

The European Union in the 21st century - towards a social Europe?

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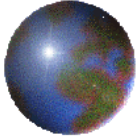
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**The European Union in the 21st Century –
Towards a Social Europe?**

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Abstract

At the beginning of the 21st century the future of ‘the welfare state’ is all but clear. The welfare state originated in West and North European countries in the 19th and 20th centuries. Today, the idea of the welfare state is facing three challenges: First, Western welfare states are under economic, demographic and political pressure to reform their institutions. In particular, reform is deemed necessary to meet the demands of increasingly competitive global markets. Second, social policy beyond the nation state is growing, with transnational actors like Worldbank, ILO, EU and OECD and transnational discourses. National welfare states are increasingly affected by such transnational social policy. While the Worldbank concentrates on developing and transitional countries, and the OECD is influential in developed countries (Armingeon/Beyeler 2004), especially in education (Jakobi 2006), the EU is a unique supranational body of 25 European countries with broad and more binding legal powers. Third, while Western welfare states are in crisis, state social policy is expanding in non-Western countries. Some authors even speak of ‘new welfare states’ (Esping-Andersen 1996) and of the ‘Coming of East Asian welfare states’ modelled on Western patterns (Hort/Kuhnle 2000).

The European Union (EU) is a key factor on all three accounts: First, the core of the EU, the European Economic Community (EEC),¹ was founded in 1957 to bring peace and prosperity to European countries, promoting economic development through a common market. This aim has been renewed in 2000 by the Lisbon agenda which seeks to raise economic competitiveness of Europe in the global economy. This includes promoting reforms in the public sector and social policy in the member states, e.g. by limiting the public debt of member states (‘Maastricht criteria’). The aim is to *reconcile economic and social goals*. Second, the EU is a prime example of *social policy beyond the nation state*. While international organisations like the ILO (founded in 1919) or the International Covenant on Economic, Social and Cultural Rights (1966) represent social policy at the global level, the EU is the most advanced social policy actor at a world regional level. Other regional associations like Mercosur in Latin America or ASEAN in East Asia have no comparable social policy side. So the EU may also act as a model of the new social dimension of regionalism (Deacon 2001). EU policies increasingly transform social policies in member states (‘*Europeanisation*’). Third, the EU also has a normative dimension: In the global debate reference is sometimes made to the ‘*European social model*’, defined by a far-reaching responsibility of the state for social integration and the welfare of its citizens. ‘European social model’ may refer to the European welfare states but it may also apply to the EU as a supranational entity with a strong ‘social’ orientation (‘social Europe’). Socialdemocrats seek

to safeguard the European social model against the ‘neoliberal’ tide, and they also recommend it as a model for non-Western countries. Economic liberals, by contrast, dismiss the ‘European social model’ as ineffective or even dangerous, advocating market liberalism with limited state involvement instead. This line of conflict reflects the tension between economic and social goals.

So two fundamental tensions are at the heart of the EU: the tension between the national level (policies by member states) and the supranational level (EU policies) in a multi-level system of government; and the tension between market liberalization and social integration, that is, between ‘economic Europe’ and ‘social Europe’. Most conflicts in the EU revolve around these two tensions and much of EU activities can be seen as ways of reconciling the poles (the national and the supranational; the economic and the social). The two lines of conflict may be related, e.g. when a country seeks to shield its highly developed welfare state against ‘neoliberal’ supranational inroads by EU agencies, then the national level is seen as ‘social’ in a positive sense while the EU level is seen as ‘economic’ in a negative sense. Or vice versa, people may call for more social activities by EU agencies to fight economic insecurities of liberalized markets in their home countries.

Accordingly the article investigates two questions that are relevant for the EU but also more generally for social policy worldwide. First, is social policy beyond the nation-state developing and with what effects? Second, how ‘social’ is Europe? (‘social Europe’) Is there a European social model defined by a strong emphasis on social policy even though the formative principle of the EU/EC is the liberalization of markets? How does the EU seek to reconcile economic and social ends? After defining the basic issues – ‘Europe’ and ‘EU’ (section 1) - the paper proceeds in five steps:

- Section 2: What is ‘social’ about the EU: to what extent and in which ways is there a ‘*social Europe*’? ‘Social Europe’ is a vision of the EU that emphasizes issues of social integration, social protection and social policy (European social model). Calling for a ‘social Europe’ implies that the EU should be more than an economic and a political union.
- Section 3: How is EU policy related to social policy of the member states? This question is about the relationship between the national and the supranational level in a system of *multi-level government*.

- Section 4: How is '*economic Europe*' (the common market) related to '*social Europe*'? How are economic competitiveness and social integration reconciled?
- Section 5: What *factors* have promoted the expansion of social policy measures by the EU and may continue to do so; and which factors inhibit it? The ongoing battle over the draft of a European Constitution of 2004 is also a battle over the social dimension of Europe. What are the *prospects* for social Europe?
- Section 6: Can lessons be learnt from the European experience by other world regions and by other countries?

