SI	Slovenia
FI	Finland	SK	Slovakia
SE	Sweden		
UK	United Kingdom		