2011 was a year marked by some key progress in European integration: new moves towards Treaty revision, new rules for economic and budgetary coordination, and a more evident role of the EU in national policymaking. In parallel, the destabilisation of the euro zone progressed: the long-term effects of the Greek crisis have not been tackled by European policymakers, while tension shifted from the EU periphery to the very core of the euro zone. Most Member States pursued punitive austerity measures. All these trends undoubtedly represent worrying signs for the future of the European Social Model.

The European Union is therefore dealing with crucial questions about its future sustainability: the fate of the euro is in jeopardy, as is the very meaning of the European integration project. A new compromise is needed between economic competitiveness and social solidarity. Otherwise, the risk will be an increase in public disaffection towards Europe and reciprocal accusations of egoism and lack of strategic views among the Member States.

This 2011 edition of Social developments in the European Union examines the ways in which the EU has changed in this turbulent phase. Institutional innovations were paralleled by new economic governance tools and further reinforcement of the austerity paradigm. Beyond economic governance, this volume sheds light on the state of European social dialogue, the role of structural funds, the fate of the social dimension of Europe 2020, and the activities of the European Court of Justice. Analysis of the EU level is complemented by a critical review of national reforms, especially in the case of health care.
Acknowledgments

Social developments in the European Union is the product of a collective effort. In addition to the authors of the various contributions (see list at end of volume), we are particularly grateful to the researchers of the European Trade Union Institute (ETUI) for their careful scrutiny of the text and judicious comments. We naturally take full responsibility for the views expressed in this volume.

We should also like to thank Maria Jepsen and Philippe Pochet of the European Trade Union Institute (ETUI).

On the organisational side, we are greatly indebted to Valérie Cotulelli for formatting the text and Françoise Verri for coordinating the translation.

A very special thank you goes to Christophe Degryse. This is the first year he has not played his ‘usual’ role of editor. We have greatly missed his energy and talent. But, as you can see below, we have again had the chance of benefiting from his experience (as one of the contributors to this edition).

Translation from the French and English-language editing by Janet Altman and her team.

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The year 2011 was marked by some key progress in European integration: new steps towards Treaty revision, new rules for economic and budgetary coordination, a more inclusive role of the EU in national policymaking. These trends represent very worrying signals for the future of the European Social Model.

Last year we saw the destabilisation of the euro zone, while the solidarity between the Member States has appeared to be weakening. The long-term effects of the Greek crisis have not been adequately tackled by European policymakers. A number of summits and other meetings demonstrated the EU’s incapacity to provide an effective, long-term answer to the attacks from financial markets. The sovereign debt crisis continued to reduce EU credibility in the global context, while tensions moved from the EU periphery (Greece, Ireland and Portugal) to the very core part of the euro zone. Large countries (Italy to start with) started to be absorbed by the ‘black hole’ of these speculative attacks. New buzz words became familiar to Europe’s public opinion: spread, rating, and some other terms dreamed up to enhance anxiety between European citizens.

Unfortunately, what we saw last year - through the chapters of Social developments in the EU, 2010 - seems to have been confirmed one year later. Most Member States have pursued punitive austerity programmes targeted at both public and private sector workers, but also at welfare programme beneficiaries: the unemployed, pensioners and patients.

All this has confirmed the worst fears. While the explosion of the subprime crisis led some commentators to see the end of neo-liberalism and the beginning of a new era of more responsible and fair economic development, last year confirms that EU and national politics are dominated by right-wing groups. This is particularly the case with the transformation of the EU project, where budgetary austerity is the key policy guideline.

The change in governance is now based on new tools, like the Six Pack, the Euro Plus Pact and the ongoing revision of the Stability and Growth Pact, the growing intervention of the European Central Bank and the control exercised by the Commission over national budgetary policies.
And the more complex and social side of the European governance (Europe 2020 and the set of tools to be activated for a more inclusive growth) have been largely neglected.

EU strategy seems increasingly consistent with the infamous double dip: after the first 'Great Recession' of 2009, and timid signs of growth in 2010, 2011 saw a new shift into the grounds of stagnation. Alternative strategies for more dynamic growth and for the defence of social entitlements are still largely missing. Broader issues related to climate change, the adaptation of our production system to the new global (economic and ecological) challenges, the unresolved problem of the interplay between financial markets and politics, and the grant of social (collective and individual) entitlements are still in desperate need of effective solutions.

The European Union, therefore, is now dealing with crucial questions about its future sustainability. The fate of the Euro is in danger as is the very meaning of the European integration project: a new compromise between economic competitiveness and social solidarity is needed. Otherwise, the risk is that of exacerabting public disaffection towards Europe and contributing towards reciprocal accusations of egoism and a lack of strategic views among the Member States.

It is with this prospect in mind that the European Trade Union Institute has worked together with the European Social Observatory to draw up this report on Social developments in the EU 2011. We hope, this year once again, to contribute to the political and intellectual debate on the future of European integration, and to further develop the scope for dialogue between policymakers, stakeholders and the public opinion at large.

Maria Jepsen, Philippe Pochet, David Natali and Bart Vanhercke
Foreword

European paradox: is the EU running to stand still?

David Natali and Bart Vanhercke

In 2011 the European economic and social context became dramatic. In many respects the crisis (starting with the Great Recession in 2008) turned critical: the Greek ‘tragedy’ deteriorated further - with the dramatic images of street-level demonstrations and the socialist government resignation; the sovereign debt storm spread to Spain and Italy (started to touch France) and put the entire Euro-zone in danger. Even Germany experienced partial failure in its bond auctions.

In a hot summer and autumn, the crisis contributed to rapid political changes both in Madrid (with the Popular Party’s victory at the general elections) and Rome (with the resignation of the Berlusconi Government and the technocratic government of Mario Monti that received a full mandate for ‘blood and tears’ measures). In the meantime, public opinion throughout Europe shared a sense of tension and insecurity. For the first time in decades, Member States (and their public opinion) lost reciprocal trust and started to have arguments about who was guilty for the crisis. After months of tension, resentment erupted when Germans blamed Greeks for financial irresponsibility, and the latter reacted asking the former: Who do you think you are?

In parallel, a new banking crisis emerged. Governments had to intervene to support banks exposed to new tensions (see the case of the Belgian Dexia bank). The euro started to weaken in foreign exchange markets, with a new potential transformation of the crisis: from the eurozone debt

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1. As stressed by Roth et al. (2011), the financial crisis has severely affected citizens’ trust in the European institutions and especially in the European Central Bank.

In such a gloomy context, the EU seems to be running in order to stand still. On the one hand, many innovations have characterised European governance. EU institutions agreed on new measures to improve the financial stability of the eurozone and of the Member States, and the economic governance was repeatedly changed and amended (through the reinforcement of budgetary surveillance and the implementation of more stringent attempts at macro-economic coordination).

On the other hand, European socio-economic conditions are stagnating, with weak and insufficient signs of recovery. As the Commission has stated in recent documents, the unemployment rate has been just below 10% with about 23 million people looking for a job. While, in the first part of 2011, overall employment grew by more than 1.5 million jobs (much lower than the 6 million jobs lost in the previous two years), youth unemployment grew by up to 20%. Five million young people are looking for work (European Commission, 2012). And beyond the labour market, socio-economic conditions are particularly worrying. As stressed by the Commission, ‘the negative social consequences of the great recession are already acutely felt’ (European Commission, 2012: 12). The economies of many EU members came to a standstill, contributing to further budgetary tension. Social exclusion and poverty became more evident as a consequence of the Great Recession and of the regressive character of the austerity measures taken by the national governments (Taylor, 2011).

At first glance, this seems to prove that the EU strategy to exit the crisis does not work. Despite all the sacrifices and austerity measures, the European citizens’ living conditions did not improve. By contrast, they live in a ‘trap’ made of increased uncertainty, revenue inequalities and growing dependency on social assistance benefits (see Busch and Hirschel, 2011; and Tabellini, 2011 for a critical interpretation).

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3. An analysis of the socio-economic situation in the Member States shows in fact very much differences. The apparent divergence between national responses to the crisis is something else to analyse (see Hemerijck, 2012).
We briefly introduce below the two sides of the puzzle, the many institutional innovations at European level (through Treaty revisions, new governance of economic and social policies and the reinforcement of the Stability and Growth Pact); and the economic stalemate we experienced last year. We then propose, in line with many other commentators, a critical reading of the EU strategy to exit the crisis and defend the Eurozone. We look at the main tensions still in need of solutions, and the growing political tensions that are the result of the persistent legitimacy gap in the EU, and the growing distance between European policymakers and the labour movement.

The EU is running... through institutional changes and Treaty revisions

As stressed by many contributors in the next chapters, last year saw an impressive acceleration in European integration, especially concerning three areas: attempts to address the sovereign debt crisis; reinforcement of economic governance; and stricter EU control over members’ public finances.

Treaty revision for tackling the ‘sovereign debt’ crisis

A treaty change has been ratified under the ‘simplified revision procedure’ to establish the European Stability Mechanism (ESM) on a permanent basis, replacing the European Financial Stability Facility (EFSF). The ESM Treaty, currently signed by 17 countries, enshrines in international law the principle of a support mechanism available to assist euro area Member States at risk of severe financing problems (De Witte, 2011). After the ‘Euro Summit’ of October 2011, the EFSF’s resources increased dramatically. These are tools for managing government debt crises. Both funds (EFSF for the euro area alone; EFSM for the EU countries) along with IMF activities, were jointly responsible for setting up loans for countries encountering solvency problems (Barbier, 2011).

4. The next chapters will provide a more precise reconstruction of these changes: see those by Amato and Mény, and the one by Diamond and Liddle.
More advance coordination of economic policies

The above new form of EU solidarity was agreed on through the parallel emergence of a more encompassing economic convergence (sought by the German Government). Germany, in fact, made its agreement for the stability funds dependent on the adoption of ‘stronger economic convergence’ within the euro area. In March 2011, the ‘Pact for the Euro’ was agreed on by the euro area Heads of State or Government (Council of the European Union, 2011), and was then extended to countries outside the euro area (‘Euro Plus Pact’). The signatories’ intention was to adopt, on a voluntary basis, measures to enhance the competitiveness of the euro area and the European Union. In the context of the European Semester, a set of governance tools was integrated (e.g. Stability and Growth Pact; Europe 2020). All this led to a more explicit inclusion of national social and employment policies, with a focus on collective bargaining (the supposed need for decentralisation) and wage indexation.\(^5\)

Further steps towards strict budgetary control

One of the key elements of the new economic governance was the revision of the Stability and Growth Pact. This package of economic governance measures, the so-called Six Pack, was adopted by the Council in November 2011. The Six Pack (then integrated with a Two Pack of further measures) consists of a number of measures to enhance budgetary discipline under the EU’s Stability and Growth Pact, in order to ensure a satisfactory decline of public debt in the Member States, as well as a decrease in high deficits. This involves enhancing the surveillance of budgetary policies (introducing provisions on national fiscal frameworks, and applying enforcement for non-compliant euro area Member States more consistently and at an earlier stage) and of the Member States’ economic policies, so as to cater adequately for macroeconomic imbalances.

\(^5\) The last Benchmarking Working Europe (2012), published by the European Trade Union Institute (ETUI), sheds light on the recent decentralisation of collective bargaining in European countries.
Furthermore, the eurozone governance experienced innovation as well. Eurozone leaders agreed that heads of government would formally meet twice a year under their own permanent President and for the duration of the debt crisis at least monthly. This is a hugely important institutional development for the Eurozone, since it allows national political leaders to exert some supremacy over finance ministries and central bank technicians.

**The EU stands still... confidence crisis, political indecision and worrying economic trends**

Despite all of this, the economic crisis did not stop, and the political legitimacy of the EU waned. As Micossi (2011: 2) puts it, ‘Poor leadership (…) transformed a small debt crisis into a confidence crisis that is threatening the very survival of our monetary union. And (…) treaty changes under discussion are mainly motivated by political expediency and cannot tackle the existential problems affecting the eurozone and the Union’.

Political tension and the growing lack of public support did come as a surprise. EU policymakers pursued their strategy for more austerity across Europe. Austerity, austerity and more austerity! This seems to be the EU’s mantra in tackling the risks related to the sovereign debt crisis (De Grauwe, 2011a and 2011b). This is a dangerous political exercise. As stressed by Wyplosz (2010), quasi-automatic sanctions for those members not respecting the EU budgetary rules ‘sow the seeds of a major conflict between member states and the Commission and between countries, as a sanctioned country will feel abandoned by the others’ (Wyplosz, 2010: 4).

What we said in the last edition of ‘Social developments in the EU’ about 2010 (see Degryse and Natali, 2011) was confirmed in 2011. What marked the year 2011 was the further (if possible) shift of EU focus from the broad socio-economic challenges for smart, sustainable and inclusive growth to the one-dimensional austerity plans for increasing the financial sustainability of public budgets.

The balanced budget fundamentalism (in the words of De Grauwe, 2011a) is not only a politically risky exercise, but it likewise seems inadequate for a number of reasons. The first has to do with the actual reinforcement
of a deflationary bias, where the current priority in Europe ought to be growth and jobs. Targeting public sector deficits entails a continuing emphasis on austerity programmes, which poses the risk of prolonged stagnation. By contrast, the crucial challenge for the EU is high unemployment, particularly youth unemployment, and low levels of growth. These should have been a priority for EU policymakers but it was not the case (Padoa-Schioppa, 2010).

The second problem and source of incoherence has to do with the need for adequate and diversified responses to the economic imbalances of single Member States. As stressed by many (see Boeri, 2011; Schmidt, 2010), structural tensions characterised economic and trade interplay between EU members. Countries such as Greece, Italy and Spain rapidly experienced rising unit labour costs. Other Member States such as Germany and the Netherlands gained in competitiveness, accumulating growing surpluses. The problem of ‘divergent competitiveness’ (in the words of Diamond and Liddle) is still waiting for a solution.

The third limit flows from the incapacity to link the new coordination arrangements with the question of financial regulation. What was at the origin of the financial crisis in 2008, the lack of regulation of the financial markets few years after disappeared from the debate. There are separate European Commission proposals for regulating the financial sector and providing a new stability mechanism for banks. However, these are not integrated into the overall economic governance framework.

**The EU is in danger: lack of democratic legitimisation and increased tension with the social partners**

One of the major effects of the recent trends in European integration (and of the balanced budget fundamentalism) seems to be the democratic deficit and lack of popular support for the EU. This is not new, but recent steps could worsen this lack of support (see Follesdal and Hix, 2006; and more recently Degryse and Pochet, 2011).

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6. Notwithstanding the focus of Europe 2020 on growth, there is little evidence of EU action in this field. As shown by Jouen in this edition, the Structural Funds are not fully activated for that purpose.
The EU is increasingly distant from voters. On the one hand, citizens cannot understand the EU (the integration process is obscure and technocratic), and so will never be able to assess and regard it as a democratic system, nor to identify with it. In addition, the policy process is fundamentally technocratic rather than political. On the other, the EU adopts policies that are not supported by a majority of citizens in many or even most Member States (Follesdal and Hix, 2006: 537; Lanoo, 2011).7

Another key aspect in need of more analysis is the growing tension between the EU institutions and the social partners. If we look at the chronology (below in the text), it is evident that the last year has seen increased conflict between opposite views on the European Union and its normative basis. While European institutions seem to have embarked on a continuation if not reinforcement of the Frankfurt-Brussels consensus, trade unions and social stakeholders in general have reacted against it.

As concerns the above-mentioned innovations in EU governance, the main documents resulted from the European Semester (e.g. Annual Growth Survey) and the new Euro Plus Pact, and even the recent application of Europe 2020, seem to prove the evident attack on social rights. In particular, beyond the more effective control proposed on social spending, the new economic governance (e.g. the Euro Plus Pact) explicitly addresses the wage-setting process and collective bargaining and thus risks breaking down the power of trade unions to establish a ‘wage norm’ at national or industry branch level. ‘Reviewing indexation mechanisms’ means the weakening or total abolition of existing legislation in some EU Member States that, for example, provide for a more or less ‘automatic’ increase of wages or minimum wages compensating for inflation. Of course the Pact claims that all this shall be done with due respect to ‘social dialogue’. But ‘social dialogue’ would be put on a very different footing if all these measures were implemented (Dräger, 2011: 12).

7. The measures introduced in Europe 2020, for instance the seven flagships to improve consensus for the European strategies seems far from being fully effective (see Peña-Casa in this issue).
As a consequence, trade unions (at both European and national level) reacted. As it was put in a declaration on the state of the European economy (ETUC, 2011b), the EU institutions’ action was criticised: ‘The rules defined by the European Parliament, Council and Commission in the “Six pack” shift the burden of the crisis to workers and their families’ (...) ‘If governments during the 2009 recession would have been forced to follow the rules which the economic governance package is now seeking to impose, the economy would have been pushed into a full blown depression’.

Downward competition is clearly indicated by the trade union movement to be the wrong path to exit the crisis. That path is based on wages and insecure work practices, combined with irrational debt and asset price booms. Alleged ‘irresponsibly high’ wage increases had little or nothing to do with this.

The ETUC General Secretary did recently stress (Segol, 2012) that an alternative strategy should be pursued. EU action ‘stifles growth and blocks the way to job creation’ (...) ‘We can no longer ignore its disastrous social consequences and the rise of nationalism in many European countries bringing into question our essential values based on solidarity’. And with respect to the role of collective bargaining, the tone became even more crude: ‘Any attempt by the Directorate General for economic and financial affairs or the Council of Finance Ministers to use the new excessive imbalances procedure to weaken wage formation systems, to put pressure on wage and collective bargaining outcomes or to impose labour market reforms will be combated by the ETUC as being in contradiction with Article 1 of the Regulation and the principles of Article 152 of the Treaty on respecting the autonomy of social partners and the national systems of wage formation’ (Segol, 2012).

Following some of the most recent contributions of the political science literature on public policy changes and the role of interest groups (see the seminal work by the two US scholars Hacker and Pierson, 2010), we know that the politics of economic and social reforms derive from struggles between interest groups. Beyond elections, and the direct and very partial control of the electorate on policymaking, institutions respond to lobbies and groups. The changing interplay between these groups (we could also think of broader epistemic communities and advocacy coalitions) and the strengthening and/or weakening of each
group's position may alter both the politics and outcomes of reforms. Using the same approach for EU politics, we could interpret last year's innovations as a result of changing 'rapports de force' between different coalitions operating at the EU level.

What we have summarised above, the growing distance between EU leaders and the position of the trade union movement, could be the result of the progressive shift in the balance of power between economic and political interests. Neo-liberal policymakers seem to be in a stronger position vis-à-vis the labour force. The need for mediation is not perceived to be stringent, while unilateral policy measures are seen as possible and much more effective for resolving the crisis. In the words of Degryse and Pochet (this issue), the recent evolution of Europe 2020 marks the end of a compromise. This is the major risk we see for the present and future of the integration process.

Open questions on the future of Europe

The European puzzle (the EU is running to stand still) mentioned above is the main focus of this edition of 'Social Developments in the EU'. Why has Europe failed to exit the crisis? What could prevent the EU from further gaps in legitimacy? What can instil new energy into the integration project?

These broad questions are addressed in the following chapters. The book is based on two different parts. In Part One, the contributors primarily look at the main trends in EU governance in socio-economic matters. Three chapters provide an integrated view, through three complementary but diverse readings.

Giuliano Amato and Yves Mény paint a (bleak) picture of the institutional developments that marked 2011 in the EU. They stress the partly chaotic EU reply to the crisis has been developed through the introduction of solidarity mechanisms to provide financial stability to the EU (and eurozone) area; the implementation of the financial liberal orthodoxy through the reinforcement of the Stability and Growth Pact (via the Six and Two packs), the actual implementation of the new governance based on the European Semester, and the partial revision of the Treaty. The entire EU architecture seems fragile and complex, thus contributing
to the lack of clarity vis-à-vis the public opinion: What is the EU’s mission after the crisis? What can we expect in order to improve working and living conditions? These and other questions are still open for and in search of answers.

Patrick Diamond and Roger Liddle examine economic governance and the future of the euro zone in the context of the sovereign debt crisis. Here the focus is more on the substance of the EU framework, major advancements and critical points. How can economic policies be better coordinated? Degryse and Pochet in their chapter show that the European economy can be guided along a ‘path to sustainable growth’ which is less dependent on imported fossil fuels. Climate change most definitely remains the principal challenge to our model of production.

Part Two of this year’s edition analyses, from various angles, the impact of the crisis on European-level social policies and the broad range of solidarity tools in the EU toolkit. Marjorie Jouen – in Chapter four – looks at the details of the ongoing debate about cohesion policy and the revision of the Structural Funds. The activation and implementation of the revised cohesion policy was a test to see how and how much the EU managed to combine strict austerity plans (demanded of the Member States) with territorial solidarity. Unfortunately, the results have been mediocre: the Structural Funds have not been used (if not partially) to cushion the effects of the crisis. Their use has revealed contrasts due to the introduction in the debate of the theme of conditionality, that is subordinating the EU budget to the ‘golden rule’ of budgetary stability.

Chapter five sheds light on the latest trends in EU social dialogue. Stephan Clauwaert and Christophe Degryse provide a summary of the social partners’ role in approaching some of the most relevant issues in the world of labour. Some ongoing tension in the development of the European social dialogue puts it in danger, while the workforce’s persistent awareness of its importance is promising for the future.

The future of social protection systems is at the core of Chapter six, where Rita Baeten and Sarah Thomson conduct a critical appraisal of what has happened in the health sector at both EU and national level. In line with what we did last year on pensions, the authors analyse the actual trends in EU policymaking and the eventual influence on the reform process at national level. In this context, the contradictions of
the Stability and Growth Pact are bound up with the upsurge of populism in certain Member States. In healthcare we can see a trend towards a renewed interest by the EU to improve the financial sustainability of national systems.

Ramón Peña-Casas engages in a critical reading of the Social Open Method of Coordination (OMC) and the actual implementation of the European Platform against Poverty and Social Exclusion. The author sees a real risk that the liberal paradigm will dominate the social agenda in the years ahead. On the other hand, the weaknesses connected with the ‘soft’ governance of EU social policies are reappearing, without any effective solution having been found. Is it still possible to envisage real progress in respect of procedures for the management, oversight and direction of macroeconomic, micro-economic and social policies?

Lastly, Dalila Ghailani dissects the case law of the European Court of Justice, examining its judgments on the organisation of working time, the struggle against discrimination, equal treatment for men and women, and flexicurity. In so doing, she demonstrates the extent to which the European Union has a presence in the daily life of its citizens.

The different chapters prove that the EU is now at a crossroads: EU business ‘is not as usual’. It is making rapid changes and evolving in ways that in many respects seem to bring bad news for the labour movement. In the last chapter, David Natali shares some further thoughts on the key danger for the European labour movement and for citizens and workers. The provocative declaration of the European Central Bank governor, Mario Draghi, that “The European Social Model has already gone!” will be analysed, explained and criticised.

February 2012

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Is the EU becoming more like the UN? Paradoxes around EU institutional developments in 2011 and risks for future integration

Giuliano Amato and Yves Mény
(with Cécile Barbier and David Natali)

2011 was a year which highlighted the European Union’s response to the economic and Eurozone crisis. Decisions were taken in an often chaotic fashion, and in a number of stages. The strategy followed in 2011 was evidence of what we could call the ‘UN-ification’ of the European Union (EU). European integration is increasingly characterised by the following features: difficulty in taking decisions, defence of national interests, and supremacy of the larger countries (in particular the partnership between France and Germany).

This trend is the result of two ever more obvious sets of contradictions. Firstly, while the intergovernmental approach seems to have the upper hand, we are at the same time seeing the emergence of an embryonic budgetary and fiscal federalism. Secondly, the EU has received greater economic powers, yet it is not able to offset these (by direct or indirect redistribution) through the EU budget, and nor has it been given any further powers in the area of social policy. There has, moreover, been no strengthening of the democratic legitimacy of the EU. The future, therefore, gives cause for concern: further integration does not seem to be a viable option, involving as it does the risk of serious popular protests against the European process.

After the introduction, this chapter gives a chronological description of the new instruments developed in response to the crisis. The chapter by Patrick Diamond and Roger Liddle concentrates on the substance of the new economic governance, and the one by Degryse and Pochet focuses on the need for a new growth paradigm; we, in the next few pages, look at institutional issues.
In an initial section, we refer to management of the public debt crisis, beginning with the crisis in Greece between 2009 and 2011, which marked the real start of institutional change. A key feature of the EU’s response was inconsistency between a revision of the Treaty and the use of agreements based on international law (to overcome the vetoes within the Union). The main stages in the process were the support mechanism to provide stability for Greece, limited revision of the Treaty of Lisbon, and enhancement of the European Financial Stability Facility (EFSF).

In our second section, we examine the development of the concept of ‘economic governance’. The key points have been a strengthening of the role of Germany and France within the European Council, of the ECB and of the Commission, as well as the creation of new governance measures: the European Semester, the Six Pack (a revision of the Stability Pact), and the Euro Plus Pact. While the response to the sovereign debt crisis has been inconsistent, the approach taken to economic governance has clearly been a federalist one, even if not completely so.

The third part of this chapter looks at the texts currently being negotiated. It also examines the increased risk of the Union losing credibility as a result of the many Treaty revisions taking place within – or outside – of Union structures in order to strengthen a reluctant ‘budgetary federation’.

In our fourth and final section we turn to future prospects for European integration. Two future scenarios seem possible: a qualitative leap forward for European governance towards political federalism, or a rise in populism followed by a crisis in the EU.

1. The sovereign debt crisis

Table 1 shows the institutional measures taken as part of the EU strategy to address the public debt crisis, focusing on the case of Greece which was so prominent in the last year.
Is the EU becoming more like the UN?

1.1 The Greek crisis (2009-2011)

In order to understand the response of the European institutions to the crisis, we must take a look at the events of 2009. This was the year when the foundations were laid for a two-stage response: providing assistance to Greece as well as the possible establishment of a support mechanism if the crisis were to spread.

In 2009, the Papandreou government announced a public deficit that was higher than had been suggested by the figures provided by the outgoing government. In December 2009, a ratings agency denounced Greece for not complying with the Stability and Growth Pact, although it was not concerned that the difficulties might spread to other euro area countries, and spoke out in favour of retaining the recovery plans. This was the beginning of the process that would increase ‘market pressure’ on Greece. Germany hesitated, so the key principles for a European plan were adopted only in April 2010.

Following a request from the Greek authorities, the euro area Member States decided unanimously, on 2 May 2010, to activate the support mechanism to preserve the financial stability of Greece. This made use of bilateral loans from the other euro area Member States, pooled by the European Commission, and under the conditions set out in the statement of 11 April 2010. The financial assistance to Greece, set at 110 billion euros, was part of a joint programme with the IMF. To obtain these loans, Greece was required to conclude a memorandum of understanding with the European Commission, the IMF and the ECB (the so-called Troika), listing the reforms to be carried out. Greece was

Table 1  Key steps in the EU crisis strategy

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
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<tbody>
<tr>
<td>April 2010</td>
<td>1st rescue plan for Greece (support package to preserve stability in Greece), bilateral loans</td>
</tr>
<tr>
<td>2 May 2010</td>
<td>Memorandum of Understanding with the Troika</td>
</tr>
<tr>
<td>11 May 2010</td>
<td>European financial stabilisation mechanism (EFSM)</td>
</tr>
<tr>
<td>7 June 2010</td>
<td>European financial stabilisation facility (EFSF)</td>
</tr>
<tr>
<td>March 2011</td>
<td>Limited revision of the Treaty</td>
</tr>
<tr>
<td>July 2011</td>
<td>ESM Treaty</td>
</tr>
<tr>
<td>July-Oct. 2011</td>
<td>2nd rescue plan for Greece</td>
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</table>
a particular case, but it highlighted the fact that the surveillance system for public finances had not worked properly.

1.2 The 'European stabilisation mechanism'

Irrespective of the assistance provided to Greece, the key features of the European response were a limited revision of the Treaties and recourse to international law. The end result was that European integration would become even more complex and incomprehensible to the general public.

Europe’s institutions had decided to establish the European Stability Mechanism, which encompassed the Agreement on a European Financial Stability Facility (EFSF, in English, but known as the European Financial Stability Fund) as well as the European Financial Stability Mechanism (EFSM). These are tools for managing government debt crises. Both funds (EFSF for the euro area alone; EFSM for the EU countries) along with IMF activities, were jointly responsible for setting up loans for countries encountering solvency problems. The lifespan of the EFSF is confined to a three-year period (Barbier, 2011).

For the record, the EFSM is based on Article 122(2) of the TFEU (Council of the European Union, 2010). According to this second paragraph, the Council may decide by a qualified majority to grant assistance to the requesting country. The EFSF, governed by a framework agreement of 7 June 2010, is a Luxembourg-based limited company, which can issue bonds backed by guarantee commitments from the euro area Member States up to an amount of 440 billion euros. The fund could only be activated once it had been ratified by Member States representing 90% of its capital.¹

¹. According to the EFSF definition of 7 June 2010, the obligation on euro area Member States to issue guarantees for the EFSF debt instruments will enter into force as soon as a critical mass of Member States, representing 90% of shareholding, has completed the relevant national parliamentary procedures. Terms of references of the Eurogroup. European Financial Stability Facility, 7 June 2010 (http://www.consilium.europa.eu/media/6906/eurogroup_statement_on_efsf.pdf).
1.3 A limited revision of the Treaty of Lisbon

The second stage in the process was the revision of the Lisbon Treaty. Faced with public hostility to European assistance plans and uncertainty as to the opinion of its Constitutional Court, the German Chancellor had raised the question of possible revision of the Treaties. The European Council had agreed in principle to a change, to include a reference to a ‘permanent mechanism [...] to safeguard the financial stability of the euro area as a whole’ (European Council, 2010). This was the first use of the simplified revision procedure, designed to allow amendments to Part Three of the Treaty on the Functioning of the European Union, which includes provisions on economic and monetary union and those applying more specifically to the euro area Member States (de Witte, 2011). The European Council conclusions stated that ‘this mechanism will replace the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM), which will remain in force until June 2013.’

In its opinion on the draft revision to the Treaty, the ECB defended its concept of the future European stability mechanism (ECB, 2011).

In March 2011, the European Council adopted the limited revision to the Treaty. A new paragraph was added to Article 136 of the Treaty on the Functioning of the European Union: ‘The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality’ (European Council, 2011a: 21). This wording was compatible with the position of the United Kingdom, which meant that the Prime Minister, David Cameron, could then defend before Parliament a revision bringing the United Kingdom’s participation in the current mechanism to an end as of 2013.

2. ‘As this mechanism is designed to safeguard the financial stability of the euro area as a whole, the European Council agreed that Article 122(2) TFEU will no longer be needed for such purposes. The Heads of State or Government therefore agreed that it should not be used for such purposes’.

3. This revision, as it did not apply to countries outside the Eurozone, did not require a referendum to be organised, as it did not fall under Section 4 of the European Union Act, which sets out the measures to be taken to organise a referendum concerning any future extension of European Union powers, European Union Act 2011 (http://www.legislation.gov.uk/ukpga/2011/12/pdfs/ukpga_20110012_en.pdf).
1.4 Treaty establishing the European Stability Mechanism (ESM)

In June 2011, the European Council Conclusions announced that ‘agreement has been reached on the European Stability Mechanism Treaty and on the amendment to the EFSF’ (European Council, 2011b: 5).

The ESM Treaty, signed by the euro area Finance Ministers on 11 July 2011, is a treaty under international law setting up an international financial organisation with a subscribed capital of 700 billion euros, with its headquarters in Luxembourg. Other States may accede to this Treaty, currently signed by 17 countries, once they have joined the euro area. This Treaty enshrines in international law the principle of a support mechanism available to assist euro area Member States at risk of severe financing problems, if this is indispensable in order to preserve the financial stability of the euro area as a whole. Unlike the limited revision of the Lisbon Treaty, which required all countries to ratify, this Treaty did not require unanimous ratification. According to the version of 11 July, which would later be amended (cf. Section 3), it would enter into force as soon as the instruments of ‘ratification, approval or acceptance’ had been deposited by signatories representing 95% of the subscribed capital. Following this, national parliaments would have no further involvement at all in ESM procedures.

Significantly, the text makes many references to the European Treaties. In particular, it gives the Court of Justice the power to settle any disputes which might arise concerning its implementation. Basically, then, it was decided to continue with the usual *modus operandi* for managing the sovereign debt crisis. The method to be used was that of a ‘memorandum of understanding’, setting out the economic policy conditions applying to financial assistance, contained in a macroeconomic adjustment programme. The Treaty stated that in exceptional cases, the Board of Governors could organise the purchase of bonds of an ESM Member State on the primary market.
1.5 A second plan for Greece

In early June 2011, the press referred to an alarmist report from the Troika. Greece would not be able to return to the financial markets in 2012, but would require a second rescue plan. The Greek government tried its hardest to push through increasingly severe austerity plans, and announced imminent privatisation measures. On 20 June 2011, the euro area Ministers of economic and financial affairs called upon all political parties to support these measures, since ‘national unity’ was a prerequisite for success. The euro area had decided on the 30 June 2011 as the date for adoption of further measures. On 29 and 30 June, the Greek Parliament adopted a further austerity plan containing savings of 28.4 billion and privatisation to the tune of 50 billion euros.

In July 2011, the Heads of State or Government of the euro area and the European institutions took note of the main principles to be contained in a second rescue plan for Greece (Council of the European Union, 2011a). Following activation of the first, May 2010, plan, the financing available under the new plan was estimated at 109 billion euros. It allowed for an extension of the repayment deadlines (from 7.5 to a minimum of 15 and maximum of 30 years, with a grace period of 10 years). It also provided for a reduction in interest rates, as well as voluntary and exceptional involvement of the private sector (to a level then estimated at 106 billion euros). For the second plan, the euro area Member States intended to use the EFSF. The agreement of 21 July foresaw the enlargement of the EFSF, to allow it to lend money to Member States, even to those without a programme, to finance the recapitalisation of their banks, and to buy sovereign debt securities from countries in financial difficulties on the secondary market, on the basis of an analysis by the ECB.

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1.6 Enhancing the EFSF: using international financial techniques

A ‘Euro Summit’ of the euro area States was organised on 26 October 2011, after the German Parliament had voted on the outlines of the new rescue plan for Greece. According to the terms of the agreement, the German government would act in support of the European Financial Stability Facility (EFSF) to guarantee the newly issued debt of the countries in difficulty. This arrangement would preserve the independence of the European Central Bank (ECB), which Germany saw as a sacrosanct principle. France supported the idea of giving a banking licence to the EFSF, which would enable it to refinance itself from the ECB.

The Euro Summit agreed in principle to an arrangement intended to dramatically increase the firepower of the EFSF. It would have 1,000 billion euros at its disposal, instead of 440 billion, an amount beyond which Germany refused to go. To reach the sum of 1,000 billion euros, a special purpose vehicle would have to be used. This was essentially very similar to the type of financial technique so strongly criticised at the time of the sub-prime crisis in 2008.