1. Defining the issues

In this section two basic questions are addressed: What is Europe? And what is the EU? These questions may sound trivial but they lead right to the centre of problems of the European Union.

What is 'Europe'? First of all, Europe is a geographically defined area. But even this seemingly simple definition is far from being clear. Is Russia, e.g., a part of Europe? Often Russia is considered half European and half Asian. More currently, is Turkey a part of Europe? Geographically a small part of Turkey is but the wider question which has led to heated debates about Turkey joining the EU is if Turkey belongs to Europe culturally. This is the second defining aspect of 'Europe': Europe is considered to be a cultural entity, as the historical core land of the occidental civilization, going back to Greek and Roman times. The question of the boundaries of Europe is a very political question in the current process of enlarging the EU.

A third defining characteristic of 'Europe' is its political character. The European Union (EU) is the political face of Europe. However, it is often forgotten that in 1949, before the EEC, the *Council of Europe* was founded. The key task of the Council of Europe (which comprises more countries than the EU) is to observe compliance with human rights. The Council of Europe also attends to social affairs. In 1961 the Council issued the European Social Charter. The activity of the Council of Europe is largely programmatic and symbolic, but with this soft power the Council still has a role to play today.

What is the EU? First of all the EU is a political configuration which unites a world region. World regions are emerging entities in a globalised world, and the EU is a forerunner envied by other world regions. The legal fabric of the EU is muddled and unique. Politicians as well as scholars have difficulties in describing it. Only two extremes can be ruled out: The EU is not a federal state with Brussels (and Strasburg) as capital. The member states of the EU have much more powers than states in a federal state. On the other hand the EU is more than an association of states because 'Brussels' does have considerable powers. However, formally the EU is a treaty of nation states, starting with the Treaty of Rome (1957) which has been extended repeatedly since, currently consolidated in the draft for a European Constitution (2004). To capture this unique configuration political scientists use the neutral term multi-level system of government (Leibfried/Pierson 1995). In politics the debate about the nature of the EU has long revolved around the question if the EU is mainly an economic union, or also a political union, or if it is or should additionally be a 'social union'. The term social union was coined by the German chancellor Willy Brandt in 1972 (Kaufmann 1986: 69). These three dimensions of the EU define the horizon of the battles over the identity of the EU.

2. Social policy of the EU – what is it?

Is there such thing as a EU social policy at all? The EU/EEC was founded in 1957 primarily as a market-liberal project and as a vision for peace after World War II. The aim was to create a Europe-wide free market ('common market'). The Single European Act in 1986 eventually established the 'Four Fundamental Freedoms' that are at the heart of the EU: the freedom of exchanging goods, capital, labour and services. Social policy, by contrast, had long been a marginal issue in the EEC and mostly referred to legal problems of migrant workers, regulating the transfer of entitlements to social security benefits when moving between member states. There were recurrent declarations of social policy aims and action programmes, for example 1974, but too little avail.

Today the EU still has none of the core features of a welfare state: The EU does not grant any social rights or individual entitlements to welfare benefits and social services, it does not levy any direct taxes or social insurance contributions and there is no conventional welfare bureaucracy at Brussels. 'Brussels' is often criticized as over-bureaucratized. In actual fact, the entire EU administration in Brussels is smaller than the municipal administration of the German city of Cologne which has a population of less than one million. Schmid (2002: 60) speaks of the EU as a '*non-welfare-state*'. Indeed, the EU is much less than a (even a federal)

nation state, with less institutional legitimacy and a comparatively tiny administrative machinery. However, having said that, social policy activities of the EC/EU have grown over the years, especially since the 1990s. This development needs explanation. Before seeking to explain the rise of social policy against all odds, we sketch the history of EU social policy and its key fields and instruments.

There has never been a blueprint for comprehensive social policy or even of a welfare state at the EU level. Still, social policy has gradually, though not continuously grown (for a quantitative analysis of the growth of EU social policy see Falkner 2004). (Leibfried 2000: 84, 87) sees this process as a '*transformation of sovereign welfare states*' into '*elements of an unprecedented multi-level system of social policy*'. In the first phase, from 1957 till the early 1970s and till the Single European Act of 1986, social policy was very limited (Kaufmann 1986: 73-76, Begg 2001: 4). Articles 117-128 of the EEC treaty referred to issues of social policy. Article 51 laid down the free movement of labourers, a kind of law of settlement. To enable this (economic) aim of free labour, social security entitlements of migrant labours had to be coordinated. The European Social Fund (ESF) was created. The ESF was and still is an instrument of regional employment policy which channels money into developmental regions in member states but does not establish individual entitlements to benefits. Moreover, a co-operation of governments in social issues was established, mainly regarding work, such as equal pay for men and women and vocational training. Even in that early phase, social policy gathered momentum, especially by the European Court of Justice (ECJ), not so much through political action. For example, the ECJ extended certain labour regulations to the self employed (Kaufmann 1986: 75).