It proved, however, difficult and laborious to boost the EFSF under the terms of the October 2011 agreement; nor was it sufficient to ‘reassure the markets’. Many economists felt that the only way to deal with the problems faced by euro area Member States in trying to seek finance would be for the ECB to play its full part as the lender of last resort, by buying up unlimited amounts of sovereign debt in order to maintain financial stability. The German government, however, refused to alter its strict views, and would not go along with the many voices asking for this sort of intervention from the ECB.

Typical, therefore, of the EU’s response to the debt crisis was a complex and inconsistent interplay between a (difficult and partial) revision of the Treaty and the recourse to international agreements to overcome national vetoes.
2. ‘Economic governance’ develops in parallel

The setting up of the financial stabilisation mechanism was not the only measure planned by the EU to mitigate the crisis. In parallel, European political decision-makers worked to enhance economic governance (cf. Table 2).

<table>
<thead>
<tr>
<th>January 2011</th>
<th>European Semester (annual growth survey)</th>
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<tr>
<td>March 2011</td>
<td>Europe 2020, Joint employment report</td>
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<tr>
<td>June 2011</td>
<td>Recommendations</td>
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<tr>
<td>November 2011</td>
<td>Revision of the Stability and Growth Pact, Six Pack</td>
</tr>
<tr>
<td>December 2011</td>
<td>Agreement on the conclusion of an international treaty</td>
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</table>

Whilst the EU response to the debt crisis was characterised by the wearisome interaction of national interests, the strengthening of economic coordination shows that progress was being made towards a still incomplete form of budgetary federalism, one which, above all, reflected the general mood of austerity. In sub-sections 2.1 and 2.2 we describe the various initiatives taken, such as the European Semester, Europe 2020, the Stability and Growth Pact and the Euro Plus Pact. In sub-section 2.3 we give a brief description of the enhanced role of the institutions.

2.1 The European Semester and Europe 2020

The beginning of 2011 marked the start of the first ‘European Semester’, a six month period during which the European Union would try out the new arrangements for economic governance. The aim was to harmonise the timetable for the presentation and evaluation of the stability and convergence programmes (SCPs) set out in the Stability and Growth Pact and the National Reform Programmes (NRPs) required under the Europe 2020 strategy (Barbier, 2011) (cf. Figure 1).
The ‘Annual Growth Survey’ report, presented in January 2011 as part of the first European Semester, listed the various measures which the Commission felt were essential to strengthen the recovery in the short term (European Commission, 2011a).

In the view of the Commission, fiscal consolidation, structural reforms and growth enhancing measures should be key elements of a euro area response to the crisis. As part of Europe 2020, the draft joint employment report stressed the need for structural reforms of the labour market. Unsurprisingly, it stated that ‘fiscal consolidation will also require a better targeting of social expenditures’ (cf. the chapter by Diamond and Liddle in this volume). The joint employment report adopted in March 2011 by the EPSCO Council repeats this and adds that ‘the need for fiscal consolidation in order to restore sound public finances intensifies the urgency of speeding up reforms of social protection systems, with particular attention to pensions and health care’ (Council of the European Union, 2011b: 24).

Another important initiative was the Euro Plus Pact. In January 2011, at the beginning of the first European Semester, the European Commission had proposed an increase in the lending capacity of the EFSF (European Commission, 2011a). Germany, hesitant as to the idea and wary of considerable public hostility back home to European assistance plans, made its agreement dependent on the adoption of a ‘competitiveness pact’, to lead to ‘stronger economic convergence’ within the euro area. Under this ‘competitiveness pact’, in particular, a principle would be enshrined in national constitutions, as had already
been done in Germany in 2009, making it a violation to exceed national limits on national debt. Initial agreement was reached on a more acceptable version of the competitiveness pact, now called the ‘Pact for the Euro’, by the euro area Heads of State or Government on 11 March 2011 (Council of the European Union, 2011c). Member States outside of the euro area were irritated by the prospect of a ‘two-speed Europe’. The ‘Euro Plus Pact’ – extended to a number of countries outside the euro area – was therefore adopted at the European Council of 24 and 25 March 2011 (European Council, 2011a).

The intention of the signatories was to adopt, on a voluntary basis, measures falling within national competence, with a view to enhancing the competitiveness of the euro area and the European Union. In the context of the European Semester, these choices are indicated in the stability and convergence programmes (Stability and Growth Pact) and in the national reform plans (which also contain reforms aimed at achieving the objectives of Europe 2020). These plans are examined by the European institutions together with the stability or convergence plans.

At the beginning of June 2011, the Commission published its guidance for national policies as well as recommendations for each country and for the euro area. Generally speaking, the Commission felt that the Member States had respected the guidelines set out in the Annual Growth Survey, but that some would have to make further efforts. As part of the Euro Plus Pact, several countries had already announced their intention to introduce further measures. The country-specific recommendations are the Commission’s response to the national programmes (SCPs and NRPs). They were discussed at the Employment and Social Affairs Council (EPSCO) on 17 June 2011 and the Economic and Financial Affairs Council (Ecofin) on 20 June, before being adopted by the June 2011 European Council, at the end of the first European Semester.

For the euro area Member States, the European Commission recommended stepping up the relevant Broad Economic Policy Guidelines (BEPGs). In the wake of the Annual Growth Survey, the Commission proposed that, for euro area countries, the BEPGs should also include reforms of national social policies. These could be reforms to social security systems with a view to achieving budgetary sustainability, with particular attention given to pension and social welfare payments, notably by adjusting pensions systems to the national demographic situation or making changes to
training or salary-indexation systems, to ensure that these develop in line with levels of productivity and competitiveness. All this would be done ‘in consultation’ with the social partners.

2.2 Enhancing the Stability and Growth Pact: the Six Pack and the Two Pack

One of the key elements of the new economic governance was the revision of the Stability and Growth Pact. This package of economic governance measures, the so-called Six Pack\(^5\), was adopted by the European Parliament on 28 September 2011 and by the Council on 8 November 2011 (cf. Box 1).

On 26 October 2011, building on the legislative package just adopted, the European Semester and the Euro Plus Pact, the euro area Heads of State or Government undertook ‘to implement additional measures at the national level’ (Council of the European Union, 2011d). The statement issued by the Euro Summit of euro area States contains commitments to ‘translate the Stability and Growth Pact into national legislation, preferably at constitutional level or equivalent, by the end of 2012’ and ‘to stick to the recommendations of the Commission and the relevant Commissioner regarding the implementation of the Stability and Growth Pact’, points 26 a) and e). For those euro area Member States subject to an excessive deficit procedure, this means that the Council and the Commission may examine their draft national budgets and give an opinion on these ‘before their adoption by the relevant national parliaments’ (point 27). The Commission ‘will monitor budget execution and, if necessary, suggest amendments in the course of the year’, and, ‘in the case of slippages of an adjustment programme closer monitoring and coordination of programme implementation will take place’. The statement also expresses the intention to move towards closer monitoring of euro area Member States, subject to an excessive debt procedure pursuant to Article 136 (point 28).

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5. The package is made up of amendments to Regulation (EC) No.1466/97 on the surveillance of the budgetary positions and economic policies of Member States; to Regulation (EC) No.1467/97 on the excessive deficit procedure; a regulation on implementing budgetary surveillance in the euro area; a regulation on the prevention and correction of macroeconomic imbalances; a regulation on enforcement measures to correct excessive macroeconomic imbalances in the euro area; and a directive on requirements for budgetary frameworks of the Member States, OJ L 306 of 23 November 2011.
Box 1 Adoption of the Six Pack

The Council adopted on 8 November a package of six legislative proposals aimed at strengthening economic governance in the EU – and more specifically in the euro area – as part of the EU’s response to the current turmoil on sovereign debt markets. More precisely, moreover, according to the Council, these measures set out to:

- enhance budgetary discipline under the EU’s Stability and Growth Pact, in order to ensure a satisfactory decline of public debt in the Member States, as well as a decrease of high deficits to be followed by achieving ambitious, country-specific medium-term budgetary objectives (four proposals). This involves enhancing the surveillance of budgetary policies, introducing provisions on national fiscal frameworks, and applying enforcement for non-compliant euro area Member States more consistently and at an earlier stage,
- broaden the surveillance of the Member States’ economic policies, so as to cater adequately for macroeconomic imbalances (two proposals). An alert mechanism is introduced for the early detection of imbalances, to be assessed using a ‘scoreboard’ of economic indicators. An ‘excessive imbalance procedure’ is also introduced, with enforcement for non-compliant Member States.

In November, as part of its preparations for the second European Semester, the European Commission presented a set of measures and acknowledged a ‘need’ to go beyond the Six Pack. It proposed two new regulations (the Two Pack) putting into legal form the undertakings entered into at the Summit of 26 October 2011. The first of these relates to enhancing the surveillance of budgetary policies in euro area Member States. It proposes the drawing up of a common budgetary timetable, and that the Commission should have the right to issue an opinion on draft budgets before their adoption by the relevant national parliament (European Commission, 2011b). Article 4 of the proposal states that the budgetary rules shall be of a ‘binding, preferably constitutional, nature’. The Commission was thus creating an across-the-board mandatory ‘golden rule’ for the balancing of budgets, something requested by Germany and France in August 2011 (cf. below). The second regulation concerned a strengthening of the economic and fiscal surveillance of euro area countries facing or threatened with serious financial instability (European Commission, 2011c). This regulation includes a principle whereby European structural fund payments to a country under surveillance or receiving assistance will be suspended if it does not respect its adjustment programme.
2.3 Role of the European Council, ECB and Commission

In parallel to these reforms of economic governance within the EU, institutional developments have affected the relative weight of the institutions.

Firstly, the European Council has taken on a more central role, and, within it, the partnership between France and Germany has become increasingly prominent. In mid-August 2011, the German Chancellor, Angela Merkel, and the French President, Nicolas Sarkozy, proposed that the President of the European Council should chair the Eurogroup meetings of the Heads of State or Government, and should create an official provision stating that these meetings would be held twice a year (Joint letter, 2011a). These measures, proposed on the basis of the ‘existing Treaties’, were presented as a way of strengthening ‘economic governance’ of the euro area. They were agreed to and confirmed by the euro area Heads of State or Government on 26 October 2011.

The second set of Franco-German proposals were an attempt to implement the undertakings entered into as part of the Euro Plus Pact. The most widely reported of these was the demand for the adoption, ‘by the summer of 2012’, of a ‘golden rule’ requiring governments to add a provision on balanced budgets to their national constitutions (as Germany had done in 2009), or to equivalent national legislation. In section 4, we emphasise the role-reversal which has taken place within the Franco-German partnership. For many years Germany had to make political concessions as a result of its post-war status, yet today Germany can impose its views and choices, since no other country is in a position to propose and impose alternative solutions.

The role of the ECB has also changed. Despite the adoption of the 21 July plan which was supposed to ‘rescue’ the euro area, Italy and Spain suffered speculative attacks in the summer of 2011. In order to combat this, the ECB intervened on the secondary debt markets for Spanish and Italian debt, since Article 123 of the Treaty on the Functioning of the European Union did not rule out this sort of intervention. In fact the ECB had already taken similar measures since the adoption of its Securities Market Programme (SMP). This action by the ECB was strongly criticised in Germany, and led to the resignation of Axel Weber, President of the Bundesbank, followed by that of Jürgen Stark,
member of the Executive Board of the ECB, both of whom were believers in strict monetary orthodoxy. Interventions by the ECB, however, also come with certain conditions attached.

In Italy, a secret letter from the President of the ECB, Jean-Claude Trichet, co-signed by Mario Draghi, his successor as of 1 November 2011, prescribed a programme of measures including reductions in civil service pay, hasty privatisations of municipal companies and amendments to labour law (extra flexibility in dismissal procedures, etc.). The letter, which was published in the Italian press, also proposed a change to the national Constitution in order to toughen up fiscal legislation, and was seen as a diktat setting out conditions for ECB intervention on the secondary debt market.

Similar events occurred in Spain. During the summer of 2011 the Spanish constitution was revised in the space of a few weeks, following agreement between the ruling majority and the opposition. Both the ‘indignant’ protest movement and the trade unions asked for a referendum on the change.

While some were in favour of a future hypothetical European Minister of Finance imposing budgetary discipline, others felt that this was a role for the European Commission. In September 2011, the Dutch Prime Minister and Minister of Finance had suggested the appointment of a Commissioner responsible for budgetary discipline, who could object to national budgetary plans not in line with European rules. They suggested that the ultimate sanction could be for a Member State to be excluded from the euro area. The Commission had then recalled that ‘neither exit nor expulsion from the euro area is possible according to the Lisbon Treaty under which the participation in the euro is irrevocable’. It was then realised that it would be possible to create the post of a Commissioner responsible for budgetary discipline on the basis of the current Treaties. On 27 October 2011, therefore, the President of the European Commission promoted the then Commissioner for Economic and Financial Affairs, Olli Rehn, to the post of Vice-President. This decision was justified by those taken on 23 and 26 October, reinforcing

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'the central role of the Commission in economic surveillance and governance across the euro area and European Union'.

The Euro Summit of 26 October, moreover, adopted ten measures to improve governance of the euro area while maintaining the current Treaties (cf. Box 2) (Council of the European Union, 2011d).

**Box 2 Ten measures to improve governance of the euro area**

The annex to the statement issued by the Euro Summit stipulates the following:

1) There will be a monthly meeting of the President of the Euro Summit, the President of the Commission and the President of the Eurogroup.

2) The President of the Euro Summit will be designated by the Heads of State or Government of the euro area at the same time that the European Council elects its President, and for the same term of office. Pending the next such election, the current President of the European Council will chair the Euro Summit meetings.

3) The President of the Euro Summit will keep the non-euro area Member States and the European Parliament informed of the preparation and outcome of the Summits.

4) The Eurogroup will strengthen surveillance of Member States’ economic and fiscal policies as far as the euro area is concerned. It will also prepare the Euro Summit meetings and ensure their follow-up.

5) A decision on whether the President of the Eurogroup should be elected among members of the Eurogroup or be a full-time President based in Brussels will be taken at the time of expiry of the mandate of the current incumbent (June 2012).

6) The President of the ECB, the Presidents of the supervisory agencies and the EFSF CEO/ESM Managing Director may be invited on an ad hoc basis to participate in the meetings of the President of the Euro Summit, President of the Commission and President of the Eurogroup.

7) Preparatory work will continue to be carried out by the Eurogroup Working Group (EWG), drawing on expertise provided by the Commission. It should benefit from a more permanent sub-group consisting of alternates/officials representing the Finance Ministers, meeting more frequently and working under the authority of the President of the EWG.

8) This working group will prepare the meetings of the Eurogroup and will be chaired by a permanent President elected in principle at the same time as the chair of the Economic and Financial Committee (EFC).

9) The existing administrative structures within the Council (i.e. the Council General Secretariat and the EFC Secretariat) will be strengthened in order to provide adequate support to the Euro Summit President. Finally, clear rules and mechanisms will be set up to improve communication and ensure more consistent messages.

10) The President of the Euro Summit, together with the President of the European Commission, shall be responsible for communicating the decisions of the Euro Summit, and the President of the Eurogroup, together with the ECFIN Commissioner, shall be responsible for communicating the decisions of the Eurogroup to the Euro Summit President.
3. **Final steps towards a reform of the Treaties**

At the meetings of the European Council, on 23 October, and the Euro Summit, on 26 October, the idea of revising the treaty, making limited amendments, was put back on the European agenda.

The German Government claimed that a reform of the treaties would be necessary in order to ‘reassure the markets’. Under the German proposals, the next steps to take would be to carry out a limited revision of the Treaty on the Functioning of the European Union, but also to transform the European Stability Mechanism into a real ‘European Monetary Fund’ (German position, 2011). These proposals would require the revision of certain articles in the TFEU and renegotiation of the ESM treaty. Once again this was a very complex strategy, broadly based on the concept of a multi-speed Europe.

According to the proposals, Article 126 of the TFEU would be revised to give the Court of Justice a role in the monitoring of budgetary discipline, and Article 121 TFEU would be amended by addition of the ‘reverse qualified majority’ procedure, which of course did not figure in the treaties as they stood. The procedure thus introduced in the *Six Pack*, and leading to the adoption of quasi-automatic sanctions, would therefore become a constitutional-type provision. This new procedure would result in a considerable strengthening of the European Commission’s powers, since the Council, in order to oppose a Commission recommendation, would have to have a qualified majority of the votes.

Germany felt that the text of the ESM Treaty was insufficient. It suggested that the ESM should be given the right to intervene in the budgets of euro area Member States subject to an adjustment programme. If these States were unable to return to a situation of ‘debt sustainability’, the ESM should be able to set up defaulting procedures, involving the private sector.

Prior to the European Council of 8 and 9 December, France and Germany submitted their revision proposals to the President of the European Council, Herman Van Rompuy (Joint letter, 2011b). The letter was a compromise: France had had to drop the idea of Eurobonds, and Germany had had to renounce involvement of the private sector in the EFSF/ESM treaty. The interim report drafted by Herman Van Rompuy,
in cooperation with the President of the European Commission, José Manuel Barroso, and the President of the Eurogroup, Jean-Claude Juncker, includes a number of these proposals. In terms of revising the treaties, the report from the President of the European Council suggests two possibilities (European Council, 2011c: point 15). The first of these takes up the Franco-German proposal to strengthen budgetary discipline by having a ‘golden rule’ inserted into national constitutions or equivalent legislation, including it in Protocol No. 12 on the excessive deficit procedure. The report specifies that countries would not need to ratify this protocol, a point which clearly raises a problem as to the legitimacy of the change. As requested by France and Germany, the Court of Justice would be charged with monitoring national transposition of this rule.

The other procedure would use Article 48 of the TFEU. Applying to euro area Member States, it would take up the idea of including a reference to reverse qualified majority voting in Article 126, and extending its scope. The Commission and the Council (the Eurogroup) would also be able to request changes to the draft budget of a euro area country subject to an excessive deficit procedure, before the draft was put to the national parliament, if the budget were not in line with the country-specific plan. The Commission would have exceptional powers in its dealings with countries receiving financial assistance, such as a right to approve ex ante any major economic reform. Changes to economic governance would be included in Protocol 14, concerning the Eurogroup.

Finally, the European Parliament had already spoken out in favour of the creation of a European Treasury (European Parliament, 2011a). In a resolution on the European Semester, it asked for the convening a European Convention to discuss revision of the treaty (European Parliament 2011b). The resolution ‘underlines, in light of the role the EFSF and the ESM are supposed to play, the need for the EP to conduct a hearing with their management staff’.

3.1 Institutional content of the agreement of 9 December 2011

Just before the European Council of December 2011, the ratings agency Standard and Poor’s announced a review of the ratings of fifteen euro area countries, including the six countries with a triple A rating (Germany, Austria, Finland, France, Luxembourg and the Netherlands), followed
by that of the EFSF. This move heightened the feeling of urgency and showed that the markets were waiting for the ECB to take action.

David Cameron had already announced his demand for exemption clauses to the working time and financial services directives if fundamental changes were to be made to the treaties. When these conditions were rejected, the British Prime Minister stood in the way of the conclusion of an agreement involving all 27 countries. A separate agreement would therefore be necessary (Council of the European Union, 2011e). The nine other non-euro countries did wish to participate in the process, although Hungary and Sweden first needed to consult their parliaments.

Decisions were taken concerning the EFSF/ESM. Implementation of the ESM treaty was brought forward to July 2012 (a year before the designated expiry date of the EFSF, to which it was intended to be a successor). This will apply as soon as countries representing 90% (instead of 95%) of the subscribed capital have completed the relevant procedures. The decision-making mechanism will be revised. Under the revised ESM treaty, well established IMF principles and practices will be ‘strictly’ adhered to. In their statement, the Heads of State or Government ‘welcome the readiness of the ECB to act as an agent for the EFSF in its market operations’. The euro area States and other countries decided on an objective of additional resources for the International Monetary Fund ‘of up to EUR 200 billion’. The statement announces that the availability of these resources will be confirmed within ten days. They will be made available in the form of bilateral loans, ‘to ensure that the IMF has adequate resources to deal with the crisis.’

A draft treaty, drawn up by the Commission and Council services, was distributed on 16 December 2011. On the previous day, the European Parliament Conference of Presidents appointed three MEPs to take part in the negotiations, which began on 20 December. The United Kingdom attended as an observer.

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7. The three were Elmar Brok (EPP, Germany), Roberto Gualtieri (S&D, Italy) and Guy Verhofstadt (ALDE, Belgium). Daniel Cohn-Bendit (Greens/EFA, France) was an alternate member within the delegation. All these MEPS were members of the Spinelli group.
The draft treaty makes it possible to enshrine in an international agreement the governance principles of the Stability and Growth Pact, revised and undergoing revision, as well as the budgetary golden rule already advocated in the Euro Plus Pact. According to the Economic and Financial Affairs Commissioner, the introduction and implementation of automatic sanctions can justify a revision of the treaty.

A new treaty would be necessary with a view to ratification by Germany of the ESM treaty. Such a treaty could be implemented ahead of time, which would confirm the view that the treaty revision of March 2011 was not necessary, except to justify the continuation of the European Financial Stability Facility (EFSF/ESM) in Germany, and to allow the United Kingdom to withdraw from the European mechanism.

4. Prospects for the future

It is difficult to take stock of a year of frenetic reform-minded activity under great pressure – even subject to threats – from the markets: both the processes themselves and their outcomes are confused and complex. In the next few pages, we report, first of all, on the most significant recent institutional developments. We then highlight the many contradictions therein. Finally, we consider the increasingly shaky prospects for the future of European integration.

4.1 Ever more rigid decision-making mechanisms

Particular procedures were often chosen partially because of the urgency of the situation. This is just one more sign that the inflexibility of the existing rules and procedures is not (or is no longer) suited to the requirements of a grouping which prides itself on being the world’s largest trading bloc, with the second most important international reserve and exchange currency. Indeed, as has been rightly pointed out by Bruno de Witte (2011), as the European Union has developed, particularly since the Lisbon Treaty, its decision-making mechanisms have become increasingly rigid at every level: from those for micro-decisions to the procedures for revision of the Treaties. In the case of these latter procedures, the blockages which take place are due to the collective inability of the countries involved to break the supreme
taboo: the need for unanimity. The value attached to unanimity is a last vestige of the traditions and conventions of international law, now applied to a system which, objectively speaking, no longer fits into the traditional mould of inter-State relations. Member States did not accept the inclusion in the European Constitution, or later in the Lisbon Treaty, of arrangements in step with the development of the European Union. Rather, they preferred to stick to the rules used in international law, which place supreme importance on the sovereign will of individual States. As a result, Member States now lack the necessary legal tools to deal with the successive crises which have occurred since 2007-2008.

The unanimity rule, which has been gradually sidelined from day-to-day decision-making processes in order to prevent the Union grinding to a halt, still applies fully to any revision of the Treaties. The necessary unanimity, moreover, has become even more difficult to achieve because of the complex institutional mechanisms within each Member State. In the good old days of diplomatic relations between the European powers, it was only the national administrations which had a right of veto. As notions of democracy have progressed, many Member States no longer hold with the illusory notion that sovereignty can be expressed by just one body. In some countries, therefore, the regions can block an agreement, in others it can be done by parliament, in still others the supreme court will rule what is possible, acceptable or out of the question. Sometimes the people themselves will decide, as was the case in Ireland. There is no longer just one State veto, but, rather, a multiplicity of potential vetoes which must be pre-empted or countered by administrations in order to prevent more serious difficulties. Worse still, while a State veto will be expressed at the negotiating table, vetoes from other institutions may only be voiced several weeks or months later, which adds confusion to uncertainty.

Demonstrably then, the rules governing revision of the Treaties are no longer suitable: the Lisbon Treaty, a treaty supposedly intended to guarantee legal security and the proper functioning of the Union for the next fifty years, was ten years in the making. The ink of the signatures, however, was scarcely dry on the page before all sorts of ideas emerged as to how to carry out reforms without having to use the usual procedures, since the urgency of the situation called for action to be taken in a matter of days, not of months or years. Where unanimity was
impossible, the Union had to resort to the tried and tested methods of international law, whereby a text was binding only on signatories, and which left by the wayside those who were against or unhappy with a measure. Official statements, of course, tried to avoid clashes with national constitutions by claiming that there had been no transfer of new powers, but rather a shifting around of powers already with the Union.

4.2 Contradictions in these institutional arrangements

In this slightly surreal situation, contradictions abound. To avoid the lengthy and complex procedures of a system which cannot correct its flaws sufficiently quickly, mechanisms must be developed which certainly address the particular situation, but which render the whole system even more complicated, incomprehensible and obscure to the average member of the public. These stopgap solutions, as they have been called, may (perhaps) help to deal with the emergency of the moment, but end up adding another layer to a baroque edifice which can only function with the help and vivid imagination of an army of hyper-specialised legal experts. As for the dream which justified the idea of a European Constitution - of creating simpler institutions, which would be easier to understand and closer to the general public – that dream died a long time ago.

There is another contradiction in the attitude of many of the Member States. These would like, on the one hand, to do without the Commission and the ‘Community method’, preferring to conclude direct agreements among themselves, but, on the other hand, they seem rather helpless when it comes to actually implementing the agreements in principle which they have reached. It might be some comfort to see the Commission brought back into the process through the back door, yet there are negative sides to this development. The situation is clearly inconsistent: the United Kingdom announced, in a spirit of generosity, that it would not fight to the death against the use of the Community institutions to prepare and then apply legal provisions falling under international law. This ‘variable geometry’ approach, moreover, puts the entire structure at risk. At first sight, but maybe only temporarily, the conclusion of these agreements suggests the triumph of the intergovernmental method. This particular intergovernmental method, however, seems somewhat strange, boiling down, as it does, to a cozy
tête-à-tête between France and Germany, with other members being told, in the manner of Margaret Thatcher, that ‘there is no alternative’.

Even within this Franco-German partnership, a role-reversal has taken place. For many years Germany had to make political concessions because of its post-war status, and showed itself ready to pay the bill for European integration if that were necessary. Now, however, Germany is able to impose its views and choices, since no other country is in a position to propose and impose alternative solutions. Its partners have no choice but to go along with German views, which will only change if Germany sees its interests directly under threat (through, for example, the collapse of the euro area). This ‘reverse veto’ is more suited to old-style international politics than to relationships within a quasi-federal Union, since, when it comes to monetary issues, the solid alliance between a country and a central bank developed according to the requirements of that country, removes almost any element of ‘checks and balances’. ‘Germany rules the waves!’

We have known for years that an intergovernmental Europe exists alongside the European Community; we likewise know that the Maastricht Treaty was what gave it resilience, tasks and procedures. Since then, however, the two Europes have followed parallel routes, except in the case of operational transfers from one to the other (as happened for a broad swathe of the so-called third pillar), as well as in the sense of building bridges to connect the two together (as happened for tools established by the Treaty to reinforce Community policies, used instead for the intergovernmental policies).

When the parallel routes of the two Europes interfered with each other in the past there was some confusion. Before the Lisbon Treaty this was the case of the combined international agreements: i.e. ones relating partly to Community responsibilities, but partly operating also as functions of the intergovernmental Union. In those instances, the same individuals took on two different negotiating roles – as Community representatives and as representatives of the individual States – and had to affix two different signatures. Yet the share-out between the two Europes was understandable (government responsibilities transferred to the higher European level/government responsibilities that remained governmental but were exercised jointly); similarly, the purpose and effects of the hybrid model were understood too.
By contrast, the hybrid model sparked by the Eurozone crisis has a completely new character, since it does not result in bridges between routes that remain parallel. Rather, it generates overlaps between the intergovernmental method and the Community method within a single route or a single procedure:

- a modification to the Treaty (additional amendment to Article 136) gives rise to an intergovernmental agreement (on the establishment of the ESM);

- an intergovernmental agreement on tightening up the Stability Pact produces a Community regulation that focuses on and organises these more rigid characteristics;

- or, thirdly, an intergovernmental agreement (the so-called Fiscal Compact) will spawn not only domestic constitutional amendments within the individual Member States, but also Community regulations.

It is difficult to form an overall opinion about all of this. Douglas Hurd, who was UK Foreign Secretary at the time, managed to explain the parallel routes of the European Community and intergovernmental Europe as being placed side by side and connected by means of Maastricht Treaty bridges, using the helpful image of pillars and an EU ‘temple’. In this way he resorted to architectural imagery that was at least comprehensible. Today’s choices appear to be dictated by political appraisals leading to a preference for any formula on which it is easier for national leaders to reach an immediate agreement, first and foremost the German Chancellor and the French President. This is the ‘Union method’ announced by the Chancellor herself in her memorable speech in Bruges in November 2010, when she defined that method as ‘the one by which the agreement is reached’. That is indeed what will happen, but it has no prospects, is indistinct and poses problems that are difficult to solve, given the competition and conflict between Community sources and intergovernmental sources. In the best of all hypotheses it is the method defined by Carl Schmitt as that of items that govern themselves. But they do so with the far-sightedness and vision deriving from those items.
This new intergovernmental method, however, which is really intergovernmental in appearance only, is fragile and already beginning to show its limitations. The only country able to stand up to Germany – to defend its own interests rather than those of the Union and the Community institutions – is the United Kingdom, largely because it does not belong to the euro area. Yet the UK preferred to use its right of veto and then withdraw, thus setting the scene for, at best, a two or more speed Europe, at worst the start of a gradual disintegration of the Union.

So we are now seeing the gradual emergence of a Europe of several concentric circles. At the centre is the biggest group: the euro area countries. Then we have the small group of countries which have refused to join the euro but have tied their national currency to the European currency (Denmark and Sweden). The third circle is made up of countries which aspire to join the euro at some point in the future. Fourthly there could eventually be those countries which have been ‘thrown out’ of the euro area, if the worst comes to the worst. And finally, seemingly on its own – but can we be so sure? – we have the United Kingdom, already outside of Schengen, and which might be tempted to go it alone, just maintaining the parts of the European construct which serve its interests: i.e. the single market. Since the common foreign policy currently seems to be going nowhere, since European defence policy exists only as bilateral arrangements, despite the presence of the military in the corridors of Brussels, and since Member States stubbornly refuse to establish a real Community budget, there is relatively little real substance to the ‘Union’. Unsurprisingly, the ‘intergovernmental method’ can quickly become just a way to defend national interests, thus leading to a small-scale ‘UN-ification’ of Europe.

There are many similarities: a large number of countries making it difficult to take decisions, the dogmatic defence of national interests, the dominance of the ‘great powers’ and an explicit or implicit right of veto. All the evidence, then, seems to go against the Community method and institutions, and to argue in favour of intergovernmental decision-making processes and the supremacy of the State. However, can we be so sure?
4.3 Federalism that lacks democratic legitimacy and solidarity

Despite this description of the decision-making methods and the tools used in the recent crisis, the substance of the policies implemented or planned is very different. Those measures already taken or currently being implemented are clearly federal in nature, although most States are very quick to decry federalism as such. Great care has been taken to avoid the ‘F word’, as Philippe Schmitter (1996) calls it, to show how unacceptable the term ‘federalism’ has now become. Once again, European governments have accepted, rather than chosen, the inevitable, while denying the real nature of these so-called ‘choices’, and using the technical and somewhat obscure nature of most of the measures adopted to disguise that nature. They have also downplayed the political significance of these measures as far as possible, stressing their technical aspects. Nevertheless, the seeds of budgetary and fiscal federalism have been sown. The damage has been done, and once the immediate crisis has passed, it will become increasingly difficult for countries to hide behind ignorance and bury their heads in the sand.

Here lies the paradox. Member States have, reluctantly, had to accept a degree of federalism which was vital in order to shore up Monetary Union. This federalism, however, is still incomplete: it lacks the solidarity which is required by and part of such a system (as was seen with the Greek bailout, which occurred despite a ban in the Treaties). It also lacks a ‘federal’ budget, which could help offset any asymmetric effects of particular measures. Neither of these aspects is (yet) on the agenda. Worse still, since governments are in a state of denial, no significant proposals can be made as to how to strengthen democracy in parallel. The European Union and the governments guiding it are storing up trouble for themselves if they continue – reluctantly - transferring ever greater competences and responsibilities to a non-government which lacks the necessary legitimacy, and which is, ultimately, accountable to no-one. We may regret the British stance, and deplore the lack of support for Europe in the Conservative government and, more generally, among the British public, but we cannot deny the consistency of their position. The same cannot be said for most of the other European governments, which, somewhat against their will, are practising a closet and disguised type of federalism.
4.4 Future scenarios

This situation could work for good or ill. To take an optimistic viewpoint, the tension between increasing EU powers and sluggish democratisation may become unsustainable. In five or ten years’ time, then, we may see the necessary quantum leap in European governance and an inevitable political federalisation. This optimistic scenario, however, could be ousted by a far more negative one, in which the crisis-stricken peoples of Europe rise up and blame the ‘faceless bureaucrats’ of Brussels for their troubles. There is a serious risk that the baby could then be thrown out with the bath water. We are already seeing numerous anti-European movements mushrooming in all Member States. On the European mainland, pro-European parties were ideologically dominant for the first fifty years of European integration, yet today the reverse is becoming true. The only potential bright spark on the horizon is that society might find itself divided along different lines. A new federal/anti-federal division could replace the old social divisions now becoming obsolete, such as that between the working class and the bourgeoisie: two social classes which have increasingly been replaced by a large middle class. The unbearable sluggishness of Brussels will not survive for long if nothing is done about the unbearable democratic lightness of the Union.

Democratically elected European governments, moreover, will find themselves increasingly bothered by the rise of populist and protest parties, objecting to the non-negotiable character of policies decided elsewhere. Parties which have always been the backbone of democracy, producing ideologies, defending interests, polarising opinions and votes in order to gain power and implement their choices, are now caught between their own national programmes and European policies over which they no longer have any control. There can be no national churches when the Pope himself is infallible! The only option, since the system itself offers no alternatives, is to create heretical churches, i.e. iconoclastic policies such as, for example, leaving the euro area, or even the Union. If the national electorate has no influence on policy, then, as has been commented by Peter Mair (Goetz et al., 2001), opponents of particular polices have no choice but to oppose Europe itself.

The position of the national parties and governments is made even more uncomfortable by a singular division of labour between the ‘federal’ level and the States. The Union, then, holds almost all powers
in the area of economic regulation, as well as a monopoly in trade negotiations. It is in no way required to concern itself with the collateral, unexpected or undesirable effects of its choices and decisions. It is the Member States – which are impacted in extremely varied ways by these policies – which must do what they can to deal with consequences which may be positive, but which may also be negative.

In the early years of the European process, Brussels held the economic powers, but could also use compensatory measures to make change more acceptable (for example the coal and steel policy or the agricultural policy). Union social policies, however, are rudimentary and involve very little, if any, direct or indirect redistribution of wealth. Many good reasons justify this division of labour, some of the most important being the very varied nature of national welfare systems, the considerable differences in income within the Union, and the enormity of trying to create a European redistribution policy, in terms of finance, management and political acceptance. Nevertheless, the facts remain. Redistribution represents the political decision par excellence, and national political parties are subject to certain constraints, whereas the Union can show a sort of ‘benign neglect’ in the matter. The long-term viability of this division of roles is questionable. We need only apply Machiavelli’s subtle observation to the Prince as to why reform is difficult: the problem is, he said, that those who will benefit from a reform are unable to imagine the future benefit, while those who stand to lose are only too aware of the future costs. We could not put it better ourselves.