The Single European Act of 1986 was the first more far-reaching change of the Treaties of Rome. It fully established the common market although the Four Fundamental Freedoms are substantially restricted till the present day. The Four Freedoms are the economic core of the EC. Still, social policy was beginning to gain more weight in EC policies. This was mainly due to the activity of the outstanding president of the European Commission of 1985-1995, Jacques Delors. The Treaty of Maastricht (1992, in force in 1993) established the 'European Union'. A Social Charter was appended but it had only a declamatory character since Britain vetoed it. Again the conflict economic Europe vs. social Europe cropped up. The comment by John Major, the then British Prime Minister, has often been quoted: 'You keep social Europe, and we'll keep the jobs.' (see Begg 2001: 4) The quote also shows that the controversy was more complicated than just economic vs. social ends. Creating jobs is very much a social end

but the British thought it better realized by limiting conventional, redistributory and regulatory social policies.

The Treaty of Amsterdam (1997, in force in 1999) fully endorsed the Social Charter and added social sections to the treaties (articles 136-145). New social regulations refer to workers' protection and working hours, to minimum standards at the work place and to 'convergence of objectives'. Convergence of objectives was a precursor of the concept of the Open Method of Coordination (OMC, see below). Convergence of objectives rather than of instruments and institutions implied that the old idea of convergence or 'harmonisation' between EU member states was given up. At the Lisbon Summit of 2000 the Lisbon agenda was proclaimed aiming to turn the EU into the most competitive economic region in the world till 2010. At the summit at Nice in the same year the Open Method of Coordination, a kind of 'soft' policy, was established, following on early ideas of 1992 and 1997 (Begg 2001: 5). Eventually, the draft of a European Constitution of 2003/2004 continued to give economic ends priority over social ends but entrenched social ideas in a way to enable further expansion of social policy.

What are the key *fields* of EU social policies? (cf. e.g. Boeckh et al. 2004; table 1 in Falkner 2004). The three key areas of EU social policy are legal policy, labour policy and, to a lesser degree though recently increasing, social security. *Legal policy* centres on anti-discrimination policies with regulations that ensure equal treatment of men and women at work. Anti-discrimination regulations were extended to other aspects than gender, e.g. ethnicity, sexual orientation, age and disability and to many areas of social life, as done in the recent anti-discrimination regulation which was translated into national law e.g. in Germany in this summer. The second big area of EU social policy is *labour policy*. This includes the promotion of employment, recently especially through the European Employment Strategy (EES) which largely operates through the sub-national level of member states to create employment opportunities and bring people into work (see e.g. the study by Kühbauch 2006). A second field of labour policy is workers' protection and health issues at the workplace. These were the pioneering fields of state social policy in European countries in the 19th century, and they are also central to EU social policy. The third area of EU social policy is *social security*. Fighting poverty has been an early concern of the EEC (since the 1970s) and in the 1990s this concern has been expanded to more general policies to counter 'social exclusion' (for this concept see Leisering 2004). Social security policies also extend to social protection, old-age security and health insurance as well as personal social services.

The EU employs two main types of *instruments* in social policy (for a seminal analysis of the instruments of EU social policy from the point of view of types of ‘social intervention’ see Kaufmann 2003: 319-321). To begin with, redistributive policies conventionally considered to be the hallmark of the welfare state, are not part of the tool kit of EU social policy. There is no redistribution of money from taxes or contributions to individual welfare recipients. As mentioned earlier, the European Social Fund is an instrument of regional policy and does not include individual entitlements to benefits.

In the absence of redistributive policy, the EU is very active in regulatory policy. *Regulation* is the first key instrument of EU policy. The EU issues regulations that constrain national policies and force member states to adapt their national laws accordingly. The strong emphasis on legal regulation has turned the European Court of Justice (ECJ) into an influential actor in EU policy. The ECJ is located in Luxemburg and is not to be mixed up with the European Court for Human Rights in Strasburg which is associated with the Council of Europe rather than the EU. Citizens of member states may take a case to the ECJ if they feel that national law infringes their rights under EU regulations. In dealing with such cases the ECJ interprets EU law and also extends and specifies it.

The second big type of instruments used by the EU is ‘*soft*’ policies and soft law. Soft policies include three subtypes. The first subtype is policy recommendations by member states which are not binding but may influence discourses and ideas. The second subtype is the declaration of goals, for example the ‘Magic Triangle’ of the Nice agenda which links the three domains social policy, employment policy and economic policy in a way to enable synergies between the three. In this way, economic and social aspects are formally on a par. Another example of soft policy through the declaration of goals is the draft of a European Constitution of 2004 (Treib 2004: 19 f.). The draft does not establish new powers for the EU in the field of social policy. But for the first time social ends are defined as cross-sectional ends, that is, all fields of EU policy have to observe fundamental social aspects like non-discrimination, social protection, fight against social exclusion and social human rights. It is an open question to what extent the European Court of Justice will resort to this declaration (if the draft of the Constitution should be adopted in the future) to increase the weight of social Europe as compared to economic Europe.

A key instrument of soft policy is the Open Method of Coordination (OMC) which has been extended to key domains of EU social policy like employment, poverty and old-age security.

The OMC implies defining common goals and setting up schedules for reaching these goals; defining indicators for measuring the progress that has been made to reach the goals; using the indicators for comparing the progress of member states (benchmarking); the specification of aims and measures by member states, for example the obligation to set up national anti-poverty and anti-exclusion action plans; and procedures of controlling and evaluating progress in the field under consideration. For the field of poverty and social exclusion, for example, a complex system of indicators was introduced at the Laeken conference in 2001. A more general system of indicators relating to key goals was adopted at the Lisbon Summit in 2000 and revised at the Barcelona Summit in 2002.

Table 1 summarizes the gradual extension of powers of the EU in the field of social policy.

Table 1: Powers of the EU/EC in the field of social policy
(laid down in the Treaty)

Explicit powers of the EU/EC for ...	Treaty				
	Rome 1957	Single European Act 1986	Maastricht 1992	Amsterdam 1997	Nice 2000
incentives against discrimination	-	-	-	-	++
measures against discrimination	-	-	-	+	+
measures to fight social exclusion	-	-	-	++	++
measures for gender equality	-	-	-	++	++
coordination of employment policies	-	-	-	++	++
financing employment policy	-	-	+	+	-
social security and workers protection	-	-	+	+	+
workers protection in case of lay-offs	-	-	+	+	+
workers participation/industrial democracy	-	-	+	+	+
working conditions	-	-	++	++	++
equal opportunities in labour market, equal treatment at workplace	-	-	++	++	++
reintegration of persons in the labour market	-	-	++	++	++
safety and health at work	-	++	++	++	++
coordination of social insurance for migrant workers within EU	+	+	./.	+	+
freedom of movement of workers	++	++	./.	++	++

- : not mentioned in the Treaty
+ : unanimity requirement

++: majority rule (qualified majority)
Source: Falkner (2004)

3. ‘Europeanization’: Is the EU transforming the social policies of member states?

Having described the fields and instruments of EU social policy, the question remains how far EU policies and EU law actually penetrate and transform social policies in the member states. The relationship between the supra-national level (EU) and the national level (member states) is a persistent point of controversy. It is, therefore, worthwhile to examine empirically to what extent the supra-national and the national levels are intertwined, that is, to what extent member states have ceased to be autonomous actors (‘europeanisation’). The relationship between the two levels of government (or even three levels because EU policies also operate through the sub-national level) is an issue that pervades all policy fields.

In social policy, the tension between ‘Brussels’ (which is a shorthand for the institutions of the EU, especially the European Commission and the Council of Ministers) and the member states is particularly pronounced because national social policies rest on strong national traditions, with national welfare cultures, long established institutions and related status groups like social professions and ‘welfare classes’ (Kaufmann 1986, 2003). Kaufmann (2003) speaks of the ‘singularity’ of each welfare state. Interfering with these entrenched traditions is not an easy matter. Hvinden (2003) has shown that the EU is more successful in influencing national policies in policy areas which are less ‘occupied’ by strong actors and interest groups, such as disability policy. Another assumption would be that less developed member states are more susceptible to EU intervention than other countries. In Portugal, e.g., a system of social assistance was introduced in 1996 following EU influence.

Table 2 shows that the degree of europeanization in social policy is less than in other policy fields but that europeanization is increasing. Europeanization in social policy is highest with regard to workers protection and the regulation of migrant workers. This shows the strong emphasis of EU social policy on issues of work which are more closely related to the economic core of the EU, the creation of a free market in Europe. Education at the level of schools is not europeanized at all (the overall score for education and science in table 2 does not show this due to high scores for EU research policies and university policies). However, as expected, economic policy and labour market policy are strongly europeanized. Policies regarding the exchange of goods, capital, and labour are strongly europeanized (score 4) as is financial policy regarding taxes (score 2), public spending (score 3) and public debt (score 4).

There are only two policy fields with the maximum score of 5, total europeanization: money policy and currency policy. All in all table 2 shows that the influence of the EU on member states' policies still is limited. The EU is a far cry from being a federal state.

Table 2: 'Europeanization' - the influence of the EU/EEC on social policy making in the member states 1957-2000 (the case of Germany)

Policy field	EU influence on national social policy			
	1957	1968	1992	2000
Social policy :				
Unemployment insurance	1	1	1	1
Health insurance	1	1	1	2
Health services	1	2	2	2
Old-age security	1	1	2	2
Invalidity	1	1	1	1
Long-term care insurance	1	1	1	2
Benefits for victims of war	1	1	1	1
Benefits for families	1	1	1	1
Social assistance and youth welfare	1	1	1	1
Housing	1	1	1	1
Migrant workers	2	2	4	4
Workers protection	1	2	2	3
<u>All areas of social policy</u> (average score)	1,1	1,3	1,5	1,8
Other policy fields:				
Foreign policy	1	2	2,5	2,5
Legal policy	1,2	1,4	1,6	1,8
Education and science	1	1,4	1,8	1,8
Economic policy, labour market	1,2	1,8	2,5	3,2
Environment, energy	2	2	2,5	2,5
All policy fields (average score)	1,1	1,5	2	2,3

1 = policy decision entirely national

2 = beginnings of EC decision processes

3 = policy decisions on both levels (EC, national) but national dominates

4 = policy decisions on both levels but EC dominates

5 = all policy decisions by EC

Source: M.G. Schmidt (1999: 390 f.), based on previous studies

4. 'Economic Europe' (the Common Market) and 'Social Europe': How are they related?

Social policy is often seen as impairing the operation of the market. Since the creation of a Europe-wide free market ('common market') is the key aim of the EU, the question arises how social policy ties in with this aim. How do the 'Four Fundamental Freedoms' (freedom of exchanging goods, capital, labour and services) impact on social policy in the member

states of the EU? How is the economic integration of the member states linked to their social integration? (for the following see Leibfried 2000: 91)

The first fundamental freedom, the freedom of exchanging *goods*, exerts considerable pressure on national social policies. The common market for goods increases competition between the member states. Since the 'welfare regime' in a country considerably influences the operation of the economy, the common market for goods creates a competition between different types of welfare state. Work productivity and the price of goods is influenced by national standards of workers protection, by the wage level as negotiated between the social partners and by taxes and social insurance contributions. For example, in the German social insurance state, the cost of labour is increased by high non-wage labour cost. 42 % of gross wage have to be paid as contributions to social insurance. To reduce labour cost, therefore, politicians have aimed to reduce non-wage labour cost since the 1990s. Shifting from contribution-based social insurance to tax-financed social security is considered.

The freedom of exchanging *capital* enhances the power of the employers, vis-à-vis to national governments and vis-à-vis to workers and trade unions. Since the system of social partners (corporatist relationships between employers and employees) is weak on the European level, employers have to face less counterforce compared to the national level. The free exchange of capital also affects private provision for old age and for health which is growing in most member states. The welfare mix is changing, with state welfare still largely national while private welfare is shaped by international providers and EU regulations (Ferrara 2003, 2005). So national governments lose some of their influence in shaping the overall welfare mix. For example, the European Commission aimed to prescribe so-called unisex tariffs for private insurance. Normally women have to pay more into private insurance because their life expectancy is higher than in men. Unisex tariffs would require insurers to offer equal tariffs for both sexes. However, this initiative failed to fully materialize (Kopischke 2006).

The freedom of exchanging *services* also affects national policies since personal social services are an important area of national welfare states, such as medical services, long-term care, counselling, social work and others. Many European countries have a longstanding tradition of person social services, with specific cultures of care (Chamberlayne/King 2000), social professions and voluntary associations. The creation of market freedom by the EU may erode these national traditions although the impact has been limited as yet. The new bye-law on the liberalization of services across Europe (2006) was much contested to be eventually

boiled down in many ways, among others by exempting labour law and social security from its scope. However, the bye-law has generated pressure on the German government to introduce a national minimum wage.

The freedom of exchanging *labour* similarly has long had only a limited impact on national social policy because migration between EU member states was limited. National labour market regimes were not much affected. The recent and still ongoing enlargement of the EU, with 10 East European countries as new member states since 2004, however, has changed the situation. Workers who are prepared to work at a very low rate are coming from East Europe to West Europe. National governments succeeded, despite EU law, to establish regulations to protect their workers against wage dumping.

The analysis of the Four Fundamental Freedoms of the common market exposes the tension between economic Europe and social Europe, between market orientation and national welfare statism. In many cases the conflict line economic Europe vs. social Europe coincides with the other conflict line, EU policies vs. national policies. Some of the tension between economic Europe and social Europe is relieved by defining certain social policy issues as non-market issues, in order to make the Four Freedoms inapplicable. Member states seek such exemptions in order to retain some of their national social policy traditions. For example, in 2004 the European Court of Justice decided that German sickness funds (health insurance) are no enterprises and that, therefore, the EU rules for competition do not apply. This rule enabled the sickness funds to limit the freedom of the market for pharmaceuticals (by imposing price controls).

While the Four Fundamental Freedoms are substantial principles with potentially very specific implications for policy making, the EU lacks comparable comprehensive and specific principles in the field of social policy. The social policy orientation of the EU is defined in terms of broader goals, and it is always second to the economic orientation. Three types of social policy by the EU can be distinguished that reflect the ways economic and social aims are coordinated. The three types also show how the EU level is linked to the national level of politics ('integration') (Leibfried 2000, following F.W. Scharpf). The three types are: 'positive social policy' which is the conventional national style of social policy, aiming to actively shape society in view of social ends; 'negative social policy' which is social policy geared to coordinating economic market processes; and indirect or implicit social policy

which refers to structural economic and financial policies by the EU that put national social policies under strong pressure to change.

The first type, *positive social policy* (or ‘positive integration’), is most visible and usually referred to when people think of EU social policy. But it is not the main type of social policy by the EU (Leibfried 2000: 85). The relevant actors in positive social policy include the EU Commission, the Council of Ministers, the social partners, experts, but also the European Court of Justice. Examples include workers protection, health standards, equal opportunities, employment policies and anti-poverty policies, that is, the social chapters and the employment chapters in the EU Treaty.

The second type, *negative social policy* by the EU (or ‘negative integration’) aims to influence national social policies in view of removing restrictions on market freedom. In many cases negative social policy implies lowering social standards and entitlements. For example, when the German long-term care insurance was introduced in 1994 it was designed in a way to avoid the applicability of EU laws that might have resulted in lower standards. However, negative social policy may also lead to rising social standards. In Germany, for instance, gender equality of wages has been substantially promoted by EU regulations. The most relevant actor in negative social policy is the European Court of Justice, that is, a legal actor although political actors also play a part. EU social policy generally is much more a matter of legal policy and jurisdiction than national social policy. Examples of negative social policy include the freedom of workers to move within Europe and related portability of social security entitlements. Negative social policy also includes regional and structural policies.

The third type of EU social policy, indirect or *implicit social policy*, refers to economic and financial policies that put pressure on national politicians to adapt national social policy. A key example is the creation of the European Monetary Union (EMU) in 1999 with the introduction of the new common currency, the Euro (1999/2002). To secure the stability of the new currency, the EU Summit at Maastricht (1992) had foreseen the obligation for member states to keep public debt at a maximum of 60 % of growth domestic product and the annual deficit of governmental budgets at a maximum of 3 % (‘Maastricht Criteria’). To stay within that limit many countries had to work hard, restructuring and mostly downsizing their welfare states. Italy, for example, has undertaken far-reaching reforms of its welfare state in order to match the Maastricht criteria.

5. Summary and prospects: a multi-level social Europe?

We can now try to answer the two main questions raised in the introduction, regarding social policy beyond the nation state and the social character of the EU.

As to the first question: is *social policy beyond the nation-state* becoming a new arena of social policy? Yes, it is. The EU is a unique case of a supra-national agency with elaborate and fairly wide-reaching activities in social policy. The integration of nation states under the umbrella of the EU constitutes a non-state system of multilevel government. Has this new configuration been effective regarding the promotion of *reforms* of state welfare state and economy in the nation states? Yes, it has, even though much remains to be done. Some (not all of) the reforms that have been going on in European countries since the 1990s have been triggered or at least accentuated by impulses from the EU. Especially the Maastricht criterion of limiting the state budget deficit to a maximum of 3 % of GDP has unleashed far-reaching restructurations of welfare states. Under the influence of the EU, ingrained bureaucratic structures and status groups in member states were shook up and were led to face competition. Labour market policies have assumed a more activating orientation. All in all, the EU has accelerated the modernisation of laggard countries, such as the Mediterranean and Ireland, while advanced countries were led to reform some of their ‘bad’ traditions, e.g. in Germany the strong gendering of labour market and family and the etatist, non-competitive structures of administration. Countries have also been led to watch other countries’ experience more than before, to enable policy learning. Economically, the creation of the common market and, in 1999, of the European Monetary Union (EMU), has brought economic growth and prosperity also to those countries that were economically weak not long ago.

Regarding the second question: how ‘social’ is Europe, is there a ‘*European social model*’ defined by a strong emphasis on social policy? Yes, there is, even though the guiding principle of the EU is the liberalization of markets. The evolution of the EU shows that social policy can expand even amidst pressure for economic competitiveness and without a strong programme of welfare statism (i.e. ‘through the backdoor’): The ‘social’ dimension of the EU has grown and might further grow although social policy still resides primarily in the member states and social activities by EU agencies remains highly contested between free marketeers and advocates of welfare statism. To specify the characteristics of social policy by the EU:

First, social policy figures in many declarations of the EU but it is always *second to economic aims*. This can even be seen in the general parts of the draft of an EU Constitution of 2004

(articles 2 and 3) and, e.g., in the strategic indicators defined at the Lisbon Summit 2000. The Lisbon documents include two sets of economic indicators plus one set regarding research and innovation, two sets of social indicators and one set of environmental indicators (Stecker 2004: 751f., rev. indicators of 2003). The thrust of the activities of the EU in the field of social policy is on aims and programmatic declarations while there is very little institution building but some emphasis on instruments: a number of instruments has been developed though mostly of a regulatory and soft nature, mostly law, not so much organization or money.

Second, nevertheless social policy by the EU has been *expanding* over a long period of time, not continuously but in waves mainly since the 1990s.

Third, the social policy side of the EU has always been highly *contested*. It is disputed whether the 'social' is a defining characteristic of the EU or not. Those (e.g. Germans and French) who advocate far-reaching state social policy tend to shield off their national social policy tradition against allegedly neo-liberal inroads by Brussels; in this sense they call for less Europe. But they may also call for more Europe, meaning a more social Europe. In the Eurobarometer of May 2006 (a regular survey among the citizens of the 25 EU countries) a majority of interviewees wanted 'more Europe', with more social rights and more measures to fight unemployment.

Currently the EU as a whole is more contested than ever before. The draft for a Constitution did not find majority support in France and the Netherlands. This seems to indicate a wider crisis of the EU, and social Europe is a strong component of the crisis. Roughly speaking, the French want more social Europe while others want a less social version of the EU. Ralf Dahrendorf, a major German intellectual and member of the House of Lords in Britain remarked in 2005 that social Europe in the sense of extending the idea of the welfare state to the European level is a 'Bismarck-German illusion of Europe' which can also be found in France but not in Britain and probably not in some of the East European new member states.

Determinants of EU social policy and prospects

What made social policy grow? What *factors* have promoted and might continue to promote the social dimension of Europe? In the absence of a blueprint for a supra-national welfare state, diverse factors have interacted to boost social policy. Social policy has largely crept in to the EU 'through the backdoor', from the margins: not planned, not coordinated, without

overarching institutional programme. It has been a cumulative process with diverse sources and scattered elements that have gathered momentum.

First, the origin and the emphasis of EU social policy still is on *work*-related issues. These issues are close to the operation of the economy, making related measures more acceptable for or even called for by business. The other core area of social policy, social security, has remained residual by comparison: most of the activity goes into fighting poverty and social exclusion, a kind of least common denominator, while aims set for the two big areas of social security, old age and health, remain vague. For example, under the Open Method of Coordination applied to old-age security in member states, the declared aim is that the level of pensions be ‘adequate’.

Second, the instruments used by the EU in the core areas of social policy are largely ‘soft’ ones. This is typical for stateless and multilevel systems of governance. Generally governance in the EU can be likened to governance in the world society (Meyer 2001). Soft governance, e.g. the Open Method of Coordination, may more easily meet with political acceptance but still have tangible effects, thus opening up avenues for social policy in an environment which is not always friendly towards social policy.

Third, the power of ‘social’ *ideas* is strong and may override considerations of economic rationality, as Max Weber already remarked about the dynamics of social policy in European countries (Rieger 1999). Social-democratic, social-conservative and social-liberal thinking going back to 19th century Europe is still strong in the European citizenry.

Fourth, social policies have often advanced as offshoots of *non-social ideas*, a kind of *spill-over* from civil rights to social rights. The key trigger has been the notion of legal (not social) equality, enshrined in the draft constitution (article 2) and all-pervasive in the legal framework of EU action. The norm of equality has a broad scope, it may be invoked to demand equal treatment of persons, regions, groups etc.: of workers from different member states; of disadvantaged regions at the sub-national level; of social groups (extending legal regulations from one group to other groups in view of ‘non-discrimination’, with groups defined by gender but increasingly also by other dimensions like age and disability). Non-social ideas also include the idea of ‘sustainability’ (draft Constitution, article 3 (3)) which suggests cognitive or functional (not ‘social’) grounds of social policy. The same article lists

social aims jointly with environmental aims. This link might act as another prop of the legitimacy of social policy.

What could be the *future* shape of social Europe? At present there is much social policy by the EU but the EU is not a welfare state, and the bulk of public welfare in the EU still lies in the national welfare states. One could think of three scenarios of a future social Europe: First, the status quo: a strongly social Europe but with social policy being primarily a matter of national governments only framed by regulatory and soft EU policies. Second, going further from the status quo, a far-reaching europeanization of national social policies through stepped-up EU policies. This would imply a convergence or near-convergence of social policies in the member states. Some convergence could also take place for other reasons, not due to EU influence. Compared to countries in other world regions social policy in European countries already is fairly similar. Third, the idea of the EU as a genuine welfare state, as a supra-national welfare state, of a federal nature but with its own social administration, redistributory legislation and taxation. This scenario would require the transformation of the EU into a federal state.

Thinking about the future of the EU, factors that work against a further expansion of the social dimension of the EU must be taken into consideration. This includes old as well as more recent factors.

First, the difference of national social policy traditions in the member states – the ‘singularity’ of each welfare state – continues to be a major hindrance of a common social policy shaped by Brussels.

Second, genuine social policy, especially when it involves large-scale redistribution of resources, requires strong legitimacy. In T. H. Marshall’s evolutionary model of rights, social rights make their appearance only after the introduction of political rights. A European political public has already taken shape but the general weakness of democracy at the EU level persists. The European Parliament is elected by the citizens but it has limited powers. The executive bodies of the EU have no direct democratic legitimization.

Third, ‘political Europe’ is weak. The draft constitution defines the relationship between the EU level and the member states in very vague terms. Obviously, this was done to achieve consensus between those who call for strong nation states and weak Brussels and those who want a more integrated European community. Many decisions in Brussels still require

unanimity. The draft Constitution cushions the other conflict line of the EU, economic vs. social Europe, in similarly vague wordings, to be acceptable to both advocates and critics of a stronger social Europe.

Fourth, while the differences in economic development between the West European member states (and possibly also cultural differences) have diminished, the accession of the East European countries has reinforced socio-economic inequalities and cultural differences. In an economically heterogeneous union it is more difficult to pursue a common social policy.

Fifth, social Europe remains contested. Britain is a strong veto player against a social Europe, and some East European countries might join this stance. The prospects of the EU are more open than before. There are current plans by the champions of a strong EU, especially by the Prime Ministers of the small countries Luxemburg and Belgium, Jean-Claude Juncker and Guy Verhofstadt, to revitalize the draft Constitution. This plan includes adding a special chapter on social Europe to the draft Constitution, to be set up by the national governments till early 2008 to be voted by the citizens in one big referendum in all countries of the EU in early 2009.

6. The EU as a model for social policy in other world regions?

While many citizens of the EU indulge in lamenting the alleged or real disadvantages of the EU (and forget about the advantages they enjoy everyday), people in other world regions watch the European experiment with interest (for Asia see Petchsiri 2004) and explicitly oriented towards learning (for China see Zhou 2004). Can lessons be learnt from the multi-level structure of government, and from the rise of EU social policy?

The idea of a European Community grew out of a specific historical situation after World War II when people yearned for peace and economic recovery. France and Germany, together with the small Benelux countries (*Belgium, Netherlands, Luxemburg*) the vanguard of the EEC, had been hereditary enemies, and the EEC was also a means to overcome this past. Are there reasons to consider a supranational organisation in East Asia? There are some similarities to Europe: two hereditary enemies, China and Japan; some common cultural background, Confucianism; and a group of advanced core countries together with a group of less developed countries both of which could profit from a common market and political integration. However, unlike Europe, there is one superpower, China, which exceeds all

others by sheer size. This is a major difference to Europe which could make an EU-like association difficult to establish.

Unlike Europe there are no national traditions of state welfare. Some writers argue that Confucianism does not lend itself to welfare statism (Rieger/Leibfried 2004). But the absence of a state welfare tradition could also make social integration of East Asian countries easier than in Europe with its heterogeneity of national welfare traditions. There is evidence that the rise of social security in East Asia follows Western patterns (Hort/Kuhnle 2000). China is a pioneer in social policy among developing countries, e.g. by introducing a modern kind of social assistance, the Minimum Living Standard System, in urban areas in 1999 (Leisering/Buhr/Traiser-Diop 2006). Japan has imported Western models much earlier. There is some evidence that East Asia divides into Northern countries with a preference for social insurance and Southern countries with a preference for leaner models like social funds (and sometimes criticism of European welfare states as too generous and economically deleterious). In Europe there also was and still is a (different) North-South divide. The Mediterranean countries have a distinct 'welfare regime' which is not captured by Esping-Andersen's (1990) typology of Western welfare regimes, the social-democratic, the conservative and the liberal welfare regime (Leibfried called this fourth type the 'latin rim').

East Asian countries, most visibly China, seem to share with Europe the general pressure to reconcile economic growth with social concerns. Chinese politicians worry about social stability in the face of soaring social inequality. In the political debate in China, pro-state welfare groups from the left and the new trade unions confront neoliberals. This reflects the old tension between state and market orientation so familiar from 19th and 20th century Europe. As shown in this article, the EU has much experience in reconciling economic and social demands in policies and legal regulation, and in handling the conflicts between market liberals and advocates of state welfare. The experience of South Korea and Taiwan, however, seems to confirm the Marshallian view that modern social policy only breaks through under conditions of democratic government. The underdevelopment of democracy in some East Asian countries makes it difficult to envisage a political union of a similar nature as the European Union.

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¹ Since 1993 the EEC is called 'European Community' (EC), and the term 'European Union' (EU) was introduced to denote the configuration that encompasses the EC and other elements.