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Summary

This chapter analyses the EU and the Eurozone’s fitful and uncertain search for better economic governance through the aftershocks of the biggest financial crisis to hit the developed world since 1929. It follows Wolfgang Streeck (Streeck, 2011: 1) in interpreting the Eurozone crisis as an attempt to resolve an inherent tension between capitalist markets and democratic politics, with a flawed Eurozone polity struggling to cope with a largely unreformed neo-liberal order, despite the glaring weaknesses of efficient market theory as exposed by the 2008 banking crisis. It describes the significant shifts in thinking that have had to be made by Eurozone leaders in the torrid three year period since then, from initial ‘integration fatigue’ and emphasis on the primacy of national action in the final months of 2008, through the conclusions of the Van Rompuy task force on economic governance reforms in 2010 to the Eurozone decision in December 2011 to negotiate a new treaty for a ‘fiscal stability union’.

However, the chapter argues that the proposed settlement can hardly be regarded as final. First, it contains economic flaws of its own in seeming to set Europe on a course of unremitting collective austerity without a plan for growth within a necessary and robust framework of fiscal discipline. Secondly, it remains unclear how the planned closer coordination of economic policies will address directly the problems of divergent competitiveness which lie at the heart of the Eurozone’s fiscal and banking problems. Thirdly, it raises major unresolved political questions about the relationship between stronger Eurozone governance, more intrusive of national sovereignty over a broader agenda, and in part enacted through an
international treaty not formally part of the EU structure, on the one hand; and the legal order of the EU27 on the other, where non-Euro members may or may not be signatories to the new treaty. The German Chancellor describes the measures taken to resolve the Eurozone crisis as a ‘step by step’ process that will take years before the problems are finally resolved. In that judgement she appears to be right.

The chapter concludes by assessing the prospects for a new model of European economic governance. It argues that the framework is limited because while the proposed structure genuinely seeks to address the challenge of coordinating very different national economies, there has been too little attention paid both to financial regulation and the need for a new growth agenda as an alternative to the politics of austerity. This chapter complements other contributions to the volume, including Amato and Meny’s analysis of the institutional dynamics involved in EU economic governance reform, and Degryse and Pochet’s focus on the limits of the austerity paradigm.

1. A framework for understanding the crisis

The global economic crisis that was unleashed on the world economy in 2008 has had a seismic impact throughout the developed world - deep recession and an explosion of public debt across the advanced capitalist countries, on top of which, in the Eurozone, came a crisis of sovereign debt and flawed economic governance. While many Eurozone politicians point the finger of blame for the crisis at a flawed model of Anglo American financial capitalism, the crisis has wreaked havoc on many of Europe’s banks and plunged many EU Member States into deep fiscal crisis, straining the Eurozone to breaking point. At several points in the last three years, policy makers have hoped that the worst of the crisis had passed, but as of writing, this optimism appears fragile. The European and global economy have been hit by a series of damaging ‘aftershocks’. The overall impact of the global crisis, and the highly specific governance crisis of the Eurozone, which it has brought in its train, is far from over.

The German political scientist Wolfgang Streeck has argued that the ‘great recession’ and subsequent collapse of the public finances ought to be seen as the manifestation of a basic underlying tension in western
capitalist societies which makes instability and disorder ‘the natural order of things’, rather than equilibrium and consensus. This is the ‘endemic conflict between capitalist markets and democratic politics’, which has helped to shape the present global crisis. In the post-war period, there was a general acceptance that markets ought to be subject to various forms of political control through Keynesian macro-economic management, public ownership, the welfare state and corporatist social partnership in the labour market. This basic compact fell apart in the capitalist crisis of the late 1970s, however, and notions of ‘market forces’ and ‘welfare needs’ were seen as increasingly incompatible. That led to a wave of deregulation, marketisation, privatisation and neo-liberal hegemony in the policy agendas of many advanced industrial economies. Streeck argues persuasively that the crisis of 2007–2008 is but a further stage in the crisis of post-war capitalism, characterised by the inability to reconcile politics and markets. This is seen in the collapse of a ‘privatised Keynesianism’ in which financial deregulation had enabled working families to obtain easier access to consumer and mortgage debt, particularly in the Anglo American sphere, but also in Spain, which is now unsustainable. ‘In the three years since 2008, distributional conflict under democratic capitalism has turned into a complicated ‘tug of war’ between global financial investors and sovereign nation states ...it is now financial institutions wrestling with the very states that they had only recently blackmailed into saving them’ (Streeck, 2011: 1).

In the European case the parallel projects of the Single Market and single currency, originating in the 1980s, can be interpreted as an attempt to accommodate the neo liberal economic tide in thinking and the rising power of financial markets within a European framework of deeper economic integration. These projects were motivated by political ambitions for greater unity that have proved flawed and incomplete. The EU has been struggling with that challenge ever since the collapse of Bretton Woods, first with the EMS/ERM experiment and then with the single currency. The financial crisis and the more recent turmoil in sovereign debt markets have highlighted underlying structural weaknesses in the EU’s economic governance arrangements. As Chancellor Merkel and President Sarkozy put it, ‘the current crisis has uncovered the deficiencies in the construction of EMU mercilessly’ (Embassy of the Federal Republic of Germany London, 2011). In order to address these challenges, there has to be a fundamental shift commensurate with the degree of economic and financial integration already achieved through
monetary union and the internal market. The former chairman of the US federal reserve, Paul Volcker, has analysed the nature of the European crisis thus:

‘At its roots are years of growing imbalances within [...] the Eurozone [...] The ability to borrow at low rates bridged for a while the proclivities of some countries to spend and import beyond their means, while other countries saved and invested, tending to reinforce an underlying gap on productivity between national economies. [...] Financial practices helped sustain such imbalances... Among nations dedicated to a common market and common currency the tensions are great. The plain implication... is not to retreat from an integrated Eurozone. Right now, it is a question of building protection for European banks and countries that are at risk and faced with financial breakdown. Ultimately what is needed is a new institutional structure that will require greater consistency in banking and financial standards and more broadly, will also require stronger discipline in fiscal and economic policies’ (Volcker, 2011: 3).

Deeper integration may be seen as inevitable given the extensive nature of economic interdependence in Europe, although the possibility of a break-up of the Eurozone cannot be entirely ruled out. How to define the nature and reach of this necessary further political integration, while preserving the democratic legitimacy of the nation state as regards its key responsibilities for fiscal and economic policy, is the tough and difficult issue that the EU and Eurozone are trying to resolve. Following Streeck’s argument (Streeck, 2011), this might be seen as an attempt to further reintegrate capitalist markets and democratic politics, explicitly acknowledging that nation states are no longer sovereign actors and cannot pursue policies unilaterally.

Arguably, integration is desirable whether or not Member States are euro members, though the political obstacles are formidable. Remarkably for example, British exports are now more dependent on the EU, and therefore its economic health, than it is the case with Germany. This reflects both the scale of overseas inward investment in the UK, precisely in order to take advantage of the EU single market, as well as Germany’s more successful reach into emerging markets.
2. The point of integration currently reached

Concepts of what the EU and Eurozone need to do to reform economic governance have undergone a revolution in the space of three torrid years. In 2008, Europe’s initial responses to the banking crisis were intergovernmental in method and prioritised action by the nation state. By the end of 2011, the Eurozone had signalled its intention to create in a new treaty a ‘fiscal stability union’.

A key staging post had been the recommendations of the task force on economic governance (European Council, 2010a: 1). The task force had been set up by the March 2010 European Council to present ‘the measures needed to reach the objective of an improved crisis resolution framework and better budgetary decision, employing all options to reinforce the legal framework’.

The new governance agenda agreed by the task force falls under five broad headings, as set out in the report’s recommendations summarised below (European Council, 2010b):

<table>
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<th>Greater fiscal discipline</th>
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<td>– The Stability and Growth Pact ... applied in a better and more consistent way (with) a greater focus on debt and fiscal sustainability.</td>
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<tr>
<td>– Operationalise the debt criterion in the Treaty by defining an appropriate quantitative reference.</td>
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<td>– A wider range of sanctions and measures applied progressively in both the preventive and the corrective arms of the SGP.</td>
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<td>– A higher degree of rule-based decision making [based on] a reverse majority rule: Commission recommendations would be adopted unless a qualified majority votes against.</td>
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<td>– Agreed minimum requirements for national fiscal frameworks... reflecting the EU’s fiscal rules.</td>
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<th>Broadening economic surveillance</th>
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<td>– Compliance with the SGP not sufficient to ensure balanced growth.</td>
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<td>– A new mechanism for macroeconomic surveillance underpinned by a new legal framework alongside the budget-focused SGP.</td>
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<tr>
<td>– Annual assessment of the risk of macroeconomic imbalances [by] the Commission.</td>
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<td>– An ‘excessive imbalance position’ should be launched by the Council: Euro area Member States may ultimately face sanctions in case of repeated non-compliance.</td>
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Deeper and broader coordination

- ‘European semester’, implemented as of 1st January 2011.
- Simultaneous assessment of both budgetary measures and structural reforms.

Robust framework for crisis management

- The European Financial Stability Facility (EFSF) for the euro area [already] set up and now fully operational for the next three years.
- Need to establish a credible crisis resolution framework for the euro area capable of addressing financial distress and avoiding contagion, resolutely address[ing] the moral hazard implicit in any ex-ante crisis scheme.

Stronger institutions for more effective economic governance

- Stronger institutions both at national and EU level will contribute to improve economic governance.
- At the national level, the use or setting up of public institutions or bodies to provide independent analysis, assessments and forecasts on domestic fiscal policy.
- Task Force recommendations will result in substantial strengthening of the economic pillar of the Economic and Monetary Union.
- Adoption of the secondary legislation [recommended] on ‘fast track’.

Since then a treaty change has been ratified under the ‘simplified revision procedure’ to establish the European Stability Mechanism on a permanent basis, eventually to replace the EFSF. Its date of operation has been brought forward to 2012 to operate in parallel with the EFSF, increasing the Eurozone’s ‘firepower’ to address the crisis (European Council, 2011a).

In addition, the so-called ‘Six Pack’ of legislative changes to implement in full the Van Rompuy task force recommendations was agreed under the full process of co-decision between the Council of Ministers and the European Parliament within twelve months, entering into force on 13 December 2011. The Parliament played a critical role in resisting French attempts to weaken the new ‘reverse majority’ procedure, despite the Germans making a concession on that point at the Franco-German summit at Deauville earlier in the year (European Parliament, 2011).
Why then did the European Council feel it necessary to go further in December 2011 and insist on the need for further treaty change? Two distinct strands of motivation are clear. First and foremost was the German desire to see a ‘new fiscal compact’ enshrined formally in treaty change. The content of this compact includes:

- The quantitative limits on deficits and debt
- The establishment of new independent institutions at national level to monitor compliance with the reference criteria
- The collective monitoring of both national budgets prior to their approval by national parliaments and also of Member State debt issuance plans
- The new quasi-automatic sanctions at Euro level with Commission recommendations only being over-turned by the high hurdle of ‘reverse QMV’.

In his own recommendations to the December 2011 European Council, its President, Herman Van Rompuy argued that the substance of what Germany was seeking could be achieved by legislative change within the existing treaties (European Council, 2011b). Many Member States were sympathetic to the Van Rompuy view, and fearful of the political hazards of treaty change. Yet they went along with Germany because they judged the political optics of a new treaty essential to reassure German public opinion. Many hope that this constitutionalisation of fiscal discipline will restore lost trust between Member States and enable an effective ‘firewall’ of collective guarantees of Eurozone public debt to be put in place at some point not too far in future, through some mix of an increase in the scale of resources available to the EFSF/ESM, an ECB commitment to buy bonds without limit to stem market panic, or steps towards Eurobonds.

The second motive behind the new treaty is a recognition that ‘more active use of enhanced cooperation on matters which are essential for the smooth functioning of the euro area, without undermining the single market’ as well as ‘working towards a common economic policy’ is essential within the euro area (European Council, 2011c: 4). The idea of a competitiveness pact for the Eurozone first emerged at a Franco
German summit in early February 2011. It caused an enormous storm then, as a result of both its controversial content and chosen method. The content included proposals to end wage indexation, raise pension ages and harmonise corporate taxes, causing predictable furore from Member States as diverse as Belgium and Ireland. Paul Nyrup Rasmussen, the President of the Party of European Socialists, denounced the proposed pact as an ‘austerity juggernaut’ (PES, 2011). Guy Verhofstadt, the leader of the Liberals in the European Parliament, accused France and Germany of trying to impose policies through an intergovernmentalist backdoor that sidelined the Community method and its institutions (BBC Democracy Live, 2011). The Polish government believed that it was unacceptable for the Eurozone to agree on closer economic policy coordination that excluded non-Euro Member States like them who were obligated by the treaties to join the Euro at some future point. The outcome was the Euro Plus Pact of March 2011 (European Council, 2011d: 13): This Pact focuses primarily on areas that fall within national competence and are key for increasing competitiveness and avoiding harmful imbalances. [...] Other Member States are invited to participate on a voluntary basis.’

23 of the EU27 agreed to do so. Only the Czech Republic, Hungary, Sweden and United Kingdom stood aside. The Pact talked about its signatories agreeing, *inter alia*, on common economic objectives and on an annual basis, ‘national policy commitments’ to meet them, ‘with their own policy mix, taking into account their specific challenges’. The policy areas the Pact will cover include:

- ‘Wage and productivity developments and competitiveness adjustment needs’;
- ‘Sustainability of pensions, health care and social benefits’;
- ‘National fiscal rules’;
- ‘Tax policy coordination’.

The Franco-German letter preceding the December 2011 European Council reiterated the argument for further moves to strengthen common economic policies. However, in an important development on the Euro Plus Pact, the letter demanded ‘faster progress in specific
areas’ where the EU has a clearer competence (Embassy of the Federal Republic of Germany London, 2011). It listed financial regulation; labour markets; convergence and harmonisation of the corporate tax base; and growth supporting policies and more efficient use of European funds in the euro area’. However, this agenda was not listed in the final Council Conclusions [8 op. cit.], doubtless to maximise support for the treaty change proposal among Member States like Ireland and the Eastern Europeans who traditionally have opposed any measure of corporate tax harmonisation.

The seventeen EU Member States within the Eurozone have arguably in just over three years, admittedly as a result of force majeure, confronted the need for greater fiscal and regulatory integration. Also all EU Member States except the United Kingdom and the Czech Republic agreed to consider with their national Parliaments joining the Eurozone on this journey. As the December Council Conclusions cryptically note: ‘considering the absence of unanimity among the EU Member States’, [the euro area heads of state or government] ‘decided to adopt them through an international agreement to be signed in March [2012] or at an earlier date. The objective remains to incorporate these provisions into the treaties of the Union as soon as possible’ (European Council, 2011c: 7). The treaty logic of this position is indisputable. The Treaty of Maastricht in 1992 committed all EU members to joining the single currency as soon as they fulfil the criteria and are judged economically ready to do so: only Denmark and the UK, won formal opt-outs from these provisions. The French may well prefer to see a tighter intergovernmental model of economic governance develop on a permanent basis, but that will only happen as result of a deliberate choice on the part of Britain and possibly other Euro-outs, to reject formal incorporation of these new arrangements into the European treaties.

3. The glass half-full: the political and policy shift to ‘more Europe’ since 2008-2009

To understand the current context of European economic governance, it is necessary to step back and examine how the global financial crisis has fuelled the partial shift towards further European integration over the last four years. This is a diachronic approach which examines institutional evolution in the EU across time (Hay, 2002). In the ‘Anglo sphere’, the
Eurozone is constantly criticised for its failure to ‘get ahead of the markets’ and to ‘get on top of the crisis’. The Eurozone leaders are attacked by free market American and British political commentators for their ‘obsession’ with institutions and their neglect of the policy changes they see as necessary to resolve the crisis: typically a mix of action on the part of the ECB to act a lender of last resort, the need for EU-wide bank recapitalisation, and the introduction of some form of Eurobond. In the authors’ view, there are strong merits in all of these recommendations and some progress towards them could be made within the existing framework.

However, those expressing these frustrations fundamentally misunderstand the nature of the EU polity. There is no strong executive body empowered at present to act in these ways. The EU is a constitutional order defined by the treaties signed between its members. In this constitutional order, it is inevitable that process has to come before policy. Indeed process shapes what policies are possible. More than in any other polity, the constitutional rules embody the limits of what a Union of sovereign nation states can achieve. It is an irony that those who are most Eurosceptic are often those who criticise the Union loudest for its alleged failure to trample on the sovereignty of its Member States and set aside the treaty rules that determine what they have agreed to do together and what they have not. Inevitably the development of thinking on economic governance from 2008 to 2011 has not been without contradiction and tension. The brief analysis that follows highlights the significance of the progress made before we turn to the problems that continue to blight the framing of a coherent governance response to the Eurozone crisis.

3.1 Eurozone governance: the shift in power to Heads of Government

In the midst of the 2008 banking crisis, Sarkozy, as the then holder of the EU rotating presidency, called an informal summit of Eurozone leaders. In itself this was a huge innovation. Back in 1998/1999 Germany had strongly resisted the French Socialist enthusiasm, when Dominique Strauss Kahn was Finance Minister, for a ‘gouvernement économique’ of the Eurozone. All the Germans were prepared to concede at that time was the establishment of an informal ministerial
Eurogroup of finance ministers that met in advance of the monthly Ecofin meeting. The Eurogroup ‘informals’ quickly grew in importance. The Eurogroup Finance Ministers elected in 2005 their own president in the shape of the Luxembourg Prime Minister and Finance Minister, Jean-Claude Juncker. However, until 2008 Germany had resisted Eurozone meetings at the level of heads of government, on the grounds that such highly political gatherings posed a threat to ECB independence. By 2011 Merkel and Sarkozy had proposed, and the Eurozone agreed, that heads of government would formally meet twice a year under their own permanent President and for the duration of the debt crisis at least monthly. This is a hugely important institutional development for the Eurozone – and of course for the EU27. For good or ill, national political leaders have got the upper hand over finance ministries and central bank technicians in managing the Eurozone.

3.2 Progress in overcoming ‘integration fatigue’

The EU has gradually overcome the visible ‘integration fatigue’ that was initially a drag on effective collective action. The sovereign debt crisis first broke after PASOK’s victory in the October 2009 Greek elections and the new government’s admission that the fiscal deficit would be far higher than previously claimed. There was little appetite for strong leadership from the Brussels institutions or further integrationist steps. The Lisbon Treaty was completing its tortuous path to final ratification in November 2009. It itself had been born of the failure of the Constitutional Treaty to secure ratification as a result of the French and Dutch referenda in 2005. The whole process from start to finish had taken no less than eight years from the initial Laeken Declaration. The lack of enthusiasm to put the EU at the heart of crisis resolution had already been on display in the response to the debt crises that had hit non-Euro EU Member States such as Hungary, Latvia and Romania in the immediate wake of the banking crisis; the IMF eventually took the lead with the EU in a supporting role. As the Greek crisis mounted in the New Year, the essential disposition of the Eurozone, led by Germany, was that it was one of national fiscal irresponsibility (and cheating) which should not be resolved by unjustifiable ‘transfers’ from other Member States: the Greeks fundamentally had to sort themselves out through tough measures of austerity and reform. However it quickly became clear that the bond markets would no longer lend to Greece at sustainable levels of interest.
Yet at this stage, the major concern in Chancellor Merkel’s mind appeared to be to avoid a politically controversial bail-out until the important Land elections in North Rhine-Westphalia were out of the way. An emergency summit, held on the same weekend as these elections, was intended to provide liquidity for the period that Greece could no longer access the private markets. This support was only made available at penally high interest rates and on the basis of strict conditionality. To facilitate the collective bail out, it was agreed to set up two new institutional mechanisms – the Eurozone EFSF and the smaller EU wide EFSM. These decisions represented a significant shift from a reliance on national responsibility to an acceptance of the need for collective action. Yet the mechanisms chosen were intergovernmental rather than supranational. In an emergency situation there may have been no alternative to a temporary ‘side’ agreement between Member States to set up the EFSF. However when Mrs Merkel later insisted that the permanent European Stability Mechanism had to be ratified by treaty change, there was nonetheless little inclination to ‘federalise’ decision making in the ESM on the model of the ECB. Instead decision making would be by unanimity, in order (in a comment allegedly attributed to Chancellor Merkel) ‘to keep control of our money’. The decision making rule of the ESM was eventually changed to an 85% majority by the December 2011 European Council. Germany lost nothing of course by this, but threats of veto by a Slovakia or Finland would no longer obstruct progress.

3.3 Stronger though flawed German commitment

Germany had been strongly criticised for the lack of leadership at first evident in the Eurozone. Many commentators now argue that if the Eurozone had acted quickly to restructure Greek debt and deal with the consequent banking fall-out, this would have proved perfectly manageable. Greece accounted for less than 3% of the Eurozone’s outstanding public debt. The sovereign debt crisis would not then have gathered the vicious momentum that developed over the succeeding eighteen months. Yet when the crisis broke, there was limited governance capacity in place to make this happen, and still more limited political will to fill the governance gap. In 2010 there was a fashion for writing articles about how Germany had fallen out of love with Europe and the Euro.
However, the second half of 2011 saw a definite pro European swing in the mood of the German political class, even if public opinion remained more divided. Merkel began to act on her declaration that ‘if the Euro fails, Europe fails and for Germany that would be unthinkable’ (Deutscher Bundestag, 2010). On 29 September, the Bundestag voted by 523 to 85 in support of an expanded EFSF with Merkel’s CDU-CSU-FDP coalition not having to rely on the opposition Greens and Social Democrats to secure an overall majority (Deutscher Bundestag, 2011: 46). At the CDU’s annual party congress in Leipzig in November, a strong resolution was passed reaffirming the party’s commitment to Europe and to a new treaty to take forward economic and political union (CDU, 2011). Mrs Merkel herself came out for a new treaty to establish a fiscal stability union, arguing that wider political reform would be a matter for later. The content of German policy to save the Euro may still be flawed, but the will cannot now be in dispute.

3.4 Fresh signs of life in the Brussels institutions

The Brussels institutions have begun to assert some leadership. When the crisis first broke, the European Commission, the body charged by the Treaties with responsibility to look to the European interest, was ‘hors de combat’. It was near the end of its five year term and in a weak position. Its President, Jose Manuel Barroso, felt politically constrained, given the imminent decision on his reappointment by the European Council and his need to secure European Parliament endorsement. The Commission suffered another huge blow when the newly appointed permanent President of the European Council, Herman van Rompuy, was invited to chair the task force on economic governance. In terms of the institutional balance within the Brussels system, this was a significant personal set back for Barroso and a deliberate sidelining of the Commission. It also reinforced an unfortunate separation between the new economic governance agenda, now under the leadership of the President of the Council, and the Commission’s legal responsibilities for the internal market and structural economic reforms.

The leadership of the Commission had been at fault in not focusing on the potential gravity of the gathering sovereign debt crisis. It might be argued that the leadership appeared trapped in a ‘Brussels bubble’ as it put its energies into devising and presenting its new ‘Europe 2020 Strategy’ to
replace the ‘Lisbon strategy’ launched ten years previously (European Commission, 2010). The worthy aim was to establish a clearer priority for structural reform than Lisbon, which had become criticised for the diffuseness of its objectives and weak implementation. The European Council rhetorical commitments to this strategy remained high.

‘Structural reforms are essential for a strong and sustainable recovery and preserving the sustainability of our social models. Jobs and social welfare are at stake. If we do not act, Europe will lose ground. The European Council’s responsibility is to show the way ahead’ (European Council, 2011e: 25).

A diverse range of structural reform targets were agreed:

— 75% employment rate;
— 3% of GDP to be devoted to public and private R&D;
— The 20-20-20 targets for reduced greenhouse gas emissions, the share of renewables in final energy consumption and energy efficiency;
— Targets to reduce school drop out rates and increase the share of the population with tertiary education or its equivalent;
— A new target for a reduction in child poverty.

Member states undertook to translate these EU wide targets into national targets and produce annual National Reform Programmes. The Council agreed various procedural reforms that were intended to ensure that implementation of Europe 2020 was taken more seriously than Lisbon had been.

The whole exercise however plainly lacked much sense of political urgency or real Member State buy-in. The consequence was that the EU went into the crisis with a plan for growth that was a sideshow. What should have been a set of reform priorities to offset the negative effects of fiscal austerity on growth was not properly integrated into the governance objectives for handling the sovereign debt crisis. Nor was there much visible attempt to see how existing EU instruments could be used to support Member State structural reforms – for example,
through better use of Structural Funds and the mobilisation of the EIB’s capacity to borrow at low interest rates. The Commission talked of bold ambitions to re-energise the Single Market and reform financial regulation in the wake of the crisis, but these had not been integrated into a coherent and comprehensive agenda for addressing the crisis.

These problems have not gone away since 2010. However, Van Rompuy has established himself as an important player in frequent European Council and Eurozone summit meetings. He offsets the pull towards intergovernmentalism that the increasing importance of the Franco German ‘couple’ exerts, led by Sarkozy. He has also proved his worth as a voice for the concerns of the smaller Member States. The broader economic governance agenda, to which the Eurozone has now committed itself, creates an opportunity for the Commission to develop proposals for structural reform at EU level which could be implemented for the 27 as a whole or for the Eurozone under an enhanced cooperation (with the likelihood that many Euro-outs would join in). The Commission has also begun to reassert its independence and authority as an institution – even if this means angering the German government – as shown in the proposals they presented for Eurobonds (European Commission, 2011).

3.5 New priority for financial regulation, but nowhere near enough or properly thought through

The Eurozone has made some progress in recognising the central linkages between the sovereign debt crisis and the need to reform Europe’s financial sector. In 2008, Sarkozy had invited the then British Prime Minister Gordon Brown to the Eurozone summit in order to explain the drastic emergency measures of bank recapitalisation that the United Kingdom had been forced to take. The Summit resolved to follow the British example – on a national basis, with each Member State committing to sort out the problems in its own banks. In the immediacy of the crisis, the decision to adopt a national approach made sense. Bank rescues require large amounts of money, which, in the days or even hours available to stem the crisis, only national fiscal authorities with the power to tax could provide. Yet a national approach is also inadequate. As a result of the Single Market, cross-border interconnectedness within the EU banking system is highly developed.
As the sovereign debt crisis unfolded, this interconnectedness became ever more apparent. French and German banks are massively exposed to Southern debt. British banks are in a similar position in the case of Ireland and Spain. The complex hedging instruments that financial institutions have traded with each other have unquantifiable cross border ramifications for financial stability. As Nicolas Véron has consistently argued, ‘a single European body should provide a consistent assessment of all Europe’s big banks’ capital position as the basis for a credible recapitalisation plan. Member States should be prevented from using domestic financial firms as crutches to their own credit problems, to the peril of depositors and borrowers alike’ (Véron, 2011: 1).

Only modest progress had been made towards this goal. Many Member States have traditionally seen ‘their’ banks as national champions that it is their duty to protect and nurture. The newly established European Banking Authority has conducted several rounds of gradually more rigorous ‘stress tests’, but the results have failed to carry confidence in the markets, largely because of the EBA’s reliance on national regulators to make a fair assessment of their ‘national’ bank positions. The remit of the EFSF/ESM has been extended to include bank recapitalisation, but uncertainties remain about the political will to pursue a course of action that will almost certainly lead to a major bank ‘shake-out’ across the Continent, involving controversial cross-border mergers and restructuring. The ECB’s decision in December to lend unlimited amounts of money to Eurozone banks at low interest rates has averted an incipient banking crisis and brought down sovereign bond yields in Italy and Spain. But it does not resolve the problem of ‘zombie banks’ with huge amounts of sovereign debt on their books. Rather, continental politicians have chosen to focus their attention on the introduction of an EU financial transactions tax. While this may be popular with electorates and a desirable measure to curb future financial market ‘excesses’, it does not address the current crisis in the European banking system.

4. A glass half-empty as well: the dangerous politics of collective austerity

Significant weaknesses in the proposed EU economic governance architecture remain. This chapter focuses on major deficiencies in the framework enunciated by the Commission’s communiqué and the taskforce
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These have been identified by a number of leading commentators, including the political scientist Wolfgang Streeck (Streeck, 2011) along with Andrew Watt (Watt, 2010), Senior Researcher at the ETUI in the field of economic and employment policy):

- The first is that the European Commission and the European Council are structurally disadvantaged in exercising policy discretion over Member States. This asymmetry in power resources makes it more difficult to envisage sanctions ever being imposed, particularly on the larger Member States. This casts doubt on the overall credibility of the framework.

- Second, while the proposals mark a partial shift away from the short-term focus on public sector deficits towards a focus on wider macro-economic imbalances, this is a rather limiting feature of the proposed reforms. The global crisis was caused as much by private sector debt, over-leveraged consumers, and under-capitalised banks. The continuing focus on public sector deficits is therefore inadequate, and reinforces a policy bias that the European Central Bank (ECB) must do more to correct.

- Third, the proposals may as a consequence enforce a deflationary bias, whereas the current priority in Europe ought to be growth and jobs. Targeting public sector deficits entails a continuing emphasis on austerity programmes which risks prolonged stagnation. The most profound challenge facing the EU is high unemployment, particularly youth unemployment, and low levels of growth. These ought to be a strategic priority for EU policy-makers.

- Fourth, there has been little attempt to link the new coordination arrangements with the question of financial regulation and supervision in Europe. There are separate European Commission proposals for regulating the financial sector and providing a new stability mechanism for banks. However, these are not integrated into the overall economic governance framework.

- Finally, it is not clear that policy-makers and the governing elite in Europe have grasped how urgently reforms are needed. There is a need for decisive and rapid action including a clear timetable for implementation. The risk is that the pace of institutional reform...
continues to lag behind the severe pressures and shocks inflicted by the global financial crisis. The EU must send a signal to the markets that it is capable of exerting more comprehensive political and democratic control.

The remainder of this article will address each of these points in turn.

4.1 Weak European governance

Arguably the most significant tension in the proposals concerns the likelihood of overt resistance by Member States. There is as yet no real appetite in many national capitals for treaty changes that strengthen political and economic integration. There is growing resistance to the prospect of further weakening national parliamentary sovereignty, handing over power for national budgets to apparently unelected and unaccountable Brussels ‘bureaucrats’. This is already a major issue for the forthcoming (May 2012) Presidential election in France. This has been further compounded by the crisis which strengthens instincts towards national protectionism and makes retreat from the international economy more immediately attractive.

The result is that the proposed economic governance arrangements are being politically constructed on potentially unstable foundations. It remains to be seen whether the envisaged surveillance and sanctions regime will actually be applied consistently in practice. Because of her enormous economic power, Germany has huge traction in getting her way. Yet Germany’s blatant flouting of the Stability and Growth Pact (SGP) ten years ago illustrates the underlying difficulty in upholding an EU-wide system of economic governance, in that many Member States may calculate that the regime will in the last resort never be enforced.

There is also a problem of ‘over-automaticity’ on the question of deficits and debts. Watt (2010) has noted the tension between the implied goal of fiscal consolidation and the EU 2020 objectives, many of which require significantly higher levels of public expenditure. These include reducing child poverty and widening access to lifetime learning. This may not only provide a rationale for some Member States to evade the objectives of fiscal discipline. It also underlines that room for judgement is essential in any system assessing the soundness of fiscal plans.
4.2 Economic imbalances

Since the inauguration of the Maastricht Treaty, Europe has been dominated by a conservative, anti-inflation bias. In fairness, this worked reasonably well for many economies especially those in a relatively stable ‘steady-state’. But for countries making massive adjustments in order to enter the euro in the late 1990s, they imposed significant economic pressures leading to markedly slower growth and higher unemployment. At the same time, there was a wider failure of macroeconomic policy in the EU. The ECB’s emphasis on inflation targeting (and fiscal rules), as in the case of the Bank of England, did not guarantee the stability that had been promised, as the events of 2008 and 2009 have only underlined. This is the legacy with which policy-makers must grapple today.

The scale and degree of macroeconomic imbalances between Member States had simply not been foreseen. Rapidly declining short-term interest rates for previously high inflation countries in the Eurozone created asset bubbles in some countries which exploded disastrously, particularly in Ireland and Spain. Private sector indebtedness rose exponentially throughout this period. The issue of macroeconomic imbalances both within Member States and across the Eurozone has to be seen in a broader context than simply the public sector current account deficit of any particular national economy.

The financial crisis was triggered by asset bubbles anchored in excessive levels of private debt, private consumption and private borrowing (Skidelsky, 2011; Gamble, 2009). In some economies such as the United Kingdom, Ireland, Portugal and Spain, the crisis revealed that those economies were too reliant on financial services and too exposed to the international banking system. At the same time, countries such as Greece, Italy and Spain experienced rapidly rising unit labour costs. Other Member States such as Germany and the Netherlands gained in competitiveness, accumulating growing surpluses. So the issue of imbalances needs to be considered within this broader policy context.

4.3 Countering the deflationary bias

The most fundamental weakness of the proposed economic governance arrangements is that they focus attention almost solely on deficit
countries, and as a result effectively impose deflationary policies. The risk is that an over-hasty enforcement of austerity programmes will drive Europe towards a decade or more of stagnation, and further relative economic decline. As has already been noted, the EU2020 goals recognise the importance of other policy imperatives such as progress in combating climate change, widening access to education and lifelong learning, and tackling poverty throughout Europe. But the objectives are too diffuse and member-state buy-in remains somewhat uncertain. There ought to be greater clarity of strategic purpose with a limited number of concrete initiatives focusing on how to reduce social disadvantage throughout the lifecycle from cradle to grave.

For much of the last two decades, ‘Social Europe’ has been negated at the expense of market liberalisation. The EU has often appeared oblivious to the social impact of economic restructuring, as well as to the imposition of the free movement of labour treaty obligations. This has led to an inevitable backlash against enlargement following the astonishing pace of Eastern European migration after 2004. It also appeared to confirm the dominance of a ‘neo-liberal mind-set’, weakening consent for further political and economic integration.

The fundamental problem in focusing only on austerity is that the broader context of European competitiveness is rather missed. The transition in economic power between East and West which has been accelerated by the global crisis poses enormous challenges, but it will not be addressed by merely seeking to out-compete the BRIC economies on labour costs. The only alternative open to Europe is the ‘high-road’ to economic growth based on creativity, quality, ingenuity and knowledge-intensive production. Investment in skills, research, science, and early years’ education needs to rise further, along with activation strategies to reduce long-term unemployment. A massive wave of cross-border infrastructure investment is needed, including an EU-wide Low Carbon Investment Bank financed by taxpayer backed euro-bonds.

Fixing the public finances of Member States requires a combination of limiting excessive borrowing today, combined with a long-term framework that can expand the productive potential of Europe’s economies, limiting the effects of the social ‘aftershocks’ that have occurred as a result of the global financial crisis. In other words, it means focusing resolutely on the need for a refocused social investment and
flexicurity strategy in Europe in order to underpin the new economic governance arrangements (Morel et al., 2011; Marlier and Natali, 2010).

4.4 Financial regulation

Strengthening the financial regulatory regime throughout the EU is essential in order to avoid the disorder that provoked the crisis in 2008-2009. This is crucial also for avoiding further imbalances. It is no longer possible to present financial liberalisation as unambiguously advantageous for European growth. While it appeared that having London as a global financial centre was beneficial for the EU, driving a wave of cross-border mergers and takeovers, there was too little focus on addressing the importance of regulation as the pace of EU financial integration quickened, exposing the inadequacies of the regulatory regime when the global crisis broke. Overall, Europe has suffered in the last two decades from a shift towards a lowest common denominator approach focused on liberalisation and deregulation. This is simply untenable for the future.

In fairness, the Commission has brought forward a far-reaching package of legislative proposals to attempt to fill the gaps, and pan-European regulatory bodies are being established for banking, insurance and securities. This will lead to a significant extension of EU competence which even the UK was largely persuaded to accept, in response to the public outpouring of anger at the behaviour of the banks prior to the financial crisis. However David Cameron’s December 2011 veto of a new EU27 treaty to establish a fiscal stability union, on the grounds that he could not achieve adequate protections for the City of London, including a rolling back of some majority voting provisions of the single market, demonstrates huge difficulties to come in achieving agreement on an essential part of a future economic stability agenda.

4.5 Radical and decisive action

The growing disenchantment with the European project has arisen in part because of the lack of bold and decisive action, despite the severity of the crisis in the Eurozone and beyond. This has to combine measures to deal with the immediate crisis, followed by institutional reforms that
can tackle the underlying imbalances and divergences which the crisis has merely exposed. The European institutions and the political class have to demonstrate that they are capable of taking bold and decisive action. So far, there has been too little understanding of the dynamics of bond markets, and politicians’ communication with the markets has been largely ineffectual.

The crisis has also seen the return of technocratic politicians such as Lucas Papademos and Mario Monti, both of whom are highly credible figures as the market response has so far shown. The political structure underpinning both is highly volatile, however. The political class across Europe has to clearly signal to the markets that democratic political control over the European economy will be exerted and enforced at European as well as national level. Otherwise, the Eurozone will be under continuous pressure from predator forces in the international financial markets. Both short and long-term action has to be an immediate priority for European policy-makers. This means publishing a clear and detailed timetable for implementation.

**Conclusions**

These steps towards the Europeanisation of economic governance in Europe have rightly been welcomed by many leading commentators. Most of the measures ought to have been enacted some time ago, and are essential if the euro-area is to be brought back to stability and growth. The proposals can be read as an attempt to better harmonise capitalist markets with democratic politics (Streeck, 2011). However, significant weaknesses remain which need to be honestly confronted and addressed by politicians and policy-makers. The chapter has assessed the prospects for a new model of European economic governance. It argues that the framework is limited because while the proposed structure genuinely seeks to address the challenge of coordinating very different national economies, there has been too little attention paid both to financial regulation and to the need for a new growth agenda as an alternative to the politics of austerity.

A deflationary bias which eschews the social dimension in favour of austerity will not build the political consent that Europe needs to steer a rational path out of the crisis towards stability and growth. There needs
to be an effective demand stimulus for short-term recovery in Member States with room for fiscal manoeuvre (as the IMF has recommended), a medium-term focus on levering additional growth and jobs, and a long-term objective in shifting towards more sustainable economic models. The political acceptability of European integration will depend on a bolder approach to restoring economic growth; a renewed impetus towards socially inclusive labour market and welfare state reforms; and the espousal of a new European alternative to the now discredited Anglo-American model of capitalism. Each of these goals will in turn require bold reforms to the EU economic governance architecture. There is not a moment to lose.

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Patrick Diamond and Roger Liddle


Worrying trends in the new European governance

Christophe Degryse and Philippe Pochet

Introduction

The financial crisis sparked in 2008 by the subprime market in the United States spread to the majority of European Union (EU) countries during 2008-2009. In the United States, this crisis resulted from growing inequalities and the use of private debt as a means of maintaining a certain level of spending, linked in part to the real estate bubble which (artificially) increased the value of property.

This became, first an economic crisis, then a public debt crisis, which shook the whole of the Eurozone in the course of 2011. Having initially adopted programmes to support economic activity, ‘green recovery’ and the labour market (Benchmarking, 2010), European governments from 2011 onwards have been busy implementing plans for budgetary stringency and austerity at a cracking pace, under pressure from the EU (Irvin, 2011; Le Cacheux, 2011).

This austerity, applied simultaneously and at an extremely sustained pace to almost all the EU Member States, has had and will continue to have the effect of exacerbating the social crisis linked to increasing unemployment, job insecurity, and a freeze or even a reduction in wages, social benefits, etc. Besides having a recessionary effect, at least in the short term (IMF, 2012), this over-rapid hardening of budgetary policy is also having the effect of relegating the fight against climate change to the second if not the third rank of priorities.

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1. Especially by transferring the financial industry’s private debt to public debt, and through measures to support the ‘real’ economy in order to avoid a depression.
In barely three years, this chain of events has fundamentally changed the framework of public action at national and European level. From being an attempt to balance sometimes conflicting priorities (competitiveness of the economy, quality and quantity of employment, and combating climate change by ‘decarbonising’ the model of industrial production) this has shifted to imposing an exclusive paradigm, prioritising the reform of public finances – on pain of sanctions – by means of austerity and growth. This chain of events is what we shall attempt to analyse in the first part of this contribution.

In a second part, we shall concentrate on what appear to us to be the ‘blind spots’ of the new economic governance and of the Europe 2020 strategy: an error of diagnosis (and hence of remedy), problems for institutions and for democracy, and relegating the climatic and environmental challenge to a secondary position.

1. Establishing the new economic governance

1.1 Lisbon: the death of a compromise

The Lisbon Strategy 2000-2010\(^2\) was meant to be an attempt at political compromise between differing priorities: economic, employment, social and environmental policies. The idea was to take up what had been identified as shared challenges for the EU Member States, along convergent lines: competitiveness of the economy, employment and social cohesion, and green investment to ensure a low-carbon economy.

In 2004, against the background of enlargement of the EU to include central and eastern European countries, and a political split which was increasingly favourable to right-wing and centre-right parties – both in the Member States and in the European institutions – the Lisbon Strategy suffered its first ‘wobble’. The report of the High Level Group chaired by the former Dutch Prime Minister, Wim Kok, set up to evaluate the mid-term results of the strategy, judged them to be

\(^2\) For the record, this strategy aimed to make the EU ‘the most dynamic and competitive knowledge-based economy in the world by 2010 capable of sustainable economic growth with more and better jobs and greater social cohesion’ (European Council, 2000), combating climate change (and hence a low-carbon economy), was soon added.
‘disappointing [...] due to an overloaded agenda, poor coordination and conflicting priorities’ (Kok, 2004: 6).

The report recommended that action be concentrated on the objectives of competitiveness, growth, employment and ‘sustainability’, thus effectively leaving aside the aspect of social cohesion. According to the liberal creed, of course, the fruits of economic growth will distribute themselves spontaneously, to the benefit of all. Such faith is not shared by numerous European social organisations, who emphasise amongst other things that the growth model adopted may either enhance or diminish social cohesion (EAPN, 2004).

Be that as it may, following the Kok report, the new mantra of European political discourse has become ‘Growth and Employment’. This was the ‘new start’ for the Lisbon Strategy presented by the Commission in 2005 (European Commission, 2005). This was still three years before the outbreak of the crisis. Hidden behind the priority for growth was an agenda of deregulation, including financial deregulation – the famous ‘better regulation’ (Van den Abeele, 2009), setting economies and legislations in competition with one another in order, according to this approach, to increase the overall efficiency of the economic system.

Competitiveness has become the main interpretative framework from which social and environmental benefits are supposed to flow: ‘We need a dynamic economy to fuel our wider social and environmental ambitions’ (European Commission, 2005: 4).

The last phase of Lisbon (2006-2008) was linked to relatively satisfactory macroeconomic performance, which improved the results of the indicators, although these still failed to achieve the objectives set (for a general assessment of Lisbon, see Pochet et al., 2009; also Barbier, 2011).

But two other contextual elements emerged, which were to contribute towards a considerable modification of Lisbon’s ‘end of life’ phase. First of all, the issue of climate change became much more urgent following the new report of the Intergovernmental Panel on Climate Change (IPCC) in 2007 (IPCC, 2007), including its effect on the European political agenda. With the European Sustainable Development Strategy (SDS) being implemented in parallel with the Lisbon Strategy,
began to be raised about shortcomings in European governance in this area (Begg, 2008).

Then from 2007-2008 onwards, the crisis in financial capitalism and its (lack of) political regulation called into question almost all the dogmas of neo-liberal ideology (Defraigne, 2008). As the Financial Times columnist Martin Wolf noted in the wake of the Lehman Brothers collapse, ‘undue faith in unregulated markets proved a snare’ (Wolf, 2008). This crisis, moreover, led to the failure of the Lisbon objectives for 2010.

Between the crisis at the end of the decade and the adoption of the new ‘Europe 2020’ strategy, European institutions maintained almost total ‘radio silence’. The Lisbon Strategy disappeared from public utterances. No real overall assessment was undertaken; only a modest ‘evaluation’ in the form of a working document was published in February 2010 (European Commission, 2010). And with the euro crisis beginning to emerge, the Commission found itself more and more on the back foot when faced with a European Council dominated from top to bottom by the Franco-German pairing, a Council whose visibility was only increased following the appointment of Herman van Rompuy as its full-time President (under the new provisions of the Lisbon Treaty which came into force in December 2009).

1.2 The (non-)lessons of the crisis

The financial crisis of 2008 and its multiple consequences on European territory were to cause considerable changes to the framework of public action at European and at national level. The immediate reaction of governments to the crisis, at the end of 2008 and in 2009, was to launch plans to rescue the economy and support employment, in order to stave off a major depression (Watt, 2009).

This first phase of the crisis shows the importance of automatic stabilisers (social protection) and labour market institutions which can help reduce the social impact of a recession. As Schwenninger observes, ‘The core European economies (…) [rely] on the automatic stabilizers in their social welfare systems to soften the blow to the economy’ (Schwenninger, 2010). For their part, Amable and Mayhew emphasise
that ‘those countries with stricter employment protection legislation experienced smaller increases in unemployment than those with loose employment protection. (…) Similarly, everything else being equal, those countries with higher collective bargaining coverage tend to experience lower unemployment increases’ (2011: 218).

In other words, the countries which succeed best in reducing the social impact of the crisis and in stabilising unemployment are those which have strong labour market institutions and well-organised social players. The following table shows unemployment rates before the crisis and in 2011. It shows that the five countries with the lowest harmonised unemployment rate are all countries which have the continental social model: Germany, Austria and the Benelux countries.

These countries demonstrate that it is not enough to rely on ‘a dynamic economy to fuel […] wider social and environmental ambitions’ (European Commission, 2005), but that strong social institutions are necessary to support the economy.

From an analysis of the successes and failures of this first phase of the crisis, we might have expected the outline of a change in European policy and discourse to emerge within the framework of the new Europe 2020 strategy (which has succeeded the Lisbon Strategy for the next ten years).
At the very least we might have expected the Commission’s analyses and the Council’s political and economic guidelines to recognise the usefulness of policies aimed at protecting jobs and collective bargaining systems. This, moreover, by increasing the resilience of the economy in a crisis context, would enable plans for a green recovery to be sustained and strengthened (Theodoropoulou and Watt, 2011). In short, we might have expected a paradigm shift, taking account of the fact that economic growth – greener growth – is supported by an efficient social system, and not the reverse, as was affirmed by the Lisbon Strategy in its post-Kok version.

Instead, taking advantage of the crisis having ‘switched sides’ (from being private, it became public in 2010-2011, made worse by the self-fulfilling prophecies of the ratings agencies)3, we find a new set of arguments becoming increasingly dominant, based on ‘the most pressing issues’.

1.3 The armoury of surveillance

Beginning in September 2010, especially with the proposal to strengthen the Stability and Growth Pact (by means of the six legislative initiatives known as the Six Pack)4, discourse began to focus exclusively on accelerated reduction of public deficits, from which it was hoped that renewed economic growth, job creation and competition based on innovation would all flow (see the chapter by Giuliano Amato and Yves Mény in this volume). On 11 March 2011 the Euro Plus Pact was approved, establishing enhanced coordination of economic policies among 23 Member States5. Initially called the Competitiveness Pact, this committed these States to taking enhanced measures in respect of competitiveness, employment, the

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3. It must be emphasised that the ratings agencies were far from playing the role of a ‘prophet’ in relation to private debt before the crisis of 2008 (the notorious subprime institutions had a triple A rating), but that they rushed to over-play this role once private debt had become public. By way of illustration, the economist Paul De Grauwe gives the following example, dated 25 January 2012: ‘Portuguese bonds hit as traders fear default’ (Financial Times, 25 January 2012). The markets, fearing a Portuguese default, put up their rates, thus increasing the risk of a Portuguese default.

4. The Six Pack is a set of six legislative acts designed to tighten up economic governance in the EU. Four of the texts focus on budgetary issues and the reform of the Stability and Growth Pact; the two others relate to the processes for identifying and correcting macroeconomic imbalances within the EU and the Eurozone.

5. The 27 minus the UK, Sweden, Hungary and the Czech Republic.
viability of public finances and financial stability. On 23 November 2011, the Commission proposed to add two new regulations to the Six-Pack, in order to strengthen still further economic and budgetary surveillance within the Eurozone (see below). On 9 December, Member States decided to adopt an Intergovernmental Budgetary Stability Pact. This was approved on 30 January 2012 by 25 countries (the United Kingdom and the Czech Republic are not signatories).

In this race to strengthen the armoury of multilateral surveillance, the question that arises, according to Jean Pisani-Ferry, is the following: ‘Are the Europeans right to see the strengthening of the fiscal framework as the main, possibly the only, precondition for restoring trust in the euro?’ (Pisani-Ferry, 2012).

While one plan for stringency and austerity follows another in the Member States6, Europe for its part must transform itself into a growth machine. ‘The completing, deepening and making full use of the single market has the potential to produce growth of about 4% of GDP over the next ten years’ (Council of the European Union, 2011: 2).

In parallel, the Europe 2020 strategy is pinning all its hopes on achieving this rate of growth. Unlike the Lisbon Strategy in its first version, the objective of growth is not ‘one of’ the political priorities, to be reconciled with others (quantity and quality of jobs, social cohesion, combating climate change). It has become the central requirement, whose pre-eminence is not in dispute. Even in relation to the challenge of climate change, the paradigm of ‘growth’ is no longer being questioned; the Beyond the GDP initiative, launched by the European Commission in 2007, seems to have become bogged down7. But various adjectives, intended to apply to other issues, are now being attached to this growth: growth is now ‘intelligent’, ‘sustainable’ and ‘inclusive’.

Emblematic of this is the way in which the former official concept of ‘sustainable development’ (as found in the ‘European Sustainable

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7. See website: http://www.beyond-gdp.eu/background/html. A visit in late January 2012 revealed that it had not been updated since 2009. By contrast, the OECD has pursued its thinking on this subject (OECD, 2011c).
Development Strategy (SDS)’) has been superseded by the notion of ‘sustainable growth’. According to the Commission, promoting sustainable growth means, in particular, ‘building a more competitive low-carbon economy that makes efficient, sustainable use of resources’ while protecting the environment (Europe 2020 website). It will be recalled that the basic principle of the SDS 2005-2010 was different: the aim was to investigate, in a coordinated way, the economic, social and environmental consequences of all European policies (energy, agriculture, fishing, transport, consumption and production, etc.) and to take account of these when making decisions (Gouzée, 2012, forthcoming).

The same applies with regard to the social issue: this is no longer one of the issues to be balanced against the requirements of competitiveness and the environment. It is now firmly attached to the requirement of growth, under the label of ‘inclusive growth’. The idea is to increase the employment rate, invest in training, and reduce the number of persons threatened with or affected by poverty. The causes of social exclusion are not being investigated, and remedies in the form of ‘active integration into employment’ – employment which in many cases does not exist – approximate only very loosely to a social approach to the question of exclusion (EAPN, 2011).

This first section therefore shows European priorities evolving in three stages: Lisbon 1 attempted to reconcile economic, social and environmental objectives; Lisbon 2 concentrated on the goals of competitiveness and growth through deregulation; while the launch of Europe 2020 prioritises budgetary reform and growth, without drawing any other lessons from the crisis.

2. Three ‘blind spots’ in the new governance

In this second section, we shall attempt to show that this new ‘economic’ governance established in 2011 (which in reality has become a very political form of governance) suffers from three critical weaknesses: the first relates to the diagnosis and hence the remedies chosen; the second to the institutional form this governance takes and the question of democracy; and finally the third relates to the major issue of combating climate change and the environmental crisis.
2.1 Diagnosis and remedies

A new form of narrative discourse has come to be accepted as self-evident: having squandered their budgets, Member States now have to tighten their belts. Austerity plans are the price to be paid for years of budgetary neglect. The German Chancellor, Angela Merkel, has expressed concern about ‘the extreme level of debt in some countries, often accumulated over many years’\(^8\). Is this diagnosis accurate? On closer analysis, except in the case of Greece, it appears largely unfounded.

EU Member States reduced their public deficits throughout the years following 2000 (De Grauwe, 2011); broadly speaking, they observed the convergence criteria in the Stability and Growth Pact. In 2007, the average level of budget deficit in the 27 Member States was 0.9% of GDP, well below the threshold of 3%. The crisis then raised this level to an average of more than 6% in 2009 and 2010.

The same applies in the case of public debt: from 1999 to 2007, the average level of public debt in the Member States moved from 65.7% of GDP to 59% in 2007, once again below the threshold of 60%. Between 2008 and 2010, the crisis was to bring this figure up to 80.1%.

From 2005 to 2007, Spain experienced a budgetary surplus. This plummeted in 2008 because of the financial crisis, not because of any lack of virtue. In the same way, before the crisis, Ireland had a budgetary surplus, going back to 1997. The only year of deficit for Ireland during that period was 2002, with a very slight dip to -0.4% of GDP. Suddenly in 2010 it stood at -32.4% of GDP, because of the crisis. Belgium reduced its public debt by 46 points relative to GDP between 1995 (130% of GDP) and 2007 (84%), just before the crisis. Between 2000 and 2007 its budgetary deficits were, on average, -0.37% of GDP.

With the exception of Greece, therefore, there has been no general drift which might have justified tightening the budgetary rules and imposing excessive austerity. What did happen was a rescue mission for the banking and finance industry, and support for the real economy to

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\(^8\) Interview given jointly to six daily newspapers: *Le Monde, Süddeutsche Zeitung, The Guardian, La Stampa, El País* and *Gazeta Wyborcza*, 26 January 2012.
avoid a major depression. ‘Fiscal indiscipline did not cause this crisis. Financial and broader private sector indiscipline, including by lenders in the core countries, was even more important’, as Martin Wolf rightly points out (Wolf, 2011).

These are the points on which a diagnosis should have been based: supervision and regulation of the financial industry and its role in the real economy. Not on an alleged general ‘drift’ in public finances.

The response from the European Union, as we have seen above, has consisted mainly in setting up an armoury of surveillance measures for public finances, and sanction mechanisms if thresholds are exceeded (see the chapter by Patrick Diamond and Roger Liddle in this volume). It is a bit rich to hear the former President of the European Central Bank (ECB), Jean-Claude Trichet, explaining that these surveillance measures and austerity programmes are in reality designed to re-establish markets’ confidence in the budgetary policies of Member States. According to Paul Krugman, winner of the Nobel Prize for economics, this idea is a ‘myth’ (Krugman, 2010). Be that as it may, the establishment of a punitive Europe is a response mainly to the desire to offer guarantees to the financial markets and the ratings agencies, who in turn can guarantee funding to governments at sustainable rates of interest. The year 2012 will be an opportunity to see if this line of reasoning is valid.

In the meantime, the argument runs as follows: to get Europe out of a crisis caused by the financial industry, it must re-establish confidence, within those same financial markets, by introducing structural reforms in respect of wage formation, collective agreements, pension systems and health care, and other social benefits. According to this line of reasoning, social policy becomes the main adjustment variable for managing the debt crisis (see below).

There is, nevertheless, a growing consensus among economists and in international organisations that implementing austerity plans in a concerted way and at an extremely rapid pace in Europe is likely to produce recessive effects (OECD, 2011a; IMF, 2012). A reduction in public demand coupled with wage moderation will automatically have a negative effect on growth, at least in the short to medium term.
Moreover, one can only express surprise at the fact that, four years after the start of the crisis, regulatory and governance measures for the European financial industry (rigorous monitoring of the financial sector; a tax on financial transactions; measures to combat tax havens, fraud and tax evasion; separating the activities of deposit banks from those of investment banks; partial pooling of debt, etc.) have been so slow, given the rapidity with which stringency plans have been imposed. This, incidentally, shows that dilatory moves by the financial industry are proving much more effective than social resistance to austerity measures.

2.2 Governance: democratic and social issues

The second point of criticism of the new economic governance relates both to its institutional form and to questions of democracy which it raises.

The need to integrate the demand for budgetary reform and the fight against ‘macroeconomic imbalances’ into the core of the Europe 2020 strategy is reflected in the implementation, from 2011 onwards, of what is called the ‘European semester’. Very schematically, this is a procedure which extends from January to July every year, and which aims to supplement the budgetary surveillance carried out by Member States – as already provided for under the Stability and Growth Pact – with monitoring of macroeconomic imbalances, the adoption of national programmes of structural reforms (labour markets, pensions, the public sector, liberalisation, etc.) and finally with the adoption of ‘recommendations' addressed specifically to Member States (see Giuliano Amato and Yves Mény in this volume).

Whereas previously the Stability and Growth Pact and the Lisbon Strategy were two distinct exercises, under Europe 2020 these have been brought together in a single process. What is more, this process covers a considerably wider field, since now all macroeconomic imbalances may be subject to preventive or even corrective action by the EU: current account balances, external debt, market share of exports, unit labour costs, real exchange rates, unemployment trends, private sector debt, credit flows to the private sector, property prices, public sector debt.
Quite apart from the fact that this integration of different processes leads to a structure of unparalleled complexity – even without including the expected effects of the intergovernmental treaty – it makes the decision-making process completely opaque. And it is to be feared that this opaqueness will lead to the disappearance of public consultation and democratic debate, whereas the processes being implemented have a huge potential impact on national policies, at a budgetary and at a social level (Degryse and Pochet, 2011).

2.2.1 Democratic issues
Under the two proposed regulations adopted by the Commission to supplement the Six Pack, the Eurozone countries will in future have to table their draft budgets during the same period each year, allowing the Commission to scrutinise them, and where necessary express an opinion on them. This means that the Commission will be able to ask for them to be revised if it considers that they fall seriously short of the political objectives set by the Stability and Growth Pact. The second regulation will strengthen the surveillance of those Member States which benefit from a programme of financial assistance, or which face a serious threat of financial instability. Under this regulation, the Commission may decide whether a Member State in difficulty should or should not be subject to enhanced monitoring, while the Council may recommend that the Member State concerned should apply for financial assistance.

These measures, especially the first proposed regulation, have been the subject of heated debates in the Member States. For some people, such as the economist Paul De Grauwe, the fact that the Commission may be given the right to interfere in national budgets raises a real problem of democratic legitimacy. ‘The problem here is that the European Commission is not bearing the political cost of its decisions’, he writes. If such a power were to be granted to it, the Commission would have to be politically answerable to an elected body, in this case the European Parliament.

More generally, in institutional terms and in terms of implementing ‘economic governance’, numerous questions have been raised by various observers with regard to democracy and public consultation (Dewitte, 2011; Barbier, 2011; Degryse and Pochet, 2011).

According to Dewitte, following the ‘market failures’ in the banking and financial industry, questions may be asked about a potential ‘democratic failure’ in implementing the new governance. One might mention all the decisions taken in 2011 to save the euro, without having been subject to public consultation and parliamentary debate: the establishment of a European Stability Mechanism, the Euro Plus Pact, the self-proclaimed ‘Eurozone summits’, writing the ‘golden rule’ into national constitutions, Europeanisation of the procedure for adopting national budgets (ex ante) in a way that limits the prerogatives of national parliaments, Franco-German leadership of economic governance at Heads of State level (the so-called ‘Merkozy’, which considerably reduces the influence that can be exerted by other governmental and social players), and so on. To this one might add: the frenetic pace of reform programmes imposed by the EU (Commission and ECB) and the International Monetary Fund (IMF), on Member States existing on a financial drip-feed, or the threat of it; secret injunctions sent by the European Central Bank to one of the founding members of the EEC, dictating what economic and social measures should be taken as a matter of urgency...

As Streeck has shown, the result is that ‘citizens increasingly perceive their national governments, not as their agents, but as those of other states or of international organizations, such as the IMF or the European Union, that are immeasurably more insulated from electoral pressure than was the traditional nation-state. In countries like Greece and Ireland in particular, anything resembling democracy will be effectively suspended for many years as national governments of whatever political color, forced to behave responsibly as defined by international markets and organizations, will have to impose strict austerity on their societies, at the price of becoming increasingly unresponsive to their citizens’ (2011).

This kind of ‘democracy under surveillance’ is, in the view of some people, a ‘necessary evil’ in order to weather the storm of the crisis. The problem is that the measures adopted or in course of being adopted by
the EU, far from being temporary emergency measures, are intended to be permanent and, in the hallowed phrase, ‘carved in stone’. This means that in future they can be changed only with difficulty if there is a major change in the economic or social context, or in political majorities in the Member States, or in the dominant paradigm. The negotiation of a new treaty involving major constitutional changes (writing the ‘golden rule’ into national constitutions) without democratic consultation is certainly the most striking example of this. The European Trade Union Confederation (ETUC) was not taken in; for the first time in its history it has called for opposition to a treaty in the course of negotiation (ETUC, 2012).

2.2.2. Social impact

What future is there for the European social model in this race for stringency? In these processes of multilateral surveillance, a whole set of social measures (‘structural reforms’) are being put in place, designed firstly to speed up the streamlining of public finances, and secondly to strengthen the competitiveness of the economy. The EU, of course, does not have the juridical powers – or if it has, they are very weak – to deal with questions such as national systems of indexing wages, collective bargaining, or pensions.

Specifically on the issue of wages, the EU is asking those countries which have adopted a system of indexation to ‘reform’ it (remember that the four countries that have such a system have an unemployment rate well below the European average – see Table 1). The EU keeps repeating the need to align wages on individual or regional productivity, and in some cases is calling for collective bargaining systems to be revised. There are, however, no significant data allowing one to argue along these lines; an internal document from the Commission’s DG ECFIN concludes that there is no correlation between the level of wage coordination and an effect on unemployment.

On pensions, the EU is calling for careers to be extended, and for pension systems to be adapted to the evolutionary trend in life expectancy (thus following the Swedish model). On jobs, the idea is to ‘activate’ all those groups which are tending to move away from the labour market: older workers, women, young people, especially those who are a product of immigration, disabled persons, etc. On poverty, the majority of measures
Worrying trends in the new European governance

proposed also refer to ‘activation’ through employment and vocational training; not a word is said about redistribution.

We are not seeking to deny that structural reforms may be necessary. But we observe two types of imbalance. On the one hand, measures to re-start the economy relate essentially to supply-side policies designed to provide firms with the best environment possible. Demand-side policies appear to be totally lacking.

On the other hand, ‘ready-made’ measures addressed to Member States sometimes appear to be inspired more by ideological motivations than by actual findings of any shortcomings or deficiencies. The EU seems to be acting as if the crisis were a window of opportunity to impose its own reforms. This European ‘social’ policy which is becoming established is being used as an adjustment variable for the debt crisis (see above) and as a productive factor with the principal purpose of strengthening the competitiveness of undertakings and of the economy as a whole.

As Richard Hyman from the London School of Economics has written, such a policy, instead of protecting vulnerable people from the market, is increasingly seen as helping them adjust to markets. ‘Hence it is entirely logical that (...) DG ECFIN should increasingly take charge of the formulation of social policy’ (Hyman, 2011). As Höpner and Schäfer (2008) have also stressed, the EU is playing an increasing role in the commodification of social relations, not in offering protection against ‘the market at all costs’, or developing a shared social dimension. This, finally, is what Bruno Palier highlights about those Member States with a Bismarckian tradition: social policy has to change in order to become compatible with the new dominant economic and monetary paradigm (Palier, 2011).

The same applies when Belgium is asked to put back the statutory retirement age – with a view to making the public finances more sustainable – whereas the main problem for Belgium is too high a rate of early retirement. Moreover, this country’s social model is subject to widespread criticism (Belgium is the recipient of no fewer than nine recommendations in the social field, making it one of the countries
most subject to pressure from Europe, along with the Czech Republic, Malta and Spain), while traditional indicators show that it has stood up to the crisis better than the vast majority of other Member States\(^\text{10}\). Some may therefore be tempted to see this exercise, not as an analysis based on facts, but as reflecting a war of ideological models, taking no account of the specific situations, performances and problems encountered.

On the other hand, where the EU has real power under the Treaties – in this instance for the promotion of social dialogue (Article 154 TFEU) – it finds itself swimming against the tide. As Degryse and Clauwaert emphasise in their article in this volume, national social dialogue institutions are now being called into question in a number of Member States, partly as a result of pressure from Europe (see also Clauwaert and Schömann, 2012), at a time when European social dialogue at a cross-industry and sectoral level is in difficulty (OSE, 2011). Many writers, of course, have highlighted the fact that properly functioning social dialogue institutions are a means of reducing the impact of the crisis (Laulom et al., 2012).

Lastly, we would emphasise that a whole series of fundamental social issues are being ignored by the new governance and the Europe 2020 strategy. For example, the issue of decent jobs and poor workers. The currently much-heralded German model may be seen as exemplary in this regard: according to a study carried out by the University of Duisburg-Essen, 22% of German employees earned less than 8.50 euros an hour in 2009, while 4% (i.e. 1.2 million persons) earned less than five euros. According to the authors of the report, the low-wage sector developed especially towards the end of the 1990s and in the early 2000s, under the ‘Hartz’ reforms (Kalina and Weinkopf, 2009). This to a great extent explains the present competitiveness of the German model, but is this really the right path to follow? If all the Eurozone countries base their competitiveness on lower wages, this will lead to a spiralling race downwards, the very opposite of the objective, proclaimed

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\(^{10}\) The Belgian socialist trade union (FGTB) states in its Baromètre socio-économique, based on data from the OECD and Eurostat, that in the period 1996-2007, i.e. before the financial crisis, growth in the real added value of the Belgian economy and growth in employment were higher than in Germany; that on the issue of inequality in society, Belgium performed better in 2009 than Germany, according to the Gini index; that the risk of poverty among workers is lower in Belgium than in Germany, France or the Netherlands; that the proportion of least well-paid workers is significantly lower in Belgium than in Germany, etc.
in the Treaties, of ‘improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained’ (Art. 151 TFEU).

In the same context, what about the increasingly unequal distribution of the fruits of growth? What about fiscal policy as an instrument to ensure greater social justice in the present context? A recent OECD report reveals that, even in traditionally ‘egalitarian’ countries like Germany, Sweden and Finland, inequalities grew between 1985 and 2008 (OECD, 2011b). There can, of course, be no sustainable exit from the crisis without a reduction in inequalities (Wilkinson and Pickett, 2009; Reich, 2011).

What is more, at the beginning of 2012 we are starting to see the environmental consequences of the economic and social crisis. In Spain, the new conservative government has announced that aid for new renewable energy installations is to be suspended (Spain is the largest producer of wind energy in Europe)\(^{11}\). In Belgium, the government has ended the federal premium on vehicles with low CO\(_2\) emissions, and tax reductions for certain insulation projects. On 10 January 2012 the World Wide Fund for Nature (WWF) made an appeal to the Commission, the IMF and the ECB, pointing out that in Greece environmental policies are being put at risk by the rescue plans. ‘A real, undeclared environmental crisis’ has broken out, because of reductions in staffing levels, the legalisation of unlicensed construction projects, and a relaxation of the environmental rules in order to facilitate investment (WWF, 2012). This clearly reflects the fact that, one way or another, social and environmental issues are inextricably linked (Laurent, 2010).

2.3 The issue of climate change

The fight against global warming and the promotion of sustainable development had helped structure Member States’ plans for economic recovery following the crisis of 2008 (Benchmarking, 2010). Between November 2008 and January 2009, all the major EU economies had

\(^{11}\) *Le Monde*, 2 February 2012.
adopted such plans, at a total cost estimated by HSBC at 325.5 billion dollars (HSBC, 2009). These plans provided, among other things, for increased public investment in energy efficiency, research and development, railway infrastructure, etc. (Watt, 2009). These then slotted into a 'European' plan for economic recovery which set itself the task of smoothing the transition to a low-carbon economy (renewable energy, clean transport, etc.) (European Commission, 2008).

2.3.1. From climate Keynesianism ...

The crisis was therefore seen as an opportunity for combating climate change and re-directing the European economy along a genuinely sustainable path; it would stimulate 'green growth', clean technologies and renewable energy to produce a carbon-free economy. Thus a Swedish government minister, on taking over the Presidency of the EU Council, declared that the crisis was 'a golden opportunity to re-direct our economy towards eco-efficiency'. The time appeared to have come for a green 'New Deal', or 'climate Keynesianism', to borrow a phrase from Newell and Paterson (2010). But disillusionment was to follow.

As a period of stringency and austerity began, no environmental conclusions were drawn from these recovery plans. In December 2009, the results of the Copenhagen conference on climate change fell well short of expectations for a Europe which had hoped to take the leadership role in these negotiations, but was not followed by the international community.

With its Energy-Climate package, the EU had committed itself, among other things, to reducing its CO₂ emissions by 20% by 2020, as compared to 1990. Provided there was an international agreement, it was prepared to raise this target to 30%, but this was not done (even though the target for 2050 is 80-95%) (European Commission, 2011). The Cancun conference (December 2010) was to produce better results, but European ambitions seemed to have been 'dowsed'. In a fairly Delphic text, the European Commission 'does not suggest to set new 2020 targets, nor does it affect the EU’s offer (...) to take on a 30% reduction target for 2020, if the conditions are right' (European Commission, 2011).
Moreover, although the European Sustainable Development Strategy (SDS) continued to exist alongside the Lisbon Strategy until 2010, it was not then extended in the framework of Europe 2020.

It must be emphasised that in 2010, the EU saw an increase of 2.4% in its CO₂ emissions, while at world level, ‘annual global carbon dioxide emissions from fuel combustion grew about 38% between 1990 and 2009, with the rate of growth faster after 2000 than in the 1990s. Even with aggressive action to reduce emissions, the world would still face challenges to limit global temperature increase to 2 degrees Celsius since pre-industrial times’ (United Nations, 2012).

2.3.2. ... to Utopian capitalism
Admittedly, in the Europe 2020 strategy, the economic growth target is accompanied by the adjective ‘sustainable’. According to the Commission, this means a reduction in the intensity with which resources are exploited and consumed (‘decoupling’), thus protecting the environment and biodiversity, and technical innovation (ecological production methods). But recent studies have cast doubt on whether this vision of sustainability is sufficient to achieve the targets set without a much more substantial political effort.

Thus Tim Jackson has shown that decoupling production from its intensity in terms of energy and raw materials currently remains a ‘myth’: over the last 25 years, the trend in consumption of fossil fuels – oil, coal, natural gas – and raw materials has by and large followed the development of worldwide GDP (Jackson, 2009; see also Coutrot and Gadrey, 2012; for a critical discussion of the impossibility of achieving absolute decoupling between economic growth and its environmental impact, see Laurent, 2011). It has, moreover, long been shown that improving energy efficiency usually leads to higher overall energy consumption. The energy question therefore remains an outstanding issue.

In confronting this issue, the EU is moving from ‘climate Keynesianism’ to a ‘capitalist Utopia’, once again using the terminology of Newell and Paterson (2010). Clean technologies, energy efficiency, and especially

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12. On this subject, cf. the Jevons paradox.
the European Union Emissions Trading System (EU ETS)\(^{13}\) should make it possible to reduce CO\(_2\) emissions and so achieve the EU targets under the Kyoto Protocol.

Newell and Paterson make the point that ‘the plausibility of this scenario rests on the assumption, common to many advocates of the neoliberal approach to climate change, that the key to decarbonisation is to set appropriate carbon prices. This would create such a powerful incentive (...) that financial markets will do the rest, directing investment towards ever greater energy efficiency and towards non-carbon energy sources. (...) There is a very strong faith in the powers of markets underpinning this scenario’ (Newell and Paterson, 2010: 173).

Nevertheless there are, in their view, many reasons to be sceptical about the idea that a high price for carbon in itself might be sufficient to affect all aspects of the world economy without any intervention by governments. For Eloi Laurent, the question is therefore clear: ‘Is the EU climate strategy a mere replay of the doomed Lisbon Strategy that failed due to the lack of willingness on the part of EU decision-makers to endow the Union with adequate instruments to engage in efficient economic collective action?’ (Laurent, 2012). A gap is gradually opening up between objectives and the means of combating climate change. According to Béla Galgóczi, ‘on the one hand, we have ambitious targets and promises but it is still uncertain by what means and at what price these objectives could be achieved’ (Galgóczi, 2012).

A report from Carbon Tracker Initiative also shows convincingly that the agenda of the financial markets is far removed from that of decarbonising the economy, and that it is therefore dangerous to rely on them to make a contribution towards achieving climate targets. Thus, to summarise this report, the Cancun agreement commits the international community to limiting global warming to 2°C. According to the report, this means, for the period 2011-2050, a maximum emission of 565 gigatonnes of CO\(_2\) (Carbon Tracker Initiative, 2011). Beyond this threshold, global warming would exceed 2°C. In other

\(^{13}\) The ETS establishes a market in carbon, allowing each undertaking to buy or sell its ‘right to pollute’. Every undertaking is allocated an annual emissions ceiling; firms which exceed this ceiling have to buy quota from firms which have managed to ‘save’ them.
words, to meet the Cancun target, we are left with a maximum annual carbon ‘budget’ of 565 GtCO₂. But potential CO₂ from the Earth’s proven reserves of fossil fuel (coal, oil and gas) is around five times greater, at 2,795 GtCO₂. The conclusion is that only 20% of proven reserves of fossil fuel can still be burnt. 80% of them are ‘unburnable’ (in spite of potential solutions involving carbon capture and storage, as the authors of the study explain). The greatest share of these fossil fuel reserves are held as assets by some 200 companies involved in oil, mining, etc. The financial markets – mainly in the United States, United Kingdom and the BRICS – are therefore sitting on vast reserves of fossil fuel which cannot be burnt. To take the example of the United Kingdom, ‘individual companies such as BP, Royal Dutch Shell, Xstrata, BHP Billiton and Anglo American, each have greater CO₂ potential in their reserves than can be emitted under the UK carbon budget to 2050’, according to the report.

If the study is to be believed, this ‘carbon bubble’ could burst at any moment. This shows that the idea of a ‘spontaneous’ allocation of investments to energy efficiency and non-carbon sources of energy is an exceedingly risky gamble.

Lastly, the issue of ecological limits is not restricted to energy and climate, but also includes questions of biodiversity, soil degradation, pollution of waterways and the water table, and so on. Almost two-thirds of the services supplied to humanity by nature are today in decline (United Nations, 2012).

Will the ‘sustainable growth’ advocated by Europe 2020 be sufficient to take up these unprecedented challenges? According to Jackson, ‘a massive technological shift; a significant policy effort; wholesale changes in patterns of consumer demand; a huge international drive for technology transfer to bring about substantial reductions in resource intensity right across the world: these changes are the least that will be needed’ to have a chance of remaining within environmental limits and avoiding an inevitable collapse in the resource base at some point in the (not too distant) future (Jackson, 2009: 52, emphasis added).

Conclusions

In this article we have given an overall view of the way in which European discourse has adapted to the very fluctuating political, economic and social challenges and contexts between 2000 and 2011. We have gone on to analyse the EU’s current response to the euro crisis, in both political and institutional terms, and we have highlighted those elements which, in our view, raise problems.

During its first phase, the 2000 Lisbon Strategy attempted, at least in terms of its principles, to achieve political consensus on the need to reconcile the economic, social (employment and cohesion) and environmental challenges. A mid-term review of the Strategy exhausted this attempt at reconciliation by denouncing in particular ‘irreconcilable’ priorities. Based on this review, the Lisbon Strategy (II) focussed instead on the objectives of growth and employment, via an agenda of deregulation and competitiveness.

In 2008 the financial crisis occurred, later becoming an economic crisis and a crisis of public debt. This crisis has shown that undue faith in deregulation is a snare. It has also shown that those countries that have the strongest labour market institutions are the ones that are standing up best to the very strong surge in unemployment. 2009 saw the introduction of rescue plans for the economy, which it was thought would also help the transition towards a carbon-free form of industrial production.

The progressives thought they had won the battle of ideas when faced with the collapse of unbridled financial capitalism and a paradigm shift towards a green, carbon-free economy. But they were to be disillusioned: the excesses of financial capitalism remain in place, the risks have been transferred to governments, and populations are left to pick up the tab.

2010 and 2011 have brought a radical change of rhetoric. The watchword is no longer ‘climate Keynesianism’, but faster reform of public finances. What has suddenly become an absolute priority comes with a toolkit of similarly accelerated institutional and political reforms. These new measures have given the EU greater powers to impose structural reforms in the Member States. The overwhelming majority of
these structural reforms are directed at social policies (wages, pensions, health care, collective bargaining), which thus become the principal adjustment variable for managing the debt crisis.

Lesson One from the financial crisis (deregulation is a snare) has only been partly learnt: the EU’s attitude of procrastination is holding up reforms to financial regulation so much that doubts are being expressed as to the political will to implement them. Lesson Two (the crisis has its roots in an exacerbation of inequalities, creating a fragile situation for a growing section of the population that survives on credit, and a concentration of the richest people’s incomes, favouring financial bubbles) has been totally forgotten in favour of increased social polarisation.

Lesson Three (the ‘social’ countries have withstood the crisis best, due to a regulated labour market and strong social players) has been ignored: European recommendations in the field of social policy call for ‘reform’ of those components of national social systems that have proved most valuable during the crisis (collective bargaining, concertation and social dialogue, wage indexation, etc.).

Lesson Four from the crisis (the ‘rationality’ of markets is not sufficient to direct investments towards sustainable development) has been forgotten: combating climate change will take place essentially through the use of market instruments.

The new European governance which is becoming established also raises real questions in terms of democracy. With democratic states transformed into debt collecting agencies for the financial oligarchy, it is to be feared that the ultimate political mode of expression for those who have no power on the market will be riots or a popular uprising (Streeck, 2011). Or, no more reassuringly, an upsurge in forms of extremism, populism and nationalism, and a rejection of the (historic) European project.

Proving such a scenario wrong involves drawing real lessons from the crisis: committing Europe to the path of stronger political union – subject to effective democratic scrutiny – and economic integration whereby divergences in development can be reduced, and economic and social cohesion strengthened. It also means committing Europe to a budgetary union based on principles of solidarity and responsibility,
and giving it a federal framework of banking and financial regulation (Pisani-Ferry, 2011). That is the price to be paid, if the Euro(pe) crisis is to become an opportunity in respect of governance, stability, lasting prosperity and social progress.

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Cohesion policy and the role played by structural funds in austerity

Marjorie Jouen

Since the introduction of the Single European Act (1985), the cohesion policy has played a major role in the dynamic of European integration, by providing support to the least developed regions and the most disadvantaged social groups, so as to counterbalance any adverse effects of the Single Market. From 2000 onwards, as a result of the EU’s enlargement to encompass the countries of Central and Eastern Europe, and of pursuing the goal of competitiveness, heavy demands have continued to be placed on its structural funds.

It was therefore entirely predictable that the Commission would call on these funds within the framework of its 2008 European Economic Recovery Plan (Jouen, 2011) to assist the countries most severely affected by the crisis. However, the Commission limited itself to simplifying procedures in order to speed up the implementation of programmes, as the budget appropriations had already been fixed by the 2007-2013 multiannual financial framework, set in 2006. The overall philosophy underlying European funds, and in particular the cohesion policy, whose main aim is to co-finance medium and long-term investment programmes, was not however called into question.

2011, which corresponded both to the fourth year of the 2007-2013 programming period (coinciding with a full expenditure implementation regime) and to the start of negotiations for the 2014-2020 programming period, on the basis of Commission proposals, marked a shift in this approach. Instead of seeing a confirmation of the signs in 2010 of Europe’s impending emergence from the crisis, economic activity started to suffer the effects of national austerity plans, without any significant accompanying improvement in the situation of public finances. Moreover, local and regional authorities, which account for around two thirds of public investments and had helped to cushion the
impact of the crisis over the previous three years, had to cut their own investment expenditure by 10% for the first time (Dexia, 2011).

At European level, there was growing tension between short-term demands and longer-term plans extending through to 2020. It became increasingly obvious to the Commission that a post-2013 proposal that was ambitious both in terms of its content and its budget, would be indefensible if the current structural funds were not being fully utilised due to a lack of national co-financing capacity. For governments, the many extraordinary meetings of the Council in 2011 produced a succession of conflicting messages: some placing the emphasis on national structural reforms to be implemented in the context of the European Semester; others on showing solidarity with the countries or population groups experiencing the most severe hardships.

During the summer of 2011, the crisis in the Eurozone threw plans for the new role assigned to the cohesion policy into disarray, just as Commission departments were putting the finishing touches to the draft regulations for the EU’s future policies and to the proposed 2014-2020 financial framework. First of all, the crisis demonstrated the importance attached to the structural funds by all stakeholders (European institutions, Member States, regions and beneficiaries) as counter-cyclical intervention instruments (see part 1). It soon shifted the debate away from the amount and distribution of budget appropriations, towards the question of how the funds should be used (part 2). And, somewhat unexpectedly, the crisis led the social objectives to become rooted more firmly in the cohesion policy, and also in rural development policies and shipping conversion policies (part 3).

1. Importance of the structural funds as counter-cyclical instruments

1.1 Arguments over how far the cohesion policy is to blame for the crisis

Since 2008 and the bursting of speculative property bubbles in Ireland and Spain, advocates of a minimum European budget have taken delight in stirring up arguments over the extent to which the cohesion policy is responsible for the excessive levels of debt accumulated by a
number of the older Member States. This debate is not new: the media regularly heap scorn on unrealistic and abortive projects, and on inordinately large investments that result in public funds being wasted or on misappropriations of funds that have already been approved. The European Commission’s response usually involves pointing out the scale of the financial corrections made in recent years and the new tighter supervision arrangements, accompanied by a stricter system of suspending financial appropriations, with monies sometimes having to be repaid or commitments automatically being cancelled if they are still unused after two years.

Nevertheless, in the case of the vast debts and excessive deficits accumulated by certain Member States, the defence of the cohesion policy relies more on the fact that the sums paid by the EU have never exceeded 4% of national GDP – this ceiling having been reached for just a few years in the case of Greece prior to 2004 – whereas on average the contribution represented by the structural funds has been 2.5% of national GDP in the case of the least wealthy countries (Spain, Ireland and Portugal). As for the new Member States, since 2007 the ceiling has been adjusted according to how far the country had fallen behind and has fluctuated between 3.23% and 3.78% of national GDP.

On the other hand, it appears to be true that the structural funds are responsible for bringing about a change in mentalities and creating ‘nouveau riche’ behaviour. Paradoxically, these structural funds are criticised for their leverage effect on private funds (widely reckoned to be 1:3 though it may be as much as 1:45 in some cases) and their qualitative added value, which has given local people and economic stakeholders the confidence to start investing again and thus begin the process of helping the most disadvantaged regions to catch up and keep up, on a long-term basis (Jouen, 2011).


2. In 2010, Ireland’s budget deficit stood at around 12% of GDP; for 2011, that of Greece looks set to exceed 8.5% of GDP and that of Spain, 8.2% of GDP.
1.2 Tighter economic governance and conditionalities

Faced with the scale of the Greek national debt, back in the spring of 2010, the instinctive reaction of the European institutions was to seek to transpose the practices of international financial organisations, such as the IMF and the World Bank, to debtor countries, with talk of ‘conditionalities’. Nevertheless, it should be borne in mind that, in contrast to the loans granted by these two providers of funds, the payments made by the EU under the structural funds, common agricultural policy and common fisheries policy are not linked to the economic climate but to the application of policies benefiting all Member States and to pre-established eligibility criteria relating to development or unemployment, which are mainly used at sub-national level, and in this case regional level. In all likelihood, the Commission did not regard this fundamental difference between the types of aid granted as an insuperable obstacle.

In point of fact, in May 2010, in the wake of the debate on economic governance that followed the ‘first Greek crisis’, the Commission put forward the view, in a communication (European Commission, 2010b), that the idea of using the Union’s budget to promote compliance with the Stability and Growth Pact should be envisaged for the future financial framework and linked to certain conditions. ‘The aim should be to establish fair, timely and effective incentives for compliance with the Stability and Growth Pact rules. Conditionality could be enhanced’ (European Commission, 2010b: 5). A few weeks later it went further, proposing that ‘in cases of non-compliance with the rules, incentives [can therefore be] created by suspending or cancelling part of current or future financial appropriations from the EU budget’ (European Commission, 2010c: 10). Two types of sanctions were envisaged: firstly, suspending commitments if an excessive deficit arose, and subsequently, cancelling the commitments of year ‘n’ if initial recommendations made with a view to correcting this excessive deficit were not complied with. The Commission also stated that these sanctions would relate to payments made to Member States for the purpose of co-financing programmes under shared management, and not to direct payments to beneficiaries. Nevertheless, this provision was not explicitly adopted in the Commission’s ‘Six Pack’ legislative proposals on economic governance (see the chronology in this volume).
1.3 A lack of coherence in both responses to the crisis of summer 2011

The summer of 2011 saw two simultaneous responses to the crisis unfolding, yet their goals and justifications might appear to be at odds.

On the one hand, the Commission pursued the reasoning that prevailed in the recovery plan by attempting to speed up the implementation of the 2007-2013 cohesion policy and thus the expenditure that was already programmed. This approach led the Commission to propose (European Commission, 2011c) an increase in the European co-financing rate for programmes forming part of the cohesion, fisheries and rural development policy for the six countries most severely affected by the crisis. Three of these (Romania, Latvia and Hungary) do not belong to the Eurozone but have benefited from the balance-of-payments support mechanism, while the rest (Greece, Ireland, Portugal) have been assisted by the European financial stability mechanism. The co-financing rate is currently 50% for the wealthiest regions (‘regional competitiveness and employment objective’) and 75 or 85% for the least developed regions (‘convergence objective’), whose GDP per capita is less than 75% of the Community average. At the country’s request, the EU’s contribution would be raised by 10% without exceeding the rate of 95%, for projects focused on growth and development, retraining of workers, and developing business clusters or transport infrastructure. The overall effect of this measure, which in the case of some countries is likely to have been operative since the beginning of the crisis in 2008, has been calculated at 2.88 billion euros. For 2012, the cash contribution to the six countries might amount to 2.3 billion euros, though it should be borne in mind that the appropriations for 2007-2013 remain unchanged. The Commission also announced the creation of a task force to help Greece to implement the measures provided for in the economic adjustment programme and to ensure a faster take-up of European funds from a technical point of view. The proposal was welcomed in its entirety by local and regional authorities, and by the socio-economic stakeholders concerned. It was backed by the European Council and Parliament in less than five months, and the introduction of the amending regulation on 13 December 2011 should enable it to be implemented without delay (European Parliament and Council of the European Union, 2011j).
On the other hand, following the emergency meeting of the Eurozone Council held on 21 July 2011, the French President and the German Chancellor sent a letter\(^3\) to the President of the European Council, proposing various measures to strengthen the governance of the Eurozone and to implement Paragraph 16 of the Declaration of 21 July. Seeking closer coordination of national budgetary and economic policies, they wrote as follows: ‘The structural and cohesion funds should be used to support vital reforms aimed at enhancing economic growth and competitiveness in the Eurozone. The macroeconomic conditionality of the Cohesion Fund\(^4\) should be extended to the structural funds... In countries operating under a programme, the Commission should automatically carry out checks to ensure that the structural and cohesion funds are providing optimum support for the macroeconomic adjustment programme: it should also be involved in project selection and implementation... In future, payments derived from the structural and cohesion funds should be suspended in Eurozone countries that do not comply with the recommendations of the excessive deficits procedure. These changes should be included in the new rules governing the structural and cohesion funds to be put forward for the next multiannual financial framework.’

1.4 Proposals that remain controversial

In its proposal for joint rules governing the 2014-2020 future cohesion policy (European Commission, 2011d), the Commission continues to move in both of these directions, attempting somewhat clumsily to combine them. However, it does not adopt the totality of the Merkel-Sarkozy proposal which, on the one hand, underrated the role already played by the Commission in the selection of major projects and, on the other, appears to flout the principle of subsidiarity, as the Commission cannot take the place of management authorities if they have not been negligent. For the moment, the gamble taken in Greece, and now in

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3. Letter from Nicolas Sarkozy and Angela Merkel to Herman Van Rompuy dated 17 August 2011.

4. This clause has been in existence ever since the Cohesion Fund was set up in 1994, but has never been implemented until 2012. While the link between the objective set for this fund, which is intended to offset and anticipate any imbalances associated with the introduction of Economic and Monetary Union and compliance with the Stability and Growth Pact, cannot be denied, it is neither direct, nor established in law for the other funds.
Portugal with the dispatch of task forces made up of Commission staff, is being presented more as a technical support and facilitation measure, rather than as an attempt to bring these countries into line.

The Commission is assuming 'the right to suspend all or part of the payments and commitments, where, despite the enhanced use of funds, a Member State fails to take effective action in the context of the economic governance process'. It also indicates that 'the suspensions should be lifted and funds be made available again to the Member State concerned as soon as the Member State takes the necessary action' and that 'decisions on suspensions should be proportionate and effective' (European Commission, 2011d: 16), taking into account the country's economic situation and the extremely unequal impact that such a decision might have on the national budget.

Despite its length, the article devoted to 'conditionality linked to the coordination of Member States' economic policies' does not make it clear whether the decision to suspend payments will be the outcome of a procedure involving both parties, with a genuine possibility of reconciling the respective positions of the Member State and the Commission, or will be taken unilaterally.

The 'increase in payments for a Member State with budgetary difficulties' features in the same chapter devoted to macroeconomic conditions but is not linked to the foregoing provisions. This reinforces the impression of a lack of a single, clear vision within the Commission regarding the role assigned to the structural funds: are they instruments of an investment policy and a policy for mitigating the effects of the crisis, or are they a way of applying pressure to ensure that collective budgetary discipline is maintained at all costs?

For the vast majority of stakeholders the answer is not in doubt, and most of them [notably the social platform UEAPME (European Union of Craft Industries and Small and Medium-Sized Enterprises), associations of regions such as the CPMR (Conference of Peripheral Maritime Regions of Europe) and AER (Assembly of European Regions)] were quick to express their opposition to the threat of suspending
financial appropriations and introducing penalties. The European Parliament and the Committee of the Regions (2011a)\(^5\) expressed similar views.

There was nevertheless continuing disagreement among Member States, as the Polish Presidency recently testified in its preparatory report to the December 2011 Council meeting: ‘delegations were divided on the applicability of the instruments proposed by the Commission – some of them found it necessary to ensure a stable macroeconomic environment for the CSF Funds, while others believed that macroeconomic conditionalities can not be reconciled with the Cohesion Policy’s objectives […] many MSs expressed doubts whether the principles of equal treatment and proportionality had been appropriately reflected in the Commission’s proposal […] Several MSs proposed applying macroeconomic conditionalities to other parts of the EU budget in order to ensure a level playing field’ (Council of the European Union, 2011: 11).

2. **A debate focused on the effectiveness of the cohesion policy**

2.1 The budget question becomes temporarily mired

The negotiations regarding the future cohesion policy are traditionally characterised by haggling over financial matters and technical disputes over new procedures. In his report on the future cohesion policy drafted at the Commission’s request, Fabrizio Barca expressed regret that the debate surrounding the cohesion policy had been restricted to a small circle of experts, a factor that had gradually undermined it at a time when macroeconomists had taken the helm, with the adoption of the Lisbon Strategy, and subsequently the 2007-2013 Package (Barca, 2009). In his view, the handicap of the cohesion policy was aggravated by the sequence of European political decision-making, in which

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5. The Committee of the Regions ‘strongly disagrees with the proposal that a Member State’s non-compliance with the stability and growth pact should result in the discontinuation of funding under cohesion policy and the common agricultural or fisheries policies, because regional authorities cannot be held responsible for the inability of national institutions to meet macro-economic criteria or implement EU rules correctly’.
negotiations over the amounts and distribution of funding among Member States preceded those deciding the political objectives and how to achieve them (Jouen, 2009).

The negotiators’ extreme focus on national ‘net balances’ poisoned the latest negotiation to such an extent (Le Cacheux, 2005) that the Commission was mandated as early as 2006 to conduct an in-depth re-examination of the European budget (European Commission, 2010d). It also delayed the presentation of detailed proposals for 2014-2020 as long as possible (European Commission, 2011a).

In fact the ‘net contributor’ countries did not wait for the Commission’s proposals before trying to bring pressure to bear, as five Heads of State and Government\(^6\) sent a letter to the Commission as early as December 2010 to argue for a reasonable budget in a time of crisis, amounting to a global figure of less than 1% of Gross National Income. In September 2011, the European Affairs Ministers of eight countries\(^7\) repeated the same message. Nevertheless, no specific policy was targeted in the effort to cut costs. In response, thirteen countries\(^8\) declared that they attached a great deal of value to the cohesion policy.

Its growing significance within the European budget (rising from 0.28% of GNI in 1988 to 0.37% of GNI in 2013) made the cohesion policy a potential hostage to such discussions, particularly since there is no specialised Council of Ministers to defend it. Decisions are the responsibility of the General Affairs Council, which may be more sensitive to the previous decisions taken by the Ecofin Council than to the conclusions of the informal Council of Ministers in charge of the cohesion policy. However, in 2011, for the first time, this anomaly was corrected to some extent by a meeting of the General Affairs Council devoted solely to the cohesion policy, held in June 2011, under the Hungarian Presidency, and a formal joint meeting, held in December 2011, of the General Affairs Council and of Ministers responsible for the cohesion policy, under the Polish Presidency.

\(^6\) Germany, France, Finland, the Netherlands, the United Kingdom.

\(^7\) Germany, Austria, Finland, France, Italy, the Netherlands, the United Kingdom, Sweden.

\(^8\) Bulgaria, the Czech Republic, Estonia, Greece, Hungary, Ireland, Slovakia, Latvia, Lithuania, Malta, Poland, Portugal, Romania.
2.2 In search of better-quality European public expenditure

In addition to the very different economic and political context from the first half of the 2000s, the Commission’s way of dealing with future programming has changed a great deal. In recent years, it has had to explain itself several times before the European Parliament and the Court of Auditors over the management of regional development programmes and the scale of the errors made by the management authorities. A series of procedural adjustments has been proposed, to make them safer and ultimately more effective, with a view to enabling regional and national authorities to complete their programmes. This laborious process highlighted the importance of implementation methods, the need for simplification and the need to ensure that the programming authorities have the institutional and administrative capacity to do their job. The 2010 strategic report on 2007-2013 implementation (European Commission, 2010a) was quite critical regarding the slowness of execution. Most of the proposed reforms outlined therein were well received by Member States, with the older-established and new members finding themselves in agreement, sometimes for different reasons, regarding the need for better-quality public expenditure.

The effectiveness and efficiency of the structural funds have therefore become major issues for the future programming period. The tone employed by both Commissioners in their joint preface to the 5th cohesion report leaves no room for doubt: ‘We all share an interest in a Cohesion Policy that brings results […] The link to the Europe 2020 strategy must be even stronger in the future. This requires putting in place good programmes, with clear conditions and strong incentives. Pre-conditions could require, for example, that investment in environmental infrastructure is preceded by a transposition of the relevant EU environmental legislation. Incentives would reward regions and countries that have performed well and reached agreed European objectives’ (European Commission, 2010e: III).

This announcement immediately raised questions among Member States, which were summarised in the conclusions of the Belgian Presidency in November 2010: ‘Some reserves are expressed about the new conditionalities, external to Cohesion Policy, in respect of sanctions. On the other hand, the development of more incentive-based
conditionalities internal to the funds, designed to increase their efficiency, seems to be a matter for debate [...]. The reinforcement of the absorption capacity is also an element of the conditionality issue. Institutional and administrative capacity, localisation, nature of the actions, and levels of co-financing are all variables that need to be taken into account’ (European Council, 2010).

During the spring of 2011, the Commission convened several meetings of an ad hoc group comprising representatives of Member States and of the European institutions with a view to exploring a number of avenues. One idea that was hotly disputed and in the end rejected was that of linking European Social Fund programmes to a ‘structural reform conditionality’, in other words creating incentives to carry out reforms in areas subject to Council recommendations on the basis of Article 121(2) of the Treaty on the Functioning of the European Union (TFEU) and of Article 148(4) of the TFEU in the context of the European Semester. The main argument against it was that the link between implementation of the Europe 2020 strategy and of the cohesion policy, or more precisely the national reform plans and the future partnership contracts, was something that could not be guaranteed. In point of fact, although closer coordination between the two European processes is highly desirable, their time frames are out of step – by definition, a structural reform takes time to produce tangible effects, which cannot therefore be regarded as pre-conditions for a regional development programme due to start at the same time – and the stakeholders or authorities responsible for implementation or for the outcome are not necessarily the same. Undertaking reforms at national level is a task that mostly lies beyond the remit of local and regional authorities, which manage programmes at operational level.

2.3 Towards widespread adoption of a dual conditionality

The Commission therefore focused most of its attention on ex ante conditionality and on creating a European performance reserve.

It proposes a dual ex ante and ex post conditionality for the future 2014-2020 programming period, to be accompanied by a possible reward: ‘The rationale for strengthening ‘ex ante’ conditionality for
these funds is to ensure that the conditions necessary for their effective support are in place. Past experience suggests that the effectiveness of investments financed by the funds have in some instances been undermined by bottlenecks in policy, regulatory and institutional frameworks [...]. *Ex post* conditionality will strengthen the focus on performance and the attainment of the Europe 2020 objectives. It will be based on the achievement of milestones related to targets for outputs and results linked to Europe 2020 objectives set for programmes in the partnership contract. 5% of the budget of the relevant funds will be set aside and allocated, during a mid-term performance review, to the Member States whose programmes have met their milestones. In addition to the performance reserve, failure to achieve milestones may lead to the suspension of funds, and a serious underachievement in meeting targets for a programme may give rise to a cancellation of funds (European Commission, 2011d: 8).

Fifteen pages of *ex ante* thematic conditions then follow in the form of an appendix, corresponding to each of the eleven priorities associated with the Europe 2020 strategy:

1) strengthening research, technological development and innovation;

2) enhancing access to and use and quality of information and communication technologies;

3) enhancing the competitiveness of small and medium-sized enterprises, the agricultural sector (for the EAFRD) and fisheries and aquaculture sector (for the EMFF);

4) supporting the shift towards a low-carbon economy in all sectors;

5) promoting climate change adaptation, risk prevention and management;

6) protecting the environment and promoting resource efficiency;

7) promoting sustainable transport and removing bottlenecks in key network infrastructures;

8) promoting employment and supporting labour mobility;
9) promoting social inclusion and combating poverty;

10) investing in education, skills and lifelong learning;

11) enhancing institutional capacity and an efficient public administration (European Commission, 2011d: 7-8).

There are also five pages of *ex ante* general conditions describing efforts to deal with combating discrimination, gender equality, disability, public procurement contracts, State aid, environmental legislation governing evaluation, statistical systems and results indicators.

The exercise, which is intended to provide clarification, puts forward a series of more or less convincing criteria. For example, in the case of any operational programme to combat early school leaving (ESL), the Commission will give its agreement only if 'a system for collecting and analysing data and information on ESL at national, regional and local level is in place that provides a sufficient evidence-base to develop targeted policies; is used systematically to monitor developments at the respective level [...] and a strategy on ESL is in place that is based on evidence; is comprehensive (e.g. covering all educational sectors including early childhood development) and adequately addresses prevention, intervention and compensation measures; sets out objectives that are consistent with the Council Recommendation on policies to reduce early school leaving; cuts across-sectors, and involves and coordinates all policy sectors and stakeholders that are relevant to address ESL' (European Commission, 2011d: 145).

All of this seems very far removed from the wish expressed by the Committee of the Regions in the spring of 2011, that conditionality should be 'simple, applicable and proportional' (Committee of the Regions, 2011b).

The sophistication of the proposals and criteria put forward by the Commission raised concerns among Member States, as is apparent from the Polish Presidency’s report issued on the eve of the General Affairs Council of December 2011: ‘In general, MSs were in favour of *ex ante* conditionalities as they would contribute to improving Cohesion Policy performance by ensuring that a number of prerequisites laying
the ground for more efficient interventions are met before funding starts. [However] MSs reiterated that the principles of proportionality and subsidiarity should be respected. Referring to proportionality, MSs’ reservations were stemming from the risk that the large number of the *ex ante* conditionalities might lead to disproportionate administrative burden and making them inapplicable especially in MSs and regions with smaller allocation. As to subsidiarity, some MSs feared that the *ex ante* conditionalities go beyond the scope of Cohesion Policy and interfere too much with national competences in other policy areas’ (Council of the European Union, 2011: 9).

2.4 Performance and reserves

As far as the performance reserve is concerned, the Commission appears to have taken too seriously the request formulated by some Member States, if we consider the national reactions listed by the Polish Presidency: ‘a common concern of MSs was on the establishment of a performance reserve – the application of both negative and positive incentives can be counterproductive, as this may encourage less ambitious programmes with lower targets that could be achieved more easily’ (Council of the European Union, 2011: 9).

Similar concerns had been expressed by the Committee of the Regions in the spring of 2011, expressing its opposition in advance to ‘the proposal to establish a performance reserve based on the Europe 2020 targets, for which it would be difficult to define objective allocation criteria’ and taking the view that ‘establishing a performance reserve, whether at EU or national level, would not guarantee more effective investment’ (Committee of the Regions, 2011b). It put forward a proposal to ‘support the creation of a flexibility reserve (which would not be performance-based) established on the basis of appropriations automatically de-committed during the programming period, and aimed at funding pilot initiatives or triggering the Structural Funds in an economic, social or environmental crisis in conjunction with the Globalisation Adjustment Fund and the European Union Solidarity Fund’. However, this option was not adopted by the Commission.
3. **Rooting social objectives more firmly in the cohesion policy**

3.1 Return of the integration of funds

The main innovation of the future 2014-2020 programming period relates to the establishment of a Common Strategic Framework (CSF) linking the various European territorial funds: the three funds involved in the cohesion policy – the ERDF (European Regional Development Fund), the ESF (European Social Fund) and the Cohesion Fund – plus the EAFRD (European Agricultural Fund for Rural Development) and the EMFF (European Maritime and Fisheries Fund). In the spring of 2010, questions had appeared to be raised over whether the ESF should remain as part of the cohesion policy: in late summer 2010 a joint letter to the President of the Commission from the four Commissioners concerned\(^9\) attempted to resolve the issue. It made explicit reference to the Europe 2020 strategy and to the need to integrate policies financed by the five funds in order to ensure a more sustainable and inclusive development of the European Union.

This return to favour of multi-sectoral integration, which had gradually been abandoned when the second pillar of the CAP (devoted to rural development) was created in 1999 and was confirmed when the EAFRD and the EFF (European Fisheries Fund) ceased to be part of the structural funds in 2007, also provided a practical application for the territorial cohesion recognised by the Treaty of Lisbon. In a context of economic austerity, the desire to shift the Union’s commitments towards inclusion, which is the third dimension of growth promoted by the Europe 2020 strategy (it also aims to achieve smart and sustainable growth) in all likelihood prevailed, without however leading to an outcome as ambitious as ‘the Territorialised Social Agenda’ proposed by Barca (Marlier and Natali, 2010).

The CSF is supposed to translate ‘the objectives and targets of the Union strategy for smart, sustainable and inclusive growth into key

\(^9\) Letter from Commissioners Damanaki, Andor, Ciolos and Hahn to President Barroso dated 30 August 2010.
actions for the CSF Funds, establishing for each thematic objective the key actions to be supported by each CSF Fund and the mechanisms for ensuring the coherence and consistency of the programming of the CSF Funds with the economic and employment policies of the Member States and of the Union’ (European Commission, 2011d: 29).

It is expressed at national level in the form of a partnership contract grouping together all operational programmes linked to these funds and is drawn up following consultation of the main partners, and in particular local and regional authorities, social partners and organisations drawn from civil society. The expectation is that this contract will incorporate several documents, including ‘an integrated approach to address the specific needs of geographical areas most affected by poverty or of target groups at highest risk of discrimination or exclusion, with special regard to marginalised communities, where appropriate, including the indicative financial allocation for the relevant CSF Funds’ (European Commission, 2011d: 38).

3.2 Greater visibility for social priorities in the new architecture

Of the 11 thematic objectives associated with the Europe 2020 strategy, which are applicable to all of the funds, three have a social vocation: promoting employment and supporting labour mobility; promoting social inclusion and combating poverty; and investing in education, skills and lifelong learning (European Commission, 2011d).

As for the cohesion policy in itself, jointly funded by the ERDF and the ESF, replacing the two categories of regions – ‘convergence objective’ and ‘regional competitiveness and employment objective’ – with a single objective of ‘investment for growth and employment’ could herald substantive changes. In point of fact, the Commission is proposing to classify regions in three categories, according to the level of their wealth (European Commission, 2011e and 2011f):

—— the least developed regions, whose GDP per capita is less than 75% of the EU’s average GDP, which will receive 50.13% of the

10. See above.
cohesion policy budget; they will benefit from a European co-financing rate of 75 to 85% and enjoy almost total freedom of choice within the menu of 11 thematic objectives;

— regions in transition, whose GDP per capita lies between 75% and 90% of the EU’s average GDP, which will receive 12.01% of the cohesion policy budget; they will benefit from a European co-financing rate of 60% and enjoy an intermediate level of freedom of thematic choice;

— the most developed regions, whose GDP per capita exceeds 90% of the EU’s average GDP, which will receive 16.39% of funds with a European co-financing rate of 50% and enjoy very little freedom of thematic choice, as 80% of ERDF funds will have to be focused on strengthening research, technological development and innovation, enhancing the competitiveness of small and medium-sized enterprises and supporting the shift towards a low-carbon economy\[11\].

Nevertheless, via the ESF, which can be utilised jointly with the ERDF if appropriate, the three thematic social objectives also feature in the ‘menu’ applicable to all regions. The least developed regions are the only ones that can opt for theme no. 11, i.e. enhancing institutional capacity and an efficient public administration.

For the EAFRD (European Agricultural Fund for Rural Development) (European Commission, 2011g), alignment with the Europe 2020 strategy translates into a list of six priorities for rural development; these include promoting social inclusion, economic development and reducing poverty. In particular, measures are envisaged to facilitate job creation for young rural workers both inside and outside the agricultural sector, as well as developing infrastructure and local basic services to encourage social inclusion and reverse the trend towards economic and social decline and rural depopulation. Previously, within the framework of its axis No. 3, the EAFRD supported economic diversification towards non-agricultural activities and enhancing the quality of life, but the explicit emphasis placed on social issues is something new.

\[11\] The remaining 23.8% of the cohesion policy budget is intended for the Cohesion Fund and for territorial cooperation.
Likewise, the first of the new thematic objectives to be declared for the EMFF (European Maritime and Fisheries Fund) is ‘increasing employment and territorial cohesion through the following objectives: promotion of economic growth, social inclusion, creation of jobs and supporting labour mobility in coastal and inland communities depending on fishing and aquaculture’ (European Commission, 2011h: 31).

3.3 Starting to restore equilibrium to the funds

Over and above the general framework establishing the eligibility of expenditure for each fund, the question of their respective significance within programmes is also a significant one. Here, the Commission's preparatory work is instructive (European Commission, 2011b). It confirmed the ESF’s visibility deficit resulting from the complex nature of its management at regional level. It also emphasised the growing tension that had arisen over time between programme managers and beneficiaries, notably the smallest project initiators, who end up turning their backs on the ESF.

Among the Commission's proposals, it is interesting to note the attempt to make a regional adjustment to ERDF and ESF appropriations. Setting a threshold represents an attempt to address needs that supposedly differ from one region to another, depending on their level of development, and to guarantee an effect of mass for the ESF’s interventions: at least 25% of resources in the least developed regions, 40% for regions in transition and at least 52% for the most developed regions will be earmarked for them (European Commission, 2011d).

Lastly, for the ESF, the heightened concentration on the priorities of the Europe 2020 strategy translates into stronger support for efforts to combat social exclusion and poverty by assigning at least 20% of financial appropriations to ‘Active inclusion; Integration of marginalised communities such as the Roma; Combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation; Enhancing access to affordable, sustainable and high-quality services, including health care and social services of general interest; Promoting the social economy and social enterprises; Community-led local development strategies’ (European Commission, 2011f).
Conclusions

Ultimately, during the course of 2011, the attention paid to the cohesion policy was ambivalent, in a context of proliferating national austerity plans and tighter supervision of the public finances of Eurozone Member States.

The structural funds, seen as potential instruments for delivering stabilisation or recovery, have aroused envy among those who receive little or no allocation of them, and condemnation from those who, managing them parsimoniously, regard them as a source of waste.

Highlighting the social dimension of future European interventions has not brought about a fundamental change in methods of implementing current programmes. Even though the Commission, in its 2012 Annual Growth Survey, expresses the view that there is ‘still considerable room for using or re-programming available funds’ (European Commission, 2011: 9), regions and Member States are still the only parties that can judge whether priorities should be adapted to match the situations existing at local level.

Doubts must also be expressed regarding the ability of the structural funds to provide an urgent response to challenges facing the Union. Managing the cohesion policy more effectively to serve the three dimensions of the Europe 2020 strategy, and in particular the goals of social inclusion and employment, will not relieve the Union of the duty to mobilise further and much more heavyweight financial or regulatory instruments.

In the current state of affairs, it is difficult to reach any conclusions regarding the structural nature of the changes outlined by the Commission in the many proposals it issued in 2011. Only the arguments exchanged between the Commission, Member States and the Parliament during the negotiations in 2012 and 2013 will allow us to make an assessment of their real nature.

We cannot rule out the idea that the misunderstanding – which the Commission has not helped to resolve by proposing that emergency measures (taking the form of both incentives and penalties) be perpetuated in the future – is based on a misapprehension of the nature
of the cohesion policy and of the type of conditionality required by the European Union. Here, the Commission should bear in mind that the cohesion policy remains primarily a development policy whose effects can only be assessed in the medium and long term. Its inertia – in the form of multiannual programming and partnership-based co-financing – is also its strength. Designed as an instrument to accompany the Single Market, it cannot really deliver results unless this market is working properly.

This is precisely one of Europe’s current black holes. Consequently, the Commission would be well advised to encourage Europe’s leaders to fully explore all the components of European competitiveness, based on the assumption that these are all destined to be reconfigured in a world undergoing drastic changes driven by the never-ending progress of the knowledge economy, yet subject in addition to ever-tighter environmental constraints.

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Taking stock of European social dialogue: will it fade away or be transformed?

Christophe Degryse and Stefan Clauwaert

Introduction

Twenty years ago, in 1991, the European Commission oversaw the establishment of an *ad hoc* group consisting of high-level representatives of European employers’ confederations and trade unions. Three bodies were involved - UNICE for the employers (Union of Industrial and Employers’ Confederations of Europe, now BusinessEurope), the CEEP for public enterprises (Centre of Employers and Enterprises providing Public services) and the European Trade Union Confederation (ETUC) for the trade unions. They embarked on an undertaking which, when all is said and done, can be summed up in the following question: how can these representative bodies be turned into fully-fledged players in the European process of creating a social area?

Whereas in 1991 the Member States’ governments were struggling to produce what became the Maastricht Treaty (entailing, in particular, the decision to launch the euro), this *ad hoc* group spent the entire year considering how best to involve the social partners in European decision-making and how to give them more of a direct input into this process. ‘The main focus, for the Community social partners, was to define the role that they were prepared to play in drawing up European social legislation’ (Degimbe, 1999: 224).

After almost a full year of bargaining, UNICE, CEEP and the ETUC reached an agreement on 31 October 1991, i.e. just a few weeks before the Maastricht European Council which then delivered the eponymous treaty.
Their agreement concerned proposals for the drafting of Articles 118.4, 118a and 118b of the new Treaty\textsuperscript{1}. The idea was to set up a systematic, mandatory mechanism for consulting the social partners on the European Commission’s social policy proposals, but also to enable management and labour to negotiate directly among themselves framework agreements based on draft directives put forward by the Commission\textsuperscript{2}.

This ‘Social Policy Agreement’ was then accepted by eleven of the twelve governments\textsuperscript{3} and annexed to the Maastricht Treaty. It paved the way towards proper bargaining at European level, both cross-industry and sectoral.

Twenty years later, how should we assess this ‘European social dialogue’? That is the question the social partners pondered over for the full year and will be addressed in the first half of this article. Our text is in fact divided into two parts: in the first, we assess long-term trends in the European social dialogue. In the second part, we refer to the key events of the year 2011.

Two parallel assessments were set in train: one was a ‘unilateral’ process undertaken by the European Trade Union Confederation, through a survey of its membership right across Europe, carried out by the European Social Observatory (OSE, 2011). The other was a ‘joint’ evaluation conducted by the entire body of social dialogue stakeholders (today BusinessEurope, CEEP, UEAPME – European Association of Craft, Small and Medium-sized Enterprises – and ETUC) (Voss \textit{et al.}, 2011). The outcomes of both reviews find common ground on a number of points but, as we shall read below, on a range of other, sometimes major, points the trade union verdict is more critical than the joint evaluation.

\begin{enumerate}
\item Articles 154 and 155 of the current Treaty on the Functioning of the European Union (TFEU).
\item ‘Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or (…) by a Council decision on a proposal from the Commission (…)’ [Article 155.1 and 155.2 (TFEU)].
\item The UK’s conservative government refused at that time to involve the United Kingdom in this Social Policy Agreement. After the power-switch in London in May 1997 (Labour Party victory), the UK decided to opt into the Agreement, which was then incorporated into the social policy chapter of the new Amsterdam Treaty, in 1997.
\end{enumerate}
We shall close this first part by stressing the paradoxes of these twenty years of (European) social dialogue: whereas it was initiated in 1991 to accompany an emerging economic and monetary union, it was re-examined twenty years later, at the height of the euro crisis. With the European Commission now appearing to opt out of social legislation and the Member States losing their faith in the open methods of coordination, the last remaining driver of ‘Social Europe’ today is social dialogue (Degryse, 2007). Will that too grind to a halt?

In the second part of this chapter we shall look more specifically at the achievements of social dialogue in 2011. As we shall see, it was a year of little activity. There were a few implementation reports (including the European social partners’ joint final report on implementation of the 2007 autonomous agreement on harassment and violence at work, and the first annual table on transposition of the 2010 autonomous agreement on inclusive labour markets), and joint conferences were held on flexicurity and climate change. Apart from those, however, the year was mainly devoted to somewhat laboriously preparing the European social dialogue work programme for 2012-2014, as well as to preparing for very tricky negotiations on a review of the Working Time Directive.

This lull in activity can be explained by several factors: the end of the work programme for 2009-2010 (Clauwaert, 2010), the social dialogue appraisal period — as we have just seen —, but also the economic crisis, the euro crisis, and the major upheavals in the arrangements for new European ‘economic governance’. And, more mundanely, the political climate was showing little interest in pushing forward collective bargaining, both Europe-wide and within the Member States: this was broadly apparent from the huge number of work-related disputes, strikes and rallies witnessed in almost all of the Member States in 2011.

As our second section will make plain, whereas 2011 was a slow-motion year, 2012 will instead be a testing year. In particular, will the outcomes of two key sets of negotiations — the Working Time Directive and the European social dialogue work programme for 2012-2014 — enable us to answer the question asked in the title of this chapter: will European social dialogue fade away or will it be transformed?
1. An appraisal of 20 years of European social dialogue

Since the Social Policy Agreement was incorporated into the Maastricht Treaty in 1991, the social partners ETUC, BusinessEurope, CEEP and UEAPME have been attempting to implement the agreement’s provisions, and have embarked on negotiations on various topics. Most of these negotiations have proved successful (see Table 1), but there have likewise been some failures and deadlock.

It is interesting to note the gradual change in the nature of the texts adopted over the twenty-year period. They moved on from framework agreements converted into directives (in 1995, 1997 and 1999), via ‘frameworks of action’ that are not legally binding, to so-called ‘autonomous’ framework agreements, where the national degree of implementation varies considerably from one country to another.

Table 1  Reciprocal undertakings by Europe’s cross-industry social partners based on the Maastricht Social Agreement (1991-2011)

<table>
<thead>
<tr>
<th>Year</th>
<th>Topic</th>
<th>Result</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>Information-consultation workers</td>
<td>UNICE refusal</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>Fixed-term contracts</td>
<td>Framework agreement</td>
<td>Monitoring reports</td>
</tr>
<tr>
<td>2001</td>
<td>Temporary agency work</td>
<td>Negotiations broken off (ETUC)</td>
<td>Autonomous (national social partners)</td>
</tr>
<tr>
<td>2002</td>
<td>Telework</td>
<td>Framework agreement</td>
<td>Monitoring reports</td>
</tr>
<tr>
<td>2003</td>
<td>Lifelong development of competencies and qualifications</td>
<td>Framework of action</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>Work-related stress</td>
<td>UNICE refusal</td>
<td>Autonomous (national social partners)</td>
</tr>
<tr>
<td>2005</td>
<td>Gender equality</td>
<td>Framework of action</td>
<td>Monitoring reports</td>
</tr>
<tr>
<td>2007</td>
<td>Harassment and violence at work</td>
<td>Framework agreement</td>
<td>Autonomous (national social partners)</td>
</tr>
<tr>
<td>2010</td>
<td>Inclusive labour markets</td>
<td>Framework agreement</td>
<td>Autonomous (national social partners)</td>
</tr>
</tbody>
</table>

Source: our compilation.
The framework agreement on inclusive labour markets was signed in 2010, even though the agreement’s content and form were much challenged in trade union circles. Following this, the European Trade Union Confederation (ETUC) decided to commission an overall assessment of its membership’s views of European cross-industry social dialogue.

The study had three aims: firstly, to draw up both a quantitative and a qualitative assessment of twenty years of European social dialogue (1991-2011); then to survey ETUC members by means of questionnaires and interviews centred mainly on gauging the outcomes of European cross-industry social dialogue; and lastly to envisage possible improvements and plan new ways forward.

This survey was carried out from July 2010 onwards, and was presented to the ETUC membership at a conference held in Brussels on 25 January 2011. It therefore reflects the opinions of most organisations affiliated to the ETUC.

As pointed out in our introduction, another survey was carried out to mark the twentieth anniversary of European social dialogue. This survey, presented in Budapest in May 2011, was coordinated by an expert (Voss et al., 2011) and differs from the OSE survey in that it was a survey carried out jointly by ETUC, BusinessEurope, CEEP and UEAPME. The Voss study examined in addition links between European and national social dialogue, whereas the OSE survey looked only at national arrangements in order to ascertain the extent to which the achievements of European social dialogue have been implemented nationally. We shall analyse below first of all the outcomes of the OSE survey, and then those of the joint evaluation, in an attempt to compare their similarities and differences.

### 1.1 Survey by the European Social Observatory

An electronic questionnaire was sent out on 27 September 2010 to all national organisations affiliated to the European Trade Union Confederation (82 trade unions in 36 European countries) as well as to its 12 European trade federations. The response rate was 47.8%4, thus
including a large majority of the national trade union confederations but also a number of European and national trade federations. The main lessons learned from this survey can be presented under three sub-headings: a) members’ expectations of European social dialogue (ESD), b) an assessment of the current outcomes of ESD, and c) potential scope for improvement.

a) What should be the main aims of social dialogue at European level? According to the survey’s findings, the main goal of ESD should be ensuring that European policies incorporate trade union priorities. This aim should be pursued through involvement in European processes with a view to safeguarding the working environment. It is primarily a matter of improving employees’ working conditions and combating the risk of social dumping between Member States. Members believe that, to achieve these goals, the priorities are to make sure the trade union movement’s voice is heard in major European institutional settings, and to flesh out a bargaining strategy with the employers’ organisations on social policy issues. Wherever necessary, this strategy should be backed up by efforts to mobilise and challenge members. As for outcomes, the ESD should aim for a European social policy that reflects the trade union view, as well as for the drawing up of social standards by means of a European collective bargaining system.

b) How should ESD, its tools and its content be assessed after twenty years? According to the survey’s findings, the verdict is very mixed. Generally speaking, the quality of the instruments currently available to the European social dialogue - framework agreements, autonomous agreements, frameworks of action, tools and guidance - is deemed, at best, to be ‘average’. The tools obtaining the best scores are framework agreements, whether converted into directives or autonomous, even though fewer than one in every two respondents regards their content as ‘good’. Next, a long way behind, come tools and good practice guidelines, joint positions and good practice recommendations or codes. When it comes to assessing implementation of these various mechanisms, the survey reveals considerable dissatisfaction among members. More than 80% of them in fact believe that implementation of - any of - the ESD instruments is either ‘partial’ or ‘insufficient’.

In order to fine-tune the analysis, the questionnaire asked respondents to rank the joint documents adopted since 1995 (Figure 1), in line with how each respondent assesses their quality of content.
Figure 1  ‘How do you evaluate the content of these European social dialogue achievements?’

<table>
<thead>
<tr>
<th>Category</th>
<th>Good</th>
<th>Average</th>
<th>Bad</th>
<th>Do not know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Framework agreements: Parental leave (revised)</td>
<td>22</td>
<td>17</td>
<td>17</td>
<td>5</td>
</tr>
<tr>
<td>Framework agreements: Part-time work</td>
<td>17</td>
<td>16</td>
<td>17</td>
<td>8</td>
</tr>
<tr>
<td>Framework agreements: Fixed-term contracts</td>
<td>17</td>
<td>16</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
<td>Autonomous agreements: Teleworking</td>
<td>15</td>
<td>18</td>
<td>23</td>
<td>4</td>
</tr>
<tr>
<td>Autonomous agreements: Stress at the workplace</td>
<td>15</td>
<td>18</td>
<td>23</td>
<td>4</td>
</tr>
<tr>
<td>Frameworks for action: Gender equality</td>
<td>12</td>
<td>27</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Autonomous agreements: Violence at the workplace</td>
<td>12</td>
<td>24</td>
<td>27</td>
<td>3</td>
</tr>
<tr>
<td>Autonomous agreements: Inclusive labour markets</td>
<td>8</td>
<td>15</td>
<td>24</td>
<td>7</td>
</tr>
<tr>
<td>Frameworks for action: Lifelong development of competencies and qualifications</td>
<td>6</td>
<td>29</td>
<td>19</td>
<td>5</td>
</tr>
<tr>
<td>Other initiatives: Integrated programs and initiatives concerning information and training</td>
<td>3</td>
<td>21</td>
<td>7</td>
<td>14</td>
</tr>
</tbody>
</table>

Social developments in the European Union 2011
It emerges from the overall ranking that the ‘best’ texts are the oldest ones (parental leave, 1995; part-time work, 1997; temporary contracts, 1999; etc.). What is more, since then the quality of content has been declining in an almost identical fashion chronologically.

Furthermore, none of the joint documents received a majority of wholly favourable opinions. Finally, and surprisingly, similar discontent is expressed about the degree of implementation of these same texts. It is amazing in particular that, even though the three framework agreements converted into directives are the ones regarded as the most successfully implemented group, a majority of respondents nevertheless do not believe them to have been fully implemented (even though these agreements have been transformed into directives and should therefore apply in full to everyone). Another noteworthy element is that this question on implementation is the one that drew the most ‘don’t know’ responses: this can perhaps be interpreted as indicating some flaws in monitoring the national implementation of European social dialogue mechanisms.

This key aspect of the survey (declining quality of content and imperfect implementation of joint documents) could be prompted by a variety of factors, which were not specifically raised in the questionnaire. But some respondents provided partial explanations when asked for their own comments. They referred to governments which lack any interest in national-level social dialogue, national employers’ associations that are reluctant to implement a text negotiated at European level, and grassroots organisations’ inadequate knowledge (or even ignorance) of European texts. All of these factors escaped the notice of Europe’s social partners.

c) Finally, as concerns the overall momentum of ESD, the survey reveals a virtually unanimous attachment of trade union organisations to the very principle of social dialogue at European level: almost 90% of respondents believe that ESD is beneficial to workers. Indeed, action must therefore be taken at European level, even though the partners, the employers, are perceived as the major obstacle to social dialogue. With respect to the ETUC’s role, the view of respondents is that, although it struggles to impose its own agenda, it does nevertheless devote sufficient priority to social dialogue. Lastly, as for the European Commission, more than one in five respondents believes that it is not playing enough of a role in developing ESD.
A list of topics to be dealt with in ESD was then put to the trade union confederations and they were asked to rank them in order of priority. It emerged that working time, and employee information and consultation, are the top two subjects to be handled at European level. Next come the following topics: non-standard work, non-discrimination, integration of migrant workers, social effects of restructuring, gender equality and training. A third category is work/life balance, the social consequences of Union policies, remuneration, and health and safety. Bringing up the rear, surprisingly, is the issue of sustainable development and EU sectoral policies.

**How can European social dialogue be improved?**

It emerges from the questionnaire responses that the main factors fuelling ESD are political support (from the European Parliament, the Member States’ governments, etc.), the ‘shadow of the law’ and social dynamism, but also the quality of the negotiators, and the unity and coherence of national and European trade union strategies. Next, albeit less strikingly, come the more or less positive stance of the employers, policy-making that is independent of the European institutions (e.g. by adopting an autonomous bargaining agenda), the building of a climate of trust, and the proactive approach of the Commission.

The first step towards improving the European social dialogue would be to consolidate a joint policy vision among national trade union organisations, but also to strengthen the Commission’s role and obtain more outspoken support from the European Parliament. It is worth noting that, although there is ample evidence of improvement factors relating to a strategy hinging mainly around social dynamism or confrontation (‘red lines’, breakdowns in negotiation, mobilisation and strikes), these do not feature among the priority factors.

What this survey reveals, on the whole, is that in spite of growing dissatisfaction with the quality of social dialogue instruments and their implementation, an overwhelming majority of ETUC members still has faith in the relevance of this European-level social dialogue, and in what it can contribute in practice to improving the living and working

5. In other words, the threat of fully-fledged legislation if social partner negotiations proved unsuccessful.
conditions of European employees. ESD is thus perceived as a significant process, which must be preserved and enhanced. The majority therefore believes that priority must be attributed to ways of improving cross-industry social dialogue, but also to other consultation bodies, e.g. forums for coordination of collective bargaining, European sectoral social dialogue, national social dialogue and European works councils.

1.2 Joint survey by BusinessEurope, CEEP, UEAPME and ETUC

The report coordinated by Eckhard Voss (Voss et al., 2011) was a study carried out jointly by ETUC, BusinessEurope, CEEP and UEAPME. Its findings therefore reflect a point of compromise, or of consensus, between the social partners’ varied assessments of ESD (whereas the OSE survey reflects only the trade union viewpoint). What is more, this study pays more attention to the momentum of national-level social dialogue, making it particularly informative to read these two reports in parallel with one another.

The report is based on telephone interviews conducted during the first quarter of 2011 with all the organisations affiliated to the European social partners in the 27 EU Member States and the two candidate countries, Turkey and Croatia. 86 of the total 169 affiliated bodies took part in the survey (a participation rate of around 51%). The overall conclusions of this survey can be summed up in the following way.

The ESD stakeholders (trade unions, private employers, public employers, SMEs) believe that, thanks to cross-industry social dialogue, it becomes possible to engage in drawing up European policies (especially through consultations) and to contribute added value to the national social partners. This ‘constitutes a great success’.

Mentioned among the tangible achievements of ESD are the headway made in terms of social and working life in Europe, and in particular the firming-up of national social dialogue in countries where the social partners do not currently play a significant role. On the other hand,
however, joint texts issued at European level prove to be better implemented where the national social partners have already adopted joint initiatives in this area. Achievements are much more meagre when that is not the case.

When it comes to assessing the tangible outcomes of ESD, some quite different appraisals come to light. The main issue relates to the more, or less, binding nature of documents adopted jointly by the social partners. Both sides of industry express a positive verdict on the implementation of autonomous framework agreements (which was not really the case in the OSE report). Nonetheless, opinions differ when it is a matter of assessing less binding instruments, such as frameworks of action. According to the report’s authors, these discrepancies arise more because of distinctions in national circumstances rather than because of the split between workers and employers. From this point of view, the problem would appear to be not so much conflict between the social partners as a common, shared concern about the actual progress accomplished in certain EU countries.

In this respect, the report’s authors do stress how relevant the national social dialogue situation is to the successful implementation of ESD: ‘While social dialogue in some countries is rooted firmly in the fabric of economic, social and labour market policy making, in other countries a serious lack of acceptance, trust and seriousness has been reported that are undermining and hindering the possibility to implement EU level social dialogue properly’ (Voss et al., 2011: 47). It becomes clear from this statement that the function of ESD cannot, and should not, be to make up for the shortcomings of national social dialogue. That nevertheless raises the question of the role of ESD as defined in the Treaty on the Functioning of the EU. It is a matter of striking a good balance and the right interplay between the two processes, European and national: this is necessary in order to avoid a sort of ‘dualisation’ of social dialogue, whereby certain countries would make relevant, effective use of it whilst others treated it as a purely formal, pointless process.

The survey reveals in addition that assessing the quality of social dialogue depend largely on the benchmarks chosen: ‘For those who assess the performance of social dialogue in the light of ultimate goals such as creation of unified social standards at European level, the results of social dialogue are not impressive. For those who evaluate the
outcomes of social dialogue in terms of participation, joint understanding and the potential to influence social Europe, the outcomes are quite remarkable' (Voss et al., 2011: 47-48).

These distinctions in assessment benchmarks might likewise explain why some social dialogue participants prefer to negotiate joint instruments that are not very binding (joint studies, common positions, etc.) whereas others consider it crucial to target ESD at practical outcomes leading to a real improvement in living and working conditions. But, the authors believe, the survey reveals that specific conclusions cannot always be drawn about the preference granted to binding, or non-binding, instruments based on whether a social partner belongs to the employer or trade union side.

Be that as it may, 'While trade unions in particular are interested in concrete outcomes of social dialogue that contribute to reducing inequalities and strengthening standards of working and living in Europe, employers' representatives have stressed the need to respect diversity and are much more in favour of developing common principles (e.g. flexicurity) rather than defining certain minimum standards of social Europe' (Voss et al., 2011: 48).

Let us now close this rapid overview of the joint survey by pointing out the main proposals for improving the performance of European social dialogue as suggested by the European social partners. These proposals partially tally with those raised in the OSE study:

- a better linkage between cross-sectoral and sectoral social dialogue;
- improving the dissemination of concrete outcomes at the European as well as national level;
- developing a joint understanding of the role and specific nature of the different types of instruments that have been applied and tested during the last 15 years;
- improving the transparency of mechanisms, procedures and decision taking in the context of European social dialogue for national member organisations;
— strengthening the capacity as well as competence of European social dialogue structures and institutions;

— continuing the support for mutual learning and exchange of experience;

— taking into account the specific needs of certain groups of national social partners (e.g. in the public sector, SMEs, etc.).

Readers will not be surprised to learn that, all in all, the unilateral trade union survey is more critical than the joint assessment, since the latter emerges from the search for a reconciliation of viewpoints. Nonetheless, the attitude shared by all the stakeholders is that, over and above its strengths and weaknesses, ESD must be pursued and improved.

In the second section of our contribution, below, we shall examine how the social partners have attempted in practice to pursue (and improve?) their European social dialogue during the course of 2011.

2. European social dialogue activity in 2011

While the two studies on self-evaluation and self-reflection of the European social dialogue (ESD) formed the pivotal area of work of the joint European social partners during 2011, other ‘more content related’ actions were also undertaken in 2011. These actions could indeed be described as quite meagre as they consist mainly of joint reports on the implementation of autonomous framework agreements on harassment and violence at work (2007) and on inclusive labour markets (2010) and the holding of conferences such as the ones in the context of the joint projects on flexicurity and climate change. Indeed, the more important discussions amongst the European social partners in 2011 fell outside of the scope of implementation of the 2009-2010 work programme: they consisted of the start of consultations on a review of the Working Time Directive 2003/88/EC and the negotiations on a new joint work programme for the period 2012-2014. Since both processes began only at the very end of 2011, they were both at a very early stage at the time of writing this article.
Taking stock of European social dialogue: will it fade away or be transformed?

We shall nevertheless begin below by describing the state of play in these two most important - albeit least advanced - rounds of negotiation, since in some ways they illustrate the main outcomes of the appraisals described in the first part of this chapter. Thereafter we shall take a look at other joint activities that took place in 2011.

2.1 Start of negotiations on a review of the Working Time Directive (WTD)

The Commission’s initial proposal dated from 2004 (European Commission, 2004). Despite two readings and a conciliation process, the Council and the Parliament concluded in April 2009 that they could not reach agreement on the proposal. After having conducted in-depth impact assessments and implementation reports, the Commission launched in 2010 the two-track consultation process as foreseen in Article 154 TFEU with the European social partners, in particular to test their readiness to ‘take over the file’ and start negotiations on a framework agreement to be implemented by a Directive thereby revising – at least partially – the existing Directive 2008/33/EC.

It was however not until 14 November 2011 that the ETUC, Business-Europe, UEAPME and CEEP, after lengthy and regular internal consultations as well as both formal and informal contacts between the employers’ side and ETUC representatives to test the ground for starting such potential successful negotiations, informed the Commission that they would indeed start such sensitive negotiations. At the time of writing this article, a first phase of bargaining had taken place on 8 December, which was limited to an initial, brief exchange of views. A second phase was scheduled for 10 February 2012. The exchanges at the first meeting confirmed that the negotiations will prove to be very tough and difficult, in particular as the respective opening positions, especially comparing those of ETUC with BusinessEurope, are so divergent.

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7. All studies and reports can be consulted at: http://ec.europa.eu/social/main.jsp?catId=706 &langId=en&intPageId=205
ETUC declared itself ready to enter into negotiations based on the following four main objectives:

- a comprehensive revision of the WTD serving the health and safety of workers;
- the end or phasing-out of the individual opt-out in the near future;
- keeping the status quo concerning reference periods;
- and ensuring compliance of the ECJ judgments on on-call time and compensatory rest (ETUC, 2011b).

BusinessEurope’s ‘shopping list’ is however much shorter: a revision of the Directive should be restricted to addressing the problems raised by the jurisprudence of the European Court of Justice on the issues of on-call time and paid annual leave/sick leave. As for the opt-out from the maximum 48-hour working week, this must be maintained as a permanent provision of the Directive (BusinessEurope, 2011a).

UEAPME and CEEP’s views largely coincide with BusinessEurope’s demand for a less comprehensive revision and for encompassing the issues of on call and paid annual leave. UEAPME however puts additional focus on greater flexibility through further extension of the reference period (UEAPME, 2011), while CEEP raises the major concern that on any of the topics mentioned above the needs of public employers must be duly taken into account (CEEP, 2011).

We shall therefore need to wait and see, and carry out a ‘rain check’ on this issue in the 2012 edition of ‘Social Developments in the EU’.

2.2 Negotiations on a new European Social Partners’ Work Programme 2012–2014

As already mentioned, at the time of writing this article, these negotiations had also just started, with a first meeting held on 16 December and two further meetings scheduled for 12 and 26 January 2012, in order to be able, following internal consultation and adoption, to determine the content of what is to become the 4th European social
Taking stock of European social dialogue: will it fade away or be transformed?

partners’ work programme to the Tripartite Social Summit scheduled for 1 March 2012.

During the first exchanges, there seemed to be consensus, despite different approaches, on the following issues to be dealt with under the new work programme: 1) employment (with a particular focus on youth (un)employment), 2) continuing the discussions on a better understanding of the European social dialogue instruments and their implementation (as a follow up to the joint study – see above) and 3) continuing in an even more intensified way (joint) capacity building activities, as strong national social dialogue partners and structures are crucial for the impact of the results of the European social dialogue. There was however no clear indication yet how, and via which concrete instruments and actions, the respective European social dialogue thought this would best be dealt with.

As highlighted throughout the second part of this article, other issues which will certainly be brought to the table are climate change and flexicurity, but it is so far unclear whether and how they will actually be dealt with under the new work programme.

Once again it was clear that ETUC was aiming for a more ‘comprehensive’ work programme than the employers’ side. The latter opted instead for a ‘less is more and more is less’ approach, although both sides agreed on the principle of the need for a realistic work programme, in a sense of being able to conduct envisaged activities in the given reference period of two years and to ensure that ‘quality came before quantity’.

2.3 Final joint report on implementation of the framework agreement on harassment and violence at work

Implementation had to be carried out within three years of the date of signature of the agreement, i.e. by April 2010. As foreseen in the framework agreement, the members of the Social Dialogue Committee decided at its meeting on 23 February 2011 to set up an ad hoc group entrusted with preparing the final report on implementation of the agreement on harassment and violence at work. This ad hoc group met on 24 May 2011. By 27 October 2011, when the report was adopted by the Social Dialogue Committee, joint national implementation reports
had been received from 14 EU Member States and EEA countries. Final joint reports had not yet been received from Belgium, Bulgaria, Estonia, Germany, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta, Romania, Slovakia, Slovenia and Spain.

The joint report (ETUC et al., 2011a) provides a comprehensive overview of how, at both European and national level, members of the signatory parties disseminated, explained and transposed the European framework agreement in their European and national context between 2007 and 2010.

In 18 countries, the framework agreement has been implemented through agreements between national social partners. As well as overarching agreements, this has also included jointly agreed guidance, declarations/statements and integration of elements of the framework agreement into existing social partner agreements. In four countries the framework agreement was implemented through sectoral social partner agreements with the following sectors covered: hospitals, university level education and training schools, transport, metal, construction and chemicals industries, pharmacists, taxis, retail, banking and hotel and restaurant. Since the framework agreement fits in a larger framework of existing national and EU legislation (e.g. directives on non-discrimination and health and safety at work), in a number of countries (10) implementing measures have focused on assessing and in some cases fine-tuning existing regulations in line with the framework agreement. In 11 countries complementary measures were taken, including research, training, communication activities and events. For a more detailed overview, see Tables 2 and 3.

Implementation of the framework agreement demonstrates that it has provided clear added value for social partners in dealing with this important topic; however there were some challenges in doing so. In some cases these related to the national framework and context in which the agreement was implemented, such as the strength or rather weakness of social dialogue structures and processes within the national context, or how to tailor implementation of the framework agreement to the national context because of existing regulatory and conventional frameworks. In other cases challenges were related more to the actual topic of harassment and violence at the workplace and this mainly because of a lack of awareness or information on the topic.
Table 2  Implementation instrument - National social partner agreement

<table>
<thead>
<tr>
<th>Country</th>
<th>Overarching agreement</th>
<th>Joint guidance</th>
<th>Joint declaration/ statement</th>
<th>Integration into existing agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
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<tr>
<td>Cyprus</td>
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<td>Czech Republic</td>
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<tr>
<td>Denmark</td>
<td>X</td>
<td>X</td>
<td>X (state sector, regions and municipalities)</td>
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<tr>
<td>France</td>
<td>X</td>
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<tr>
<td>Ireland</td>
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<td>Italy</td>
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<td>Luxembourg</td>
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<td>Norway</td>
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<td>Spain</td>
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<td>UK</td>
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</tbody>
</table>

Source: ETUC et al. (2011a).

Table 3  Implementation instrument

<table>
<thead>
<tr>
<th>Country</th>
<th>Sectoral social partner agreements</th>
<th>Company level collective agreement</th>
<th>Assessment of national legislation</th>
<th>Complementary activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>X</td>
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<td>Belgium</td>
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<td>Slovenia</td>
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<td>Spain</td>
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<td>Sweden</td>
<td>X</td>
<td>X</td>
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<td>X</td>
</tr>
</tbody>
</table>

Source: ETUC et al. (2011a).
Nevertheless, the European social partners consider that the framework agreement has brought real added value in terms of raising awareness on the issue of harassment and violence at the workplace and has provided a framework for action by social partners. Moreover they also recognise that implementation of the framework agreement has also taught lessons in relation to EU social dialogue in general. They, and their members, ‘acknowledge that there are gaps in the reporting of implementation of the agreement, as a number of countries have not yet submitted joint implementation reports’. Furthermore, ‘they plan to address this through the future joint project on the resource centre of the European social dialogue’ and ‘ensuring a better implementation of autonomous social dialogue instruments will also be considered in the context of the next EU Social Dialogue work programme’. Surely this is an important conclusion, given also the outcomes of the two ‘self-evaluation studies’ described in the first part of this article.

2.4 First joint table on implementation of the framework agreement on inclusive labour markets

As foreseen in the framework agreement, which has to be implemented by 25 March 2013, the European social partners must, during the first three years after the signature of the agreement (2011-2013), submit to the Social Dialogue Committee a yearly table summarising the ongoing implementation of the framework agreement. At the Social Dialogue Committee meeting of 15 June 2011, the first implementation table was adopted (ETUC et al., 2011b). It gives however a rather patchy overview for various reasons. Firstly because of the limited number of joint national reports received. Out of 31 concerned EU/EEA member states and candidate countries (when the agreement was concluded only Croatia and Turkey), only 15 reports were received, nine of which were from ‘old’ Member States, five from ‘new’ Member States and one from an EEA member state and no report from a candidate country. In addition only the European cross-industry social partners provided input on their respective dissemination and implementation activities; thus so far no report has been received from any of the European sectoral...
social partners. Secondly, it also shows that in many countries, national social partners are still at an initial stage of the implementation process, i.e. translating the framework agreement into their respective national language(s) and/or undertaking dissemination action in order to raise awareness to lower level bargaining actors on the agreement’s existence and content. And thirdly, for those countries that actually do report on concrete implementation results and activities, it is still unclear whether these are indeed triggered by the European framework agreement or might have been taken anyway in the framework of ongoing and foreseen active labour market policies in the different countries, in particular given the current economic crisis.

So it is still rather early to draw any real conclusions on the impact of this autonomous framework agreement, and one will have to await at least the second implementation report to have a more tangible overview. But as for the final report on the harassment and violence framework agreement (see above), the European cross-industry social partners acknowledge the urgent need to address this lack of reporting: concrete action in the form of capacity building seminars in different countries is already scheduled to take place during the first half of 2012.

2.5 Joint conference on flexicurity

It should firstly be recalled that in the context of their joint work programme 2009 – 2010, the European social partners committed themselves to ‘jointly monitor the implementation of the common principles of flexicurity, notably to evaluate the role and involvement of the social partners in the process and to draw joint lessons’ (ETUC et al., 2009). Between 2010 and 2011, ETUC, BusinessEurope, UEAPME and CEEP then undertook a joint study designed to assess implementation of the common principles of flexicurity\(^{10}\) and the role of social partners in the process. This study covers 29 countries, all 27 EU Member States and candidate countries Croatia and Turkey. The results of the study as well as of the findings of four so-called cluster seminars

\(^{10}\) http://resourcecentre.etuc.org/Flexicurity-87.html.
held between November 2010 and February 2011\textsuperscript{11} were presented at an EU-wide seminar held in Brussels on 31 March – 1 April 2011 (ETUC \textit{et al.}, 2011c)\textsuperscript{12}.

If the discussions at both the cluster meetings and the closing conference tell us anything, it is that there is still a very wide divergence of views on the concept of flexicurity and the importance and impact it could and should have for the efficient functioning of national labour markets. This cleavage and the difficulty of finding a common message on this issue is also quite clear when comparing for example the titles of the separate (!) press releases issued by ETUC and BusinessEurope following the closing conference. Whereas ETUC speaks of ‘flexicurity or how theory is not applied in practice’ (ETUC, 2011a), BusinessEurope considers that ‘flexicurity works in good and bad weather’ (BusinessEurope, 2011b). It thus remains to be seen now – also given the renewed interest shown by the European Commission concerning the flexicurity debate in its flagship initiative on a new agenda for new skills and jobs (European Commission, 2010c) – how the European social partners intend to continue to tackle the issue in their European social dialogue. No doubt the issue will in any case be brought to the table by the employers’ side in the negotiations on the new work programme 2012-2014.

2.6 Joint action on climate change

Whereas the work programme 2009-2010 also foresaw that the European social partners would work on ‘the development of a joint approach to the social and employment aspects and consequences of climate change policies with a view to maximising opportunities and minimising negative effects and to identify possible joint actions’ (ETUC \textit{et al.}, 2009), they undertook between 2010 and 2011 an exploratory joint study to better understand the impact of climate change adjustment policies on labour markets and to assess what role the social partners at national level have or could have in this respect. This study set out to help European social partners to: 1) assess the

\textsuperscript{11} Each of these cluster meetings involved 7-8 countries, mixing together geographically disparate countries of different sizes and with different industrial relations systems. All documents related to these meetings can be found at: http://resourcecentre.etuc.org/Flexicurity-87.html.

\textsuperscript{12} The conference notes are also available at http://resourcecentre.etuc.org/Flexicurity-87.html.
impact of climate change mitigation and adaptation policies (e.g. environmental sustainability, energy efficiency, reducing emissions) on labour market policies in Europe, 2) assess the impact on future skills needs and 3) identify and discuss any present or future actions and / or ways in which social partners can work, separately or jointly, to better address climate change mitigation and adaptation policies and their impact on employment and skills.

Following a first EU-level seminar, held in Brussels on 29 June 2010 and where national social partner organisations from four countries (Belgium, Germany, Spain, and UK) were able to present their different approaches to the issue and give examples of initiatives implemented and / or planned, a final EU-level seminar was held, also in Brussels, on 1-2 March 2011 where the final findings of the exploratory study were presented and discussed by national social partner representatives coming from 27 EU countries (ETUC et al., 2011d). Following the final conference there was a shared consensus to continue to work on this important issue within the framework of the European social dialogue; however it still unclear how and using which – more targeted - approach. Climate change will thus be another issue on the table during the negotiations on the new work programme for 2012-2014.

Conclusions

2011 marked a turning point for European social dialogue. The assessments of twenty years of ESD do of course indicate the attachment of all stakeholders to this process, but they also reveal differences of opinion, or even divergences in the appraisal of its fundamental purposes, its content and the implementation of its outcomes. Furthermore, two major new sets of negotiations were launched between the social partners in 2011: on the review of the Working Time Directive and on a new autonomous Work Programme for the period 2012-2014. Both bargaining phases were proving highly sensitive at the very start of 2012.

13. All documents related to both the first and final synthesis seminar are available at: http://resourcecentre.etuc.org/Climate-Change-86.html.
Reading the two studies taking stock of twenty years of ESD proves especially instructive from two additional perspectives: firstly, there is growing trade union discontent with the content and implementation of texts adopted jointly; secondly, the importance of national structures for social dialogue must be registered if ESD is to have true added value.

The joint survey headed up by Voss makes plain that it is in the Member States where the social partners are well organised and influential, and where robust national institutions exist for social dialogue, that ESD outcomes can be best utilised. In countries with weaker stakeholders and structures, ESD triggers processes that are merely formalistic or even unproductive. ESD in itself, therefore, cannot strengthen a defective national social dialogue; it is of virtually no use at all. If European social dialogue is to operate to the full, therefore, the EU and its Member States must support not only ESD itself but also the national players and structures pursuing social coordination.

All of which means that now, on the twentieth anniversary of European social dialogue, a key paradox is evident: having been launched in 1991 to accompany an emerging economic and monetary union, the ESD now - in 2011 and at the height of the euro crisis - appears to be receiving virtually no more input from the European Commission. Instead, ESD is now lagging behind as a result of what could best be described as the employers’ attitude of reluctance, as we have seen in the second section of this chapter.

2011 did indeed prove to be a rather meagre year, whereby the more ‘content-oriented’ issues identified in the work programme 2009-2010 were basically just dealt with in the form of reporting exercises, (joint) projects and conferences. In addition, two other major issues, i.e. the revision of the WTD and the elaboration of a 4th joint work programme, only started late in 2011 and without any clear indication of whether and how successful they will be, once finalised in 2012, in particular the negotiations on revising the WTD. In that sense there may not be much to celebrate about the twentieth anniversary of the European social dialogue, perhaps apart from the fact that a serious self-evaluation was indeed made. But the actual result will need to be awaited!
Nationally, too, 2011 was a year that saw the European institutions, headed up by the Commission and the European Central Bank, call into question the autonomy of collective bargaining in several countries. At the very start of 2011, former ETUC General Secretary John Monks sent a vitriolic letter to the European Commission, attacking its ‘policy of detailed interference in labour markets [which] tramples all over pious Commission statements about the autonomy of the social partners, the importance of social dialogue and the specific exclusion in the EU treaties of a European competence on pay’.

To put it even more succinctly: European social dialogue arose with the euro in 1991; might it be killed off because of the euro in 2011?

ESD can help to establish a balance between the European and national reforms made necessary by the euro crisis. Twenty years ago, the Social Policy Agreement reflected ‘a consensus between Member States and between European-level social partners to make social dialogue a key instrument, if not the number-one instrument, for regulating social and employment affairs in the European Union’ (Mückenberger et al., 1996). It is quite legitimate to wonder whether, in 2011, this belief was still uppermost in the minds of everyone involved.

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Taking stock of European social dialogue: will it fade away or be transformed?


Europe 2020 and the fight against poverty and social exclusion: fooled into marriage?

Ramón Peña-Casas

Introduction

Ten years ago, we wrote in one of the volumes of this series of the beginning of a new era in the political history of the fight against poverty and social exclusion in Europe, thanks to the launching of the open method of coordination (OMC) in this area, as part of the Lisbon Strategy. Like many other observers, we welcomed the fact that the issue of poverty and social exclusion was being included on the European social policy agenda. Although it was to be dealt with by means of a non-binding process of flexible political cooperation between Member States (the open method of coordination, or OMC), we hoped at last for a key step forward towards correcting one of the main forms of social injustice still affecting millions of people throughout the European Union (EU) (Peña-Casas, 2002).

Ten years have gone by, and the progress made seems limited, to say the least, if we only consider the specific outcomes. The growth, employment, environment, innovation and education objectives have not been met, and the social outcomes promised by Lisbon have not materialised (Cantillon, 2011; Vanhercke, 2011; Barbier C., 2010; Barbier J-C., 2010; Peña-Casas, 2010; Natali, 2009). Poverty levels in Europe have at best reached a plateau, and there has been an increase in economic and social inequalities, in unemployment and/or precarious employment. These phenomena have always affected the most vulnerable sectors of society, including the young, but, increasingly, they are impacting other groups which, a priori, should be less at risk, particularly workers. The Lisbon Strategy has been unable to counter these negative trends, and the challenges that they represent are still highly relevant to the new European medium-term strategy,
Europe 2020. This is particularly so since these negative social trends have become even more acute as a result of the on-going crisis affecting Europe since 2007. We do not have space here to list all these challenges1, so shall just mention two figures which are particularly significant in this context. In 2010, just over 80 million Europeans lived in a situation of financial poverty, i.e. 16.4% of the total EU population. If we use the broader definition of poverty, as expressed by the composite target2 defined at European level (cf. Section 1.2.1.), which also includes those suffering serious material deprivation and/or living in a household with very low work intensity, more than 115 million Europeans are, using the current terminology ‘at risk of poverty or of social exclusion’, i.e. nearly one out of every four individuals (23.4%) (Eurostat, 2012).

The launching of Europe 2020, in June 2010, introduced certain elements, presented as innovative new features, to the European system for combating poverty and social exclusion. Europe 2020 has now been running for over a year and a half, so in this chapter we look at each of these elements and assess their implementation, to see whether they have made a positive difference to the struggle against poverty in Europe. The Strategy, namely, is defined at European level, but for these political guidelines to be effective, it is the Member States which must take them on board and implement them. Section 1 describes and discusses the new European anti-poverty tools introduced in Europe 2020. We thus look at the concept of inclusive growth, which underpins the approach to poverty-reduction, the introduction of a specific guideline on social inclusion, and how it fares under Europe 2020 and reinforced economic governance, and the introduction of a composite European poverty target, which Member States must convert into national targets. Section 2 focuses on the European platform against poverty and social exclusion, vaunted as the EU’s flagship initiative in the area of social affairs, and its uneasy fit with the Social OMC, the survival of which, in an altered form, has only recently seemed guaranteed. The final section gives a number of conclusions to be drawn

1. For a detailed picture of the situation and of social developments in Europe, cf. in particular SPC (2012a), European Commission (2011a) and Atkinson and Marlier (2010).
2. In this chapter, we will use the term ‘target’ to mean a quantified measure acting both as a benchmark to be reached at the end of a programming period and as a tool to monitor progress towards this objective.
from the introduction of this new European poverty-reduction framework within Europe 2020.

1. Poverty-reduction measures in Europe 2020

The OMC for poverty and social exclusion has had an eventful history since its beginnings in 2001. It was re-formed and ‘rationalised’ halfway through as part of the Growth and Employment Strategy, re-named the OMC on social inclusion - a change which reflected the greater emphasis placed on employment – and brought into a broader ‘Social OMC’, which also included the OMC on pension reform and healthcare (Daly, 2010). We shall not here assess the real impact of the OMC over the last ten years. Much has already been written on the subject, both on the governance method itself (Kröger, 2011; Vanhercke, 2010; Zeitlin, 2010) and on its impact at national and subnational level (Heidenreich and Zeitlin, 2009). Suffice it to say that somehow, despite the various reforms which it has undergone over its lifetime, and the new constraints created by EU enlargement and the economic crises, the Social OMC has remained consistent over time and preserved a relative consensus as to its key elements (common indicators and objectives, national plans and processes for joint evaluation and the exchange of good practices). It has also retained its emphasis on the need for a multidimensional approach which requires horizontal and vertical integration of the policies implemented. We can not here enter into a detailed presentation of the role of anti-poverty measures within Europe 2020, or, more broadly, within the new European governance structure, which has become considerably more complex in recent years. For this we would refer the reader to the in-depth analysis provided in the previous edition of this collection (Vanhercke, 2011; cf. also Daly, 2010; Marlier and Natali, 2010). There is a risk, however, that the new poverty-reduction framework set out in Europe 2020, while introducing factors which are new at European level, may undermine, even destroy what has been achieved by the Social OMC.

1.1 ‘Inclusive growth’

The aim of Europe 2020 is that Europe becomes ‘a smart, sustainable and inclusive economy delivering high levels of employment,
productivity and social cohesion setting out a vision of Europe's social market economy for the 21st century' (European Commission, 2010a: 5). This bears many similarities to the well-known words of the Lisbon Strategy, except that, interestingly, the reference to the quality of employment has been replaced by the mention of productivity. Within this context, the Strategy is based on three main pillars, worded in such a way as to leave little doubt that its main objectives relate to economic growth (so-called ‘smart, sustainable and inclusive’ growth). 'Inclusive growth' refers to 'building a cohesive society in which people are empowered to anticipate and manage change, and consequently to actively participate in society and the economy' (European Commission, 2010a). In a striking turn of phrase, cohesion and social inclusion policies are thus reduced to a basic function: to equip individuals with the ability to anticipate and manage change. Poverty and social exclusion, this suggests, are largely the result of an inability to adapt to the market, just as unemployment is seen as the result of a lack of employability. Significantly, the objectives of the fight against poverty are assimilated to what became the key paradigm of the now defunct European Employment Strategy (Peña-Casas, 2008). This extreme simplification of the issues surrounding social cohesion and inclusion is not surprising, given the fact that the ‘inclusive growth’ pillar of Europe 2020 is an attempt to bring together under one headline a whole series of interactions and tensions between complex sets of policies. Up until then, each of these sets of policies had had its own flexible governance process, because of their multi-dimensional nature and the need for subsidiarity. There was an OMC for employment and social issues (poverty, pensions and health), but also the quasi-OMC for education and training. Priority is now very clearly given to employment, and, above all, to labour market participation and adaptability (flexicurity), the impact of which on growth probably seems more obvious a priori from the economic viewpoint. Europe 2020 is just one cog in the whole system of economic governance, the main purpose of which is to guide and monitor structural reforms.

To reduce poverty and social exclusion, the Member States, through their National Reform Programmes (NRPs) must ensure access and opportunities for all throughout their lifecycles, thus reducing poverty and social exclusion by doing away with obstacles to participation in the labour market. They must also improve economic and social cohesion, by promoting growth which generates employment. Countries should
therefore ensure that their labour markets are functioning properly, by investing in successful transitions and education and training systems, developing appropriate skills, improving the quality of employment and combating segmentation, structural unemployment, youth unemployment and inactivity. Reference is made to the need to ensure adequate and sustainable social protection as well as active social inclusion, with a view to preventing and reducing poverty, but this must be done strictly within the boundaries of the agreed fiscal consolidation measures (European Commission, 2010a). The concept of inclusive growth, which is behind the perception of poverty-reduction in Europe 2020, seems to be essentially geared to increasing participation and permanence in the labour market. A tentative allusion is made to the need for the Member States to give ‘particular attention’ to combating in-work poverty, and more generally to poverty among the groups most vulnerable to social exclusion (children, young people, etc.), but it is immediately tempered by a strong reference to the need to respect the constraints of budgetary correction and sustainability. We welcome, however, the inclusion of the territorial dimension when referring to the need to redistribute the (scarce) fruits of growth fairly between all individuals and territories. In itself, therefore, this concept of ‘inclusive growth’ only reflects very partially the multidimensional nature of the fight against poverty and social exclusion, although the guideline on social inclusion is more specific in this respect.

1.2 The Guideline on Social Inclusion

The first major innovation of the Europe 2020 Strategy was a new guideline on social inclusion, supported by one of the 5 headline targets of the Strategy (Council of the European Union, 2010a). Unsurprisingly, the Guideline is worded in such a way as to repeat the main points in the Social OMC common objectives, while clearly stressing participation in the labour market as a key priority of the fight against poverty (active inclusion) and the need to reform social protection systems to ensure their adequacy, while respecting budgetary constraints and the need for long-term sustainability (cf. Box 1). The Guideline also refers to more cross-cutting issues such as equal opportunities or non-discrimination. It defines the headline target on poverty, a point we shall come back to later (cf. Section 1.2.2.). The Guideline on Social Inclusion has been included in the Employment
Guidelines, which, together with the economic guidelines, provide the key political orientations of Europe 2020.

A number of relevant actors supported the introduction of a guideline on social inclusion. They saw it as a positive step forward which would link poverty-reduction more effectively into the Europe 2020 political process, or even make it a cross-cutting issue at both European and national levels by means of the NRPs (Vanhercke; 2011, Daly, 2010; EAPN, 2010a). They were somewhat disillusioned, however, by the interpretation of the guideline given firstly by the Member States (in the NRPs), and then by the Commission and Council. It became clear that the fight against poverty actually played a relatively minor role in the overall scheme of European governance, which was geared to growth.

Box 1  Guideline 10: Promoting social inclusion and combating poverty

The extension of employment opportunities is an essential aspect of Member States’ integrated strategies to prevent and reduce poverty and to promote full participation in society and the economy. Appropriate use of the European Social Fund and other EU funds should be made to that end. Efforts should concentrate on ensuring equal opportunities, including through access for all to high quality, affordable, and sustainable services, in particular in the social field. Public services (including online services, in line with guideline 4) play an important role in this respect. Member States should put in place effective anti-discrimination measures. Empowering people and promoting labour market participation for those furthest away from the labour market while preventing in-work poverty will help fight social exclusion. This would require enhancing social protection systems, lifelong learning and comprehensive active inclusion policies to create opportunities at different stages of people’s lives and shield them from the risk of exclusion, with special attention to women. Social protection systems, including pensions and access to healthcare, should be modernised and fully deployed to ensure adequate income support and services — thus providing social cohesion — whilst remaining financially sustainable and encouraging participation in society and in the labour market.

3. The NRPs are firstly assessed by the Commission at the end of the European Semester, and recommendations are made to Member States. Then, at the end of the year, the Commission draws up the Annual Growth Survey, which sets political guidelines with a view to the Spring Council. Annexed to this survey is the Joint Employment Report, which therefore also assesses the Social Inclusion Guideline, as well as a progress report on the Europe 2020 strategy.
Benefit systems should focus on ensuring income security during transitions and reducing poverty, in particular among groups most at risk from social exclusion, such as one-parent families, minorities including the Roma, people with disabilities, children and young people, elderly women and men, legal migrants and the homeless. Member States should also actively promote the social economy and social innovation in support of the most vulnerable. All measures should also aim at promoting gender equality.

The EU headline target, on the basis of which Member States will set their national targets, taking into account their relative starting conditions and national circumstances, will aim at promoting social inclusion, in particular through the reduction of poverty by aiming to lift at least 20 million people out of the risk of poverty and exclusion.

The population is defined as the number of persons who are at risk of poverty and exclusion according to three indicators (at risk of poverty; material deprivation; jobless household), leaving Member States free to set their national targets on the basis of the most appropriate indicators, taking into account their national circumstances and priorities (Council of the European Union, 2010).

1.2.1 A guideline which has been marginalised

The first Annual Growth Survey, which came out at the beginning of 2011, had already given rise to some concerns. This period could be seen as a transitional stage, during which Europe 2020 and the European timetable of events was gradually taking shape. It was nevertheless already clear that the general objectives of Europe 2020 were subordinate to the economic governance objectives and cycle, and that within Europe 2020 the social inclusion measures were essentially focused on getting people back to work. This realisation provoked strong reactions from civil society representatives, who denounced the apparent abandonment of the anti-poverty objectives, as well as those concerning education and the environment. The European Anti-Poverty Network (EAPN) asked in particular for the Social Inclusion Guideline to be separated out from the employment guidelines, and for social concerns and sustainability objectives to be mainstreamed into all the Strategy guidelines, so that the fight against poverty and social exclusion was placed at the centre of European policy (EAPN, 2011a, b, c and d). The European Trade Union Confederation (ETUC) spoke out against the type of economic governance which gives priority to budgetary and
pay restrictions and which undermines social rights at a time of serious crisis (ETUC, 2011). In the run up to the Spring Council, the Social Protection Committee (SPC)\(^4\) published its first annual report on the social dimension of Europe 2020, in which it gives its preliminary analysis of the NRPs and describes the various anti-poverty policies in context (SPC, 2011a).

The attention of the Council, however, remained largely focused on budgetary deficits and growth. The objective chosen for Europe 2020 was to move beyond the budgetary cuts and carry out structural reforms to promote growth, including measures relating to the fight against poverty and social exclusion (European Council, 2011).

An analysis of the policies to combat poverty and social exclusion listed in the NRPs shows clearly that the latter are focused on growth, and are not the best place to reflect accurately the complexity and cross-cutting nature of such policies. Thus the report drawn up by the European Network of Independent Experts on Social Inclusion emphasises that national economic and employment policies feature prominently in the NRPs, but not social policy. The NRPs refer to activation as a tool to combat poverty, but rarely consider an integrated approach such as active inclusion. There are few in-depth and clear analyses of the key challenges which must be met if we are to increase social inclusion. Although all NRPs cover the issue of poverty, they say relatively little about it and refer neither to the needs of particularly disadvantaged groups, nor to horizontal priorities such as equal opportunities or non-discrimination. The reforms proposed in the NRPs focus almost exclusively on growth and employment (Frazer and Marlier, 2011).

EAPN’s analysis of the NRPs makes the same points, but in more virulent terms. It expresses feelings of great disappointment, deception and anger at the approach generally taken at national and European level. EAPN also stresses the fact that the process for involving national stakeholders in the NRPs represents a step backwards compared to the

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\(^4\) The Social Protection Committee is made up of two representatives from each Member State and two representatives from the Commission. It provides support to the work of the European Council for Employment and Social Affairs, drawing up reports, drafting opinions and carrying out activities within its remit, on its own initiative or at the request of the Council or Commission. The SPC has a key role in the social dimension of Europe 2020. It is the social policy equivalent of similar committees in the areas of employment (the Employment Committee – EMCO) and of economic policy (the Economic Policy Committee – EPC).
Social OMC (EAPN, 2011e). Both analyses deplore the lack of attention given by most European Member States to the European poverty reduction target, a point we shall come back to later.

In June 2011, the end of the first European Semester for economic policy coordination also gave the Commission an opportunity to assess the NRPs drawn up pursuant to the guidelines, and, above all, to make recommendations to the Member States (European Commission, 2011b). Derruine and Tiedemann have made a detailed critical analysis of these recommendations. Their report stresses, in particular, the relative absence of anti-poverty objectives in the recommendations, but also of those relating to research and development or the environment. The recommendations must generally respect the requirement for budgetary neutrality, so their scope is limited. The report suggests, in particular, that the 2020 Strategy be made legally binding, and that sanctions be introduced for non-respect of the recommendations. It is somewhat critical of the European Commission’s Directorate General for Economic and Financial Affairs (DG ECFIN), which, it says, has too much influence compared to the other Commission DGs involved in the 2020 Strategy (Derruine and Tiedemann, 2011). In the context of European economic governance, then, the fight against poverty does not seem to be a key issue for the Commission or for Member States. The aim of the European Semester, as a vital element of the new reinforced economic governance, is to ensure that the collective discussions on major priorities take place at EU level before, rather than after, national decisions are taken. The outcome of these discussions then needs to be applied through decisions taken at national level. For this to be the case, though, a clear and firm message needs to be sent out concerning European priorities. This has been done for budgetary reform, and, to a lesser extent, for structural reform. When it comes, however, to the fight against poverty, the only message given has been that Member States should ‘do more’ to achieve progress towards the social inclusion objective. This is hardly what one could call a strong message.

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5. Only very few countries were given a recommendation related to poverty. Any such recommendations, moreover, were generally indirect, with poverty mentioned in relation to the labour market (Estonia) or in terms of financial support to particular groups such as pensioners (Cyprus) or people on a low or medium income (Austria, Belgium, Germany, Hungary and Slovakia). Bulgaria was the only country to receive a specific recommendation concerning the need to deal with the challenge of combating poverty.
The recent publication of the Annual Growth Survey for 2012 has enabled us to assess whether the criticism voiced as to the minor role given to the fight against poverty and social exclusion has been taken on board. The evidence would suggest that it has not. The only evaluation of the Social Inclusion Guideline contained in the Joint Employment Report (Annex 3) is a rapid overview of actions taken by the Member States in a number of areas. The joint report does, however, voice concerns, in the light of the national targets set in the NRPs, that the European targets on poverty, as well as on education and the rate of early school leavers, are not being met (European Commission, 2011c). This pessimistic view is repeated in the Progress Report on the Europe 2020 Strategy (Annex 1). The Report does not make direct reference to the Social Inclusion Guideline, but embarks on a broader discussion of poverty reduction measures in the context of actions undertaken by the European Platform against poverty and social exclusion (see later on, Section 2). Although the report acknowledges that the fight against poverty is an important objective in itself, it is essentially presented in terms of its impact on growth. It is important, it states, to improve the resources of poor people – and of others – and to increase their participation in the labour market in order to stimulate demand and encourage a robust economic recovery. From this perspective, the modernisation of social protection systems along the lines of the active inclusion common principles (adequate minimum income, inclusive labour market and access to effective and affordable social services) is presented as the cornerstone of the fight against poverty. Access to effective and affordable (public) services plays a key role in reducing private expenditure, and hence raising disposable income, mitigating income poverty and inequality. The Commission also addresses the question of access to and costs of housing, as well as that of banking exclusion, but chooses to overlook the issue of access to healthcare, something which is, however, strongly emphasised in the Joint Employment Report (European Commission, 2011d). This discrepancy between the various documents is even clearer when we reach the end of the chain and examine the Annual Growth Survey itself. The Survey does not directly refer to the fight against poverty, but devotes scarcely

6. Improving social protection systems, thus enabling them to fulfil their role as social stabilisers, labour market participation of vulnerable groups, active inclusion, the use of ex ante assessments of the social impact of budgetary reforms, access to energy, housing, transport and healthcare.
half a page to ‘protecting the vulnerable’. To this end, the Commission suggests that Member States give priority to improving the effectiveness of social protection systems and making sure that social automatic stabilisers can play their role until employment growth substantially resumes. Member States must implement active inclusion strategies, but should also guarantee services supporting integration in the labour market and in society, such as access to a basic payment account, electricity and access to affordable housing (European Commission, 2011d). In its opinion on the 2012 Annual Growth Survey, the SPC attempts to re-emphasise the key role of social protection. It underlines strongly how the social situation in Europe has worsened since the crises, and how this has put more pressure on social protection systems. These systems help not only to cushion the impact of the crisis, but also to maintain demand and therefore growth. The SPC insists on the need to ensure that the budgetary measures taken in the context of economic governance do not have a negative impact on the resilience of social protection systems. It also stresses the importance of improving budgetary measures so that these meet the long-term requirements of citizens. The need to maintain the capacity of social protection systems to combat poverty and inequalities is also highlighted (SPC, 2012b).

It is now more than a year and a half since the official launching of Europe 2020. The Social Inclusion Guideline is still a long way from having the predicted impact on the Strategy, in terms of establishing social inclusion as a priority and of influencing policy, if we are to judge by the various key stages of the new European governance cycle. At the outset the content of the guideline is a fairly accurate reflection of the objectives of the Social OMC. Its content, however, is diluted more and more as it is interpreted in an ever more restrictive fashion in the workings of the Strategy and then moves through the system of European economic governance. Over time, then, the complex issue of the fight against poverty and social exclusion is reduced to the contribution it can make to growth. The principal concern is how to put as many people to work as possible, and how to support income-levels in order to promote consumption, with particular attention given to the most vulnerable groups. Member States, moreover, have done little to include the social dimension in the rigid context of the NRPs, which do not lend themselves to these issues, focused as they are on growth. This gradual dilution of the content of the Social Inclusion Guideline, replaced by an approach geared almost exclusively to growth, is the
result of two flaws in the system which have emerged clearly since European governance has begun to concentrate more openly on economic issues.

The first of these is the imbalance of power and influence between the economic and social actors involved in the process at the various political levels. This imbalance exists at European level, between the Councils or, within the Commission, between Commissioners and their respective Directorate Generals. At national level, the Prime Minister’s office and that of the Minister of Economic Affairs are responsible for the NRPs and their social strand, rather than the ministers who usually deal with social issues. The second problem is a shortcoming in the democratic process. The procedure for drawing up Europe 2020, and above all the economic governance system, leave little room for consultation with the social partners, and, in particular, with civil society on issues pertaining to the fight against poverty. This failure to involve such groups again exists at both European and national level, and brings with it the risk that the progress made so painstakingly under the Social OMC will now be reversed. The democratic deficit has also become more acute with the new European economic governance system, particularly when it comes to adopting budgetary restrictions (Barbier, 2011).

1.2.2 A dubious European objective

Europe 2020 introduced another new element to the fight against poverty: a quantified European anti-poverty objective, which was adopted with some difficulty, to say the least. It is contained within the Social Inclusion Guideline and is one of the five Europe 2020 headline targets. This idea was not new, but had, until then, met with resistance from some Member States, as no agreement could be reached on using an at-risk-of poverty rate as an indicator for a common target. Following tough negotiations, a compromise was finally reached. There would be a European poverty target, but its nature had radically changed during negotiations. Thus the Guideline states the following: ‘The EU headline target, on the basis of which Member States will set their national targets, taking into account their relative starting conditions and national circumstances, will aim at promoting social inclusion, in particular through the reduction of poverty by aiming to lift at least 20 million people out of the risk of poverty and exclusion’
Europe 2020 and the fight against poverty and social exclusion: fooled into marriage?

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Those ‘at risk of poverty OR social exclusion’ are defined using a combination of three non-cumulative indicators (at-risk-of poverty rate and/or material deprivation and/or living in households with very low work intensity). According to the Commission, this definition reflects the multiple factors underlying poverty and/or exclusion, the diversity of problems that Member States face and the priorities that they have therefore set out (European Commission, 2010b).

This agreement, resulting from a political consensus rather than from a sound methodological base or consultation of other parties, is problematic in a number of ways. There is no space here to go through all the methodological problems relating to the European target, in terms of the combination and choice of indicators (Nolan and Whelan, 2011; Walker, 2010). We will, then, just touch briefly on two serious political problems.

The first of these is the de facto reference status given to a dubious composite indicator. This indicator was given pride of place at the top of the hierarchy of European poverty and social exclusion indicators, purely by virtue of its adoption by the European Council as a headline target for Europe 2020. The Strategy introduces a new way of measuring poverty, which threatens to supplant the at-risk-of poverty rate as the European reference indicator which would then have to be used nationally. Such a change would be a significant one. It would mean that an approach to poverty-reduction based on redistribution and the reduction of inequalities would be supplanted by a more economic approach. According to this new approach, promoting economic growth and increasing labour market participation ‘is sufficient’ to reduce material deprivation or the number of jobless households. This is the general line taken by Europe 2020, as we have previously emphasised.

The second difficulty with this agreement is that Member States are free to set their national targets on the basis of those indicators making up the composite target which they feel to be most appropriate, taking account of their situation and priorities. It would have been better if the European target had come hand in hand with targets for each of the individual indicators, and if each country had been asked to set its own targets for these indicators. Although many countries have selected a
national target based on the European composite indicator, it is difficult in most cases to assess how much emphasis will be placed on each component (SPC, 2011a). There is a risk that some countries will focus on the indicator easiest to handle instead of taking a multi-dimensional approach to poverty-reduction. In this way they may end up concentrating in their policy choices on growth and employment rather than on redistribution, especially in the current context of budgetary austerity and the decline in the role of the State (Zeitlin, 2010).

A close look at the national targets adopted by Member States unfortunately confirms most of these fears. The Joint Employment Report contains an evaluation of the Social Inclusion Guideline. It states that an aggregation of provisional national objectives shows that the EU still has a long way to go to meet the major objectives set by the European Council. The diverse definitions used, says the report, make it impossible, as things stand, clearly to take stock of the commitment of Member States (European Commission, 2011c). The progress report on the Europe 2020 Strategy speaks out more clearly, stating that the EU’s objective to lift at least 20 million people out of poverty or social exclusion by the year 2020 will not be met if the current national objectives are retained, since these cover at best 12 million individuals. The same point is in fact made for the other social headline targets (education and rate of early school leavers) (European Commission, 2011d). The report from the Network of independent experts on social inclusion stresses the shortcomings of the national targets, stressing the fact that they are unable to take account of the needs of vulnerable groups, as well as regretting their lack of clarity and ambition (Frazer and Marlier, 2011). EAPN strongly condemns the arbitrary choices made by certain countries and their inability to meet the European headline target, which shows how little real importance some of them attach to poverty-reduction. It also stresses the lack of consultation in the drawing up of national targets (EAPN, 2011e). Indeed, if we take a closer look at the way in which Member States have responded to the European target and have entered into poverty-reduction, future prospects do not seem particularly bright.

7. Only seventeen countries made use of the European composite definition to set their national targets. Bulgaria, Romania and Estonia used the at-risk-of poverty rate. France and Ireland chose indicators used to set targets already applying to national strategies (at-risk-of poverty rate anchored at a fixed moment in time, lasting poverty [at-risk-of poverty rate combined
of indicators used to set the national targets, which makes the situation almost impossible to monitor at European level, there is a worrying lack of commitment from Member States to address their own circumstances. The most striking example is that of Germany, which plans to reduce the number of long-term unemployed by only 330,000, when almost 16 million German citizens are at risk of poverty or social exclusion (European Commission, 2011d)!

As things currently stand, therefore, the introduction of a European target and its transposition into national targets and commitments seems not to have been particularly successful. Neither the Social Inclusion Guideline nor the European target have really resulted in the fight against poverty and social exclusion being accepted as a fundamental dimension of Europe 2020. The general impression seems to be that there has been a step backwards compared to the Social OMC, since the complex and multi-dimensional nature of the fight against poverty and social exclusion, reflected, in particular, in the common objectives of the OMC, has gradually been diluted and reduced purely to its economic functions. The low level of commitment from Member States, in particular the largest of these, is worrying in terms of the real future prospects of the fight against poverty and social exclusion at European level. Importantly, this does not necessarily mean that European countries have given up efforts to reduce poverty, since strategies are still being implemented at national level, particularly under the impulse of the OMC (the National Action Plans on Social Inclusion – NAPs/inclusion), and are not fully reflected in the NRPs. The NAPs/inclusion and the OMC, however, have now come to an end. Their fate remains uncertain, especially since doubt was shed on their status by the other new feature of Europe 2020, a flagship initiative setting up a European platform against poverty.

with material deprivation). The United Kingdom just used the same targets as those already set in the plan to combat child poverty. Three countries set their targets solely with reference to specific groups of the jobless population: the Netherlands (jobless households), Germany (the long-term unemployed) and Sweden (people not part of the active population – apart from full-time students – as well as the long-term unemployed or workers on long-term sick leave). Luxembourg decided not to set a national target (European Commission, 2011d).
2. The European platform and the future of the Social OMC

The Commission introduced the so-called ‘flagship initiatives’ to Europe 2020 as one of the innovations in the area of governance. These Commission flagship initiatives target certain ‘engines to boost growth and jobs’, areas in which the EU and national authorities must coordinate their efforts so they are mutually reinforcing. The objective of the flagship initiatives is to stimulate progress on each priority theme, acting as a catalyst for stakeholder actions, and carrying out actions to enable the delivery of the headline targets of Europe 2020 (European Commission, 2010a). One of these engines of growth is the fight against poverty and social exclusion, which has its own flagship initiative: the European Platform against poverty and social exclusion (henceforth the Platform).

The Platform aims at ‘creating a joint commitment among the Member States, EU institutions and the key stakeholders to fight poverty and social exclusion’ by setting up a ‘dynamic framework for action to ensure social and territorial cohesion such that the benefits of growth and jobs are widely shared across the European Union’ (European Commission, 2010b). Five main priorities are set out: (i) delivering actions across the policy spectrum (ii) greater and more effective use of the EU Funds to support social inclusion (iii) promoting evidence-based social innovation (iv) working in partnership and harnessing the potential of the social economy and (v) enhanced policy coordination among the Member States. The purpose of the Platform is therefore a priori to provide support for the Commission tools and procedures helping with coordination of the intergovernmental political process. The Platform takes from the Social OMC most of the existing arrangements for dialogue between European actors (funding of European actors, an Annual Convention on poverty and social exclusion, meetings at European level of people living in poverty, etc.). It will also provide support for research, the identification of good practices and the encouragement of mutual learning (peer reviews and social innovation),

8. As well as the Platform against poverty, the flagship initiatives ‘Agenda for New Skills and Jobs’, as well as ‘Youth on the Move’ are directly related to the fight against poverty. There are also possible links to the other flagship initiatives (digital agenda, innovation, industrial policy and efficient use of resources).
support to social inclusion projects via the structural funds, and to the definition of common principles (active inclusion, integration of the Roma, etc). The Commission Communication also sets out a long list of future initiatives together with a timetable (European Commission, 2010c).

Although the Platform largely replicates measures already existing at European level under the Social OMC, there is considerable ambiguity as to the relationship between the Platform and the Social OMC itself, leading some to fear that the latter is to disappear. Certain components of the Social OMC, vital when it comes to implementation at national level, have been left out. Thus no mention is made of the jointly-agreed objectives and indicators, the national action plans or the fate of the participatory structures set up by Member States in relation to this work. Many actors in the field voiced concerns as to this ambiguity as soon as the earliest versions of the Commission proposal were made public (EAPN, 2010b). In its March 2011 opinion on the Platform, the SPC underlines that coherent and concrete implementation of this integrated approach can only be achieved with the support and joint commitment of all relevant levels of government, the social partners and civil society, according to their respective roles and competences. It asks for implementation of the set of actions and future proposals announced in the Platform to take advantage of the experience gained in ten years of policy coordination under the Social OMC. The SPC intends to play an active role in the implementation of the actions planned under the Platform (SPC, 2011b). The EPSCO Council of March 2011, in its conclusions on the Platform, endorses the SPC Opinion. It stresses the need to reinvigorate the Social OMC to help Member States to meet their national targets for promoting social inclusion and poverty reduction, and asks that it base itself on the key thematic issues that have emerged from experience of the Social OMC. The Council also invites Member States to proceed with developing and implementing their national strategies. A sixth priority area is added to the Platform, relating to the application of common active inclusion principles. The Council also invites the Commission and Member States to clarify with the relevant stakeholders, and in the light of the experience of the first European Semester, how best the OMC can contribute to the governance of the Europe 2020 Strategy and to the implementation of the objectives of the Platform and vice versa (Council of the European Union, 2011a). The need to reincorporate the Social OMC and its achievements more clearly into the new system is also strongly emphasised by civil society, the social

The future of the Social OMC within Europe 2020 could seem more secure after this reaffirming of its importance. Yet there are still a number of points requiring clarification and steps which need to be taken if its role within the Strategy and the context of economic governance is to be ensured.

One of these steps was the adoption by the June 2011 EPSCO Council (Council of the European Union, 2011c) of the SPC Opinion on the future of the Social OMC within Europe 2020. This was the fruit of a concerted effort by the various actors involved, and took account of the first lessons learnt from the NRPs (SPC, 2011c). In this Opinion, the SPC states its view that the Social OMC should continue working in a holistic way along its three strands, and should become a visible expression of Social Europe. The SPC emphasises the central role to be played by the OMC and its specific nature which allows it to carry out effective policy coordination in the social field and to be the driving force of social policy initiatives on the European level, encompassing adequacy, financial sustainability and modernisation of social protection systems. The SPC also describes the general form to be taken by the renewed OMC within the context of Europe 2020: (i) reaffirming the common objectives on social protection and social inclusion (ii) 'tighter' strategic reporting by Member States to present their strategies and progress achieved towards the common objectives (iii) assessing the progress achieved towards meeting these objectives (iv) enhancing mutual learning (v) maintaining and developing the set of common indicators used for the Social OMC (vi) enhancing stakeholders’ involvement measures developed under the OMC and (vii) developing synergies with the Platform. It should also be noted that the EPSCO Council of June 2011 backed the SPC’s technical review of the commonly agreed objectives of the Social OMC, particularly with regard to social inclusion9, thus returning these objectives to the core of the process, especially within the Platform.

9. The common objectives aimed at giving a decisive impulse to the eradication of poverty and social exclusion are: (1) ensuring access for all to the resources, rights and services needed for participation in society, preventing and addressing exclusion, and fighting all forms of discrimination leading to exclusion; (2) ensuring the active social inclusion of all, both by promoting participation in the labour market and by fighting poverty and exclusion; (3) ensuring
At European level, formal procedures still need to be established to integrate the objectives and phases of the new Social OMC into the Europe 2020 system (Platform and Social Inclusion Guideline), and to synchronise them with the rest of the process. This is no easy task, since the various processes involved are closely interwoven and subject one to another. We have already shown how the Guideline, representing social policy, was marginalised within Europe 2020 and the reinforced economic governance of the EU (see Section 1.2.1). We do not yet know how the common objectives of the Social OMC, concerning, in particular, adequacy, financial sustainability and modernisation of social protection systems, will be highlighted and interpreted in these essentially economic processes.

From this viewpoint, the real priority is to clarify what type of synergy is expected between the Platform and the Social OMC, and, above all, how this synergy would work. It may well be that the Commission and the Member States are to encourage cross-fertilisation and mutual reinforcement of these processes, but no decision has been taken as to how such interaction would work. The substance of the Platform, as defined at European level, must clearly reflect the central role of the Social OMC. It must take on board its various components, particularly the common objectives on social inclusion and social protection, as well as its *modus operandi* vis-à-vis the Commission and Member States. Member States must once again take ownership of this new-style Social OMC and successfully negotiate the transfer of bodies and processes laboriously developed over a decade of OMC to national platforms. In order for them to do so, Europe must send out a clear message as to objectives, the responsibilities of each partner involved and the various types of interaction and complementarity.

At national level, the addition of reporting on social issues to the NRPs should make it easier to restore the social dimension of Member State policies to Europe 2020. Only time will tell, however, whether this social reporting will reflect a continuation of the social inclusion strategies developed by countries under the Social OMC, or be no more
than a low-key social policy appendix to the NRPs. In the same way, the shift from the national Social OMC bodies to national anti-poverty platforms is not straightforward. It is important to set out clearly how such a shift would work, in order to strengthen what already exists while making certain improvements, especially in terms of involving and mobilising all stakeholders. We have already highlighted the loss of interest of certain Member States, including some of the largest, in the European composite target for the fight against poverty and social exclusion. These same countries would probably balk at the idea of reintroducing a full Social OMC, geared towards a horizontally and vertically integrated multidimensional strategy. A clear message sent out by Europe to the effect that the Social OMC remains should encourage them to maintain such strategies. The NAPs/inclusion have reached the end of their multiannual programming period, and Member States should already have launched their processes for defining and consulting on future strategies. The on-going ambiguity as to the fate of the Social OMC, however, which first arose at the launching of the Platform, has put a stop to this work, which some countries were more actively engaged in than others. There is a lack of clear communication at European level on their structures and content, and little time remains before the addition of social reporting to the NRPs (mid-April). The best option, then, would be for Member States to continue with their current national action plans for a certain period, to give themselves time to draw up new strategies, thinking in terms of a multiannual approach and respecting existing consultation arrangements.

The reports on social issues added to the new wave of NRPs would be, initially at least, summaries of the pre-Europe 2020 strategies, and could be amended during successive stages in the cycle.

Conclusions

When new policy coordination tools were introduced into the Europe 2020 Strategy, to breathe new life into the fight against poverty and social exclusion, there was much speculation as to how they would work in practice. It is now more than a year and a half since the Strategy was launched, and we have gone through a full cycle of the system for reinforced economic governance. It is now possible, then, to carry out an initial assessment of the effects of these new measures.
The creation of a new Guideline on Social Inclusion was presented as a way of reaffirming the role of the social dimension within Europe 2020. The impact of this Guideline was limited from the outset by its inclusion in the employment guidelines, under the aegis of a priority on inclusive growth. This priority encompasses social and employment policies, its main thrust being to increase participation in the labour market and adaptability. The complex issue of the fight against poverty and social exclusion is interpreted in a particular way by Member States in their NRPs, as part of Europe 2020, then by the Commission and the economic governance process, and emerges reduced to its purely economic aspects and its impact on growth. It does little to establish the social dimension of Europe 2020. Its aim is essentially to promote maximum participation in the labour market and to support income in order to promote consumption, with particular attention being given to the most vulnerable groups. Even the idea of active inclusion, the spearhead of the Social OMC in the area of employment, is barely emphasised, and is often seen purely in terms of activation. Social protection is praised for its role in attenuating the social impact of the crisis, but is put under pressure by ever tighter budgetary restrictions and constant demands for modernisation of its systems in order to eliminate its work disincentive effects and improve its financial sustainability. This gradual dilution of the content of the Social Inclusion Guideline is the result of an imbalance of power and a lack of participation. Economic players have played by far the major role in the drafting of the political guidelines underpinning the Strategy and the system of economic governance, at both European and national levels. There is also an ever more striking democratic deficit within Europe 2020 and, above all, in the governance process: there is very little consultation of or attention paid to civil society representatives or the social partners, or to other European institutions such as the EESC or the EP. Ways must urgently be found to correct these flaws, if Europe 2020 is to acquire a minimum level of credibility vis-à-vis stakeholders and the European public.

It is still more worrying to see how little Member States have taken on board the social objectives of Europe 2020. The Member States have taken little account of the social dimension in the restricted context of the NRPs, which do not in any case lend themselves to such issues, since they are strongly focused on growth. The adding of social reporting to forthcoming NRPs should make it possible to give more
emphasis to the social dimension. It is still not known, however, how these reports will be structured, and whether they will reflect real integrated strategies to combat poverty and social exclusion. The limited success of the new European target and the resulting national targets and commitments is also very worrying in this regard. The introduction of a new way of measuring poverty, of dubious quality, will cause confusion in future European action on poverty, but has also undermined the relative consensus which existed among Member States as to the need for and the nature of policies to be used to combat poverty. By giving Member States the freedom to choose which of the components of the composite target they would like to emphasise when fixing their national targets, a breach has been opened. We do not yet know how significant it may become, particularly when it comes to integrated social inclusion strategies.

The return of the Social OMC in a new form, developed in close synergy with the European Platform, could be one way to continue encouraging Member States to keep focusing on the fight against poverty and social exclusion, but also to reinforce the social dimension of Europe 2020. The future of the Social OMC seems somewhat more secure since Council restated its usefulness and content. The on-going ambiguity as to its future, however, which arose when the Platform was launched, has led to significant delays in integrating the two systems. At European level, it is vital to clarify the type of synergy expected between the Platform and the Social OMC, and, above all, how such synergy would work. Formal procedures are also needed to integrate the objectives and various phases of the Social OMC into Europe 2020 (Platform and Social Inclusion Guideline), and to synchronise these with the rest of the process. If Member States are again to take ownership of the new Social OMC, Europe needs to send out a clear message as to the objectives and responsibilities of all partners, as well as giving more details as to the interaction and complementarity between the various systems.

Given the small part played by the social dimension in Europe 2020, it would be better for the social objectives to be taken out of the employment guidelines. This would make them more prominent and more independent of an approach almost entirely geared towards growth and employment. The next opportunity, however, to make in-depth changes to the Strategy is not likely to arise before 2014, i.e.
about halfway through its duration, when the Commission will assess its various components (guidelines, objectives, and flagship initiatives) as well as the budgetary perspectives. This is something for which we should be well prepared!

In conclusion, there is a fundamental paradox between the gradual erosion of the anti-poverty objectives, and, more generally, of the social dimension, in the current European economic governance framework, and, on the other hand, the need to meet social policy challenges which have become greater as a result of the on-going crisis of the last four years. Europe must respond to these challenges if it wishes to be seen by its citizens as anything other than a bringer of austerity. The recent European Council recalled that the social dimension of Europe 2020 is the way to bring Europe closer to its citizens, and that it is absolutely vital to tackle the challenges of unemployment and the social consequences of the crisis (European Council, 2012). This is particularly true in the current climate of social tension reigning in several European countries. The route to be taken, however, is still not clearly indicated.

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Health care policies: European debate and national reforms

Rita Baeten and Sarah Thomson

Introduction

Direct intervention in national health systems by multilateral organisations has until recently been the preserve of developing countries undergoing Structural Adjustment Programmes in return for World Bank and IMF loans. Following the economic crisis in the euro area, European Union (EU) countries have experienced something similar. In 2010 and 2011, the governments of Greece, Ireland and Portugal received financial assistance from the IMF, the European Commission and the European Central Bank (together known as the ‘troika’) after agreeing to engage in economic adjustment programmes. As part of these agreements they must take a wide range of actions in the health sector.

The troika’s interventions are in line with other initiatives through which the EU is increasingly addressing health system reform (in all Member States) in the context of macroeconomic policy. To strengthen the governance of economic policy in the wake of the financial crisis triggered in 2007, economic actors in the EU have developed instruments that target national health care policies from a public finance perspective and stress the need for greater control over public spending on health.

These developments are remarkable given the vigour with which Member States have generally attempted to safeguard health care from

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EU interference. The dominant economic EU level approach has provoked national policy makers responsible for health to react through the Council and to stress the importance of investing in health care and the health system’s contribution to achieving EU goals.

In this chapter we examine how these developments have come about, both in policy approach and content. We also review recent EU guidance on health care policy to see if there is a clear and consistent discourse on health system reform, and consider the extent to which this discourse has been reflected in national reform processes in the last two to three years. Finally, we discuss policy implications.

1. The EU’s approach to health system reform: context and instruments

This section examines how guidance on health system reform has found its way into EU macroeconomic policies and outlines the response from health and social actors to this change in approach.

1.1 Health system reform embedded in EU economic governance

Controlling public expenditure on health has long been a theme in EU coordination of macroeconomic policies. The Broad Economic Policy Guidelines (BEGPs) issued by the Ecofin Council2 (in the context of the Stability and Growth Pact adopted in 1997) have always encouraged Member States to review their health systems in the light of population ageing. The most recent guidelines (2010-2014) urge Member States to improve the sustainability of public finances, partly through reform of age-related public expenditure on pensions and health care, and also to ensure that this expenditure is financially viable, socially adequate and accessible (Council of the European Union, 2010a). Until recently, however, this type of EU guidance has been general and non-prescriptive.

The financial crisis exacerbated pressure on Member States’ public finances, leading to renewed efforts to strengthen economic policy

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2. Council configuration of EU ministers for economic and financial affairs.
coordination. These efforts include a new working method (the European Semester for economic policy coordination), the Euro Plus Pact, two legislative processes known as Six Pack and Two Pack, and the EU-IMF joint adjustment programmes in Greece, Ireland and Portugal.

Set up with effect from 2011, the European Semester for economic policy coordination aims to ensure coordinated action on key policy priorities at EU level. Under the Semester, governments must draw up budgets and other economic policies with agreed EU priorities in mind, and the EU can monitor national budgetary efforts and determine complementary action at EU level. Where national governments fail to follow recommendations within the given timeframe, the EU can issue policy warnings and, ultimately, enforce compliance through incentives and sanctions.

The Semester incorporates existing procedures (such as the BEPGs) but has a stricter timeframe and process for follow up. It reviews Member States’ budgetary and structural policies during a six-month annual cycle to detect inconsistencies and emerging imbalances. The cycle starts in January with publication of the European Commission's Annual Growth Survey (AGS), which sets out EU priorities for boosting growth and job creation in the coming year. Following discussion of the AGS by the Council and the European Parliament, the Spring meeting of the European Council identifies the main economic challenges facing the EU and gives strategic advice on policies.

Contrary to expectation, given previous economic policy documents and the economic climate, the 2011 AGS did not deal with health care (European Commission, 2011a). At the end of 2010 the European Commission and the Economic Policy Committee (EPC) published a Joint Report on Health Systems (see below). It was issued in an attempt to push for the inclusion of health system reforms in 'Europe 2020' (the EU’s growth strategy) and to submit reforms to macroeconomic surveillance.

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3. For a more comprehensive analysis of the new economic governance tools, see the chapter by Christophe Degryse and Philippe Pochet in this volume.
4. Composed of Heads of State or Governor of the Member States.
5. The Economic Policy Committee (EPC) provides advice and contributes to the work of the Ecofin Council and the Commission by developing analysis and policy consensus.
6. Interview with the chair of the EPC, 4 August 2011.
The Ecofin Council’s conclusions on the Joint Report invited the Member States and the Commission to ‘factor these findings into its analysis and proposals in the framework of the Europe 2020 strategy’, giving the Commission its desired mandate for action (Council of the European Union, 2010b). Health care was subsequently included in the 2012 AGS.

The European Semester also incorporates the National Reform Programmes (NRPs)7 and Stability and Convergence Programmes (SCPs)8 which Member States have had to draft annually in the context of the Stability and Growth Pact. Member States now send both of these documents to the European Commission in April each year. The Ecofin Council now issues its country-specific recommendations on the NRPs and SCPs in June or July. The Council also issues country-specific guidance to countries whose policies and budgets are out of line, before national budgets for the following year are finalised (Council of the European Union, 2010c).

In March 2011 euro area Heads of State or Government and six other Member States agreed on the Euro Plus Pact (European Council, 2011). This aims to strengthen further the economic pillar of monetary union and includes more ambitious and concrete commitments and actions, accompanied by a timetable for implementation. The commitments should be included in the NRPs and SCPs and are subject to the regular surveillance framework, with a strong central role for the Commission in monitoring implementation. Heads of State or Government will monitor progress towards common objectives on the basis of a series of indicators. Countries facing major challenges in any of these areas will be identified and will have to commit to addressing them in a given timeframe. Particular attention will be paid to enhancing the sustainability of public finances, indicated as being the most important aim and one that is to be addressed, in the first instance, by increasing the sustainability of pensions, health care and social benefits.

At the end of 2011, a new set of rules for economic and fiscal surveillance through a reinforced Stability and Growth Pact came into force. Based

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7. NRPs contain national targets relating to broad EU-wide guidelines and set out what measures will be taken to meet them.
8. SCPs allow Member States to present their medium-term budgetary strategies and set out actions to strengthen their policies.
on this so-called Six Pack of EU legislation, financial sanctions will apply to euro area Member States that do not take adequate action. Member States in ‘excessive deficit procedure’ (EDP)\(^9\) (currently all Member States except Estonia, Finland, Luxembourg and Sweden), should comply with country-specific Council recommendations, issued by finance ministers, to correct their deficit. If a Member State fails to comply, the Council can impose financial sanctions, on the basis of a Commission recommendation, unless a qualified majority of Member States votes against it – a procedure which makes enforcement of the rules stricter and more automatic. These new surveillance tools will also be used within the framework of the European Semester.

Another set of regulations is likely to be adopted by the summer of 2012 and applies only to euro area Member States. According to this so-called Two Pack, the Commission will analyse whether a Member State’s draft budgetary plan for the following year – to be submitted before 15 October – is in line with the recommendations from the European Semester that the country received in May/June of that year or requires a revision. For euro area Member States in EDP, a system of graduated monitoring will allow early detection of countries unlikely to correct their excessive deficit by the set deadline, and permit the EU to act accordingly. Member States experiencing or threatened with serious difficulties and those receiving certain types of precautionary financial assistance will be subject to enhanced surveillance\(^10\).

The most comprehensive type of integrated EU surveillance is the joint EU-IMF adjustment programme applied to Greece and Ireland since 2010 and Portugal since 2011. This mechanism aims to guarantee the stability of the euro area and help Member States in financial difficulties or under serious pressure from financial markets by providing tailor-made, country-specific financial assistance. The EU provides two thirds of the programme funding and the IMF the remaining third. In return, the three countries have committed themselves to implement economic and social policies detailed in a Memorandum of Understanding (MoU) subject to quarterly review.

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9. Under the Stability and Growth Pact, the EDP is triggered by a country’s deficit breaching the 3% of GDP threshold established in the Treaty.
Each MoU, in particular the ones for Greece and Portugal, contains detailed instructions for reforming the health care sector (European Commission, 2010c, 2010d, 2011b). This analysis shows how an EU approach initially offering relatively general guidance on health sector issues in relation to macroeconomic policy has, in the last two years, turned into a systematic form of surveillance backed up by power to issue early warnings and apply sanctions. The macroeconomic surveillance implicitly includes health sector recommendations from the Commission. The EU-IMF adjustment programme goes further, explicitly involving instructions for national health system reform.

1.2 National health authorities want to weigh in on the process

When EU economic actors target social protection, including health care, in the context of macroeconomic policy, social and health actors are typically provoked to react. Recent developments are no exception.

In the past decade, social actors such as the EPSCO Council and DG Employment within the Commission have acquired a position as the counterpart of economic actors. The Open Method of Coordination (OMC) in the field of social protection emerged in 1999 in response to the EU's economic integration. It sought to add issues of quality and accessibility to the budgetary approach of the economic actors (see e.g. Vanhercke and Wegener, 2012). As a form of soft law, it aims to spread best practice and achieve greater convergence towards key EU goals. Health care has been included in the process since 2004 (see Box 1).

In a similar vein, this time relating to the European Semester, in June 2011 health ministers called through the Council for a process of reflection ‘with a view to listing effective ways of investing in health, so as to implement modern and sustainable health systems that are capable of adapting to changing needs’ (Council of the European Union, 2011). Aware of the challenge to health systems posed by the economic crisis, they understood the need to take the lead in debates: ‘If we don’t
do that, then somebody else will’\textsuperscript{11}. One of the health ministers’ main concerns was to ensure that measures introduced to make health systems more financially sustainable would not only focus on cost containment \citep{CouncilOfTheEuropeanUnion2011}. Health ministers also highlighted the contribution of health to economic growth. The Council therefore called for the health sector to ‘play an adequate role in the implementation of the Europe 2020 Strategy’ and underlined ‘the leading role of Ministers of Health in developing and pursuing effective, health policy-driven approaches in order to adequately address macroeconomic, health and societal challenges’ \citep{CouncilOfTheEuropeanUnion2011}.

\begin{boxed Minesweeper}
\textbf{Box 1 The Social OMC}

Every two or three years Member States outline progress made towards common objectives in National Strategic Reports (NSR), which have a section on health care\textsuperscript{12}. These are assessed in a Joint Report on Social Protection and Social Inclusion which sets out key priorities, identifies good practice and is adopted by the Commission and the EPSCO Council to be submitted to the Spring session of the European Council.

The 2010 Report stresses that the challenge for health systems is to improve efficiency while ensuring universal access to quality health care \citep{EuropeanCommission2010a}. A supporting document includes possible strategies for improving health system effectiveness and efficiency \citep{EuropeanCommission2010b}.

Under the Europe 2020 Strategy, the role of the Social OMC, including health care, seems to have been weakened. It is feared that the NSR will be replaced by succinct national reporting and that social assessment through the annual (Joint) Reports will be downgraded and its impact will be reduced \citep{VanherckeAndLelie2012}.

The reflection process will be held under the auspices of the Working Party on Public Health at Senior Level, a body created by the Council and reporting directly to it. By hosting the reflection process in a Working

\textsuperscript{11} Interview with the health attaché of a National Permanent Representation to the EU, 1 August 2011.

\textsuperscript{12} See http://ec.europa.eu/social/keyDocuments.jsp?type=3&policyArea=0&subCategory=0&country=0&year=0&advSearchKey=nsr+spsi&mode=advancedSubmit&langId=en.
Party, Member States wanted keep control over it rather than hand the lead to the European Commission: The real discussion must remain with the Member States’13. The Working Party should be in regular dialogue with the Economic Policy Committee (EPC) and the Social Protection Committee (SPC) to ensure that health actors are involved in ongoing debates on health systems by economic and social actors at EU level14.

Four sub-groups have been set up to deal with the following topics (European Commission, 2011c):

- enhancing health representation in the Europe 2020 Strategy and the European Semester;
- identifying success factors for effective use of Structural Funds for health investments;
- providing adequate responses to society’s growing and changing health needs and efficient and effective design for health sector investment; and
- measuring and monitoring the effectiveness of health investments.

Two points are worth noting. First, in what seems to be a recurrent (and therefore potentially predictable) pattern (see e.g. Baeten, 2005), health ministers, who have traditionally been reluctant to allow the EU to interfere in what is seen as a national responsibility, have been forced to react to developments initiated by economic actors. It is plausible to suggest that the Commission deliberately put debate on health systems on the EU political agenda via economic actors first, to ensure its attempt would be successful and knowing full well that the health actors would respond. Second, in spite of Member State efforts to keep control over the reflection process through the Working Party on Public Health at Senior Level, the Commission has managed to position itself in the driving

13. Interview with the health attaché of a Permanent Representation of a Member State to the EU, 1 August, 2011.
14. Interview with the health attaché of a Permanent Representation of a Member State to the EU, 1 August 2011.
seat of the most important sub-group dealing with health representation in the Europe 2020 Strategy and the European Semester\textsuperscript{15}. Furthermore, since the Commission acts as a single entity, the voice of DG ECFIN may be strong in these debates (also behind the scenes).

2. **Health system reform: a coherent EU discourse?**

This section looks in more detail at the content of the EU’s policy guidance on health system reform, to see if it is possible to identify a clear and consistent discourse. It reviews objectives set out in the Social OMC in 2006, the Ecofin Council’s conclusions on the 2010 *Joint Report on Health Systems*, health sector recommendations included in the 2011 NRPs, and the MoUs for Greece, Ireland and Portugal.

Before 2010, guiding principles for health system reform had only been adopted by social affairs ministers in the EPSCO Council, and these were presented as common objectives within the Social OMC (see Box 2). Not only are these objectives broadly defined, the very fact of their being objectives (as opposed to specific policy measures or tools) means that they are unlikely to be controversial and therefore likely to command widespread support. Any measures mentioned are given in the most general terms (e.g. ‘developing quality standards reflecting best international practice’ or ‘appropriate incentives for users and providers’). In content, the objectives closely resemble the health system goals set out by the World Health Organization: universal financial protection, equity of access to health services of good quality, efficient use of health care resources, responsiveness and equity in improved health outcomes (WHO, 2000).

At the end of 2010, the Ecofin Council adopted conclusions on the *Joint Report on Health Systems* drafted by the EPC and the European Commission (DG ECFIN) (European Commission and EPC, 2010a). This report, the first EPC-EC publication on health systems, analyses the drivers of health expenditure across the Member States and a comprehensive annex identifies key challenges facing health systems in

\textsuperscript{15} The other subgroups are chaired by Member States.
each of the 27 countries (European Commission and EPC, 2010b). The conclusions (see Box 3) are noteworthy in three ways. First, they constitute the most detailed EU guidance on health system reform to date. Second, they move away from a near exclusive focus on objectives and include a range of policy tools, immediately increasing the likelihood of their being controversial. Third, the inclusion of policy tools makes it all the more remarkable that the conclusions were adopted by finance ministers rather than social affairs or health ministers.

Box 2 Common objectives for health and long-term care in the Social OMC
(SPC and EPC, 2006)

Member States should provide accessible, high-quality and sustainable health care and long-term care by ensuring:

— access for all to adequate health and long-term care; that the need for care does not lead to poverty and financial dependency; and that inequities in access to care and in health outcomes are addressed;

— quality in health and long-term care, and the adaptation of care, including developing preventive care, to the changing needs and preferences of society and individuals, notably by developing quality standards reflecting best international practice and by strengthening the responsibility of health professionals and of patients and care recipients; and

— that adequate and high-quality health and long-term care remains affordable and financially sustainable by promoting a rational use of resources, notably through appropriate incentives for users and providers, good governance and coordination between care systems and public and private institutions. Long-term sustainability and quality require the promotion of healthy and active lifestyles and good human resources for the care sector.

The proposed policy tools seem relatively uncontroversial, however. Several elements correspond to objectives agreed in the Social OMC. Additionally, the focus is not so much on public expenditure control through crude cost containment as on enhancing efficiency (value for money) through ‘a high degree of pooling of funds’, improved resource allocation (e.g. better access to primary care and reducing unnecessary use of specialist care) and a focus on cost-effectiveness (e.g. cost-effective use of medicines and other services underpinned by systematic use of health technology assessment).
Two aspects of the conclusions could be seen as controversial: the inclusion of ‘cost sharing’ (user charges) and the recommendation for health care to be provided ‘as appropriate through the involvement of non-public providers’. The latter point, the only part of the conclusions that was not in the Joint Report, is reflected in the 2012 AGS, which recommends enhancing competition by removing unjustified restrictions on business and professional services in the health sector (European Commission, 2011d), and again in the Irish MoU (see below).


Key policy challenges that will need to be addressed by Member States:

- ensuring a sustainable financing basis, a high degree of pooling of funds and a good resource allocation that ensures equity of access;
- encouraging a cost-effective use of care, through adequate incentives including cost-sharing and provider payment schemes, and as appropriate through the involvement of non-public providers while ensuring the protection of those more vulnerable;
- encouraging the provision and access to primary health care services to improve general health and reduce unnecessary use of specialist and hospital care;
- curtailing supply-induced demand by considering the interaction between demand side factors and supply side factors, etc.;
- ensuring the cost-effective use of medicines through better information, pricing and reimbursement practices and effectiveness assessment;
- improving data collection and information channels and the use of available information to increase overall system performance;
- deploying health-technology assessment of the effectiveness, costs and broader impact of health care treatments more systematically in decision-making processes; and
- improving health promotion and disease prevention also outside the health sector.
In both cases, however, the use of careful wording (e.g. ‘as appropriate’) lessens the potential for controversy. Listing user charges as an incentive to encourage ‘cost-effective use of care’ could be interpreted as a ‘value-based approach’ in which user charges are removed from cost-effective services and patterns of use or selectively applied to non-cost-effective services and usage (Chernew et al., 2007; Fendrick and Chernew, 2006). Such an approach is not without its own challenges (Thomson et al., 2010), but it is better than non-evidence-based advocacy of user charges to contain costs. The user charges recommendation is also accompanied by an exhortation to ensure ‘the protection of those more vulnerable’, which is in line with international evidence (Habicht et al., 2006; Swartz, 2010).

A range of health system reforms were included in the 2011 NRPs of 13 Member States (Bulgaria, the Czech Republic, Germany, Greece, Ireland, Italy, Lithuania, Poland, Portugal, Romania, Slovakia and Slovenia), but on instruction from the Commission, the Ecofin Council provided country-specific recommendations for health system reform in only three countries. This time the Council’s recommendations are very general, suggesting Austria should ‘further strengthen the national budgetary framework’ by aligning responsibilities across different levels of government, particularly in the health sector; Cyprus should ‘accelerate implementation of the national health insurance system’ (a reform that has been postponed numerous times since it was first mooted); and Germany should further enhance ‘the efficiency of public spending on health care and long-term care’.

The EU-IMF MoUs signed with Greece, Ireland and Portugal go beyond objectives, guidance or recommendations to take the form of detailed instructions for health system reform that are subject to quarterly review and sanctions for non-compliance (see Box 4). The programme for Greece is the most extensive, followed by the programme for Portugal. The Irish programme, in contrast, contains very few health sector-specific instructions.

Box 4  **Health system reforms set out in the MoUs**

**Greece**

A key element of the MoU is that public spending on health should not exceed 6% of GDP (European Commission, 2010c). Within this rigid parameter, the IMF proposed reforms to improve management, procurement, accounting and pricing systems, combined with the establishment of operational oversight by the Minister of Finance, while the Commission focused on creating the prerequisites for greater efficiency and transparency.

Short-term measures include (European Commission, 2010e):

- an effective monitoring and information system with regular auditing, data reporting and assessment;
- the centralisation of procurement procedures for medicines and medical services;
- changes in the reimbursement (price-volume agreements, rebates and discounts) of pharmacies and wholesale pharmaceutical suppliers by third-party payers;
- generic electronic prescribing and monitoring via prescribing guidelines for physicians;
- enforcement of and increase in user charges for outpatient care in public hospitals and health centres (from €3 to €5 per visit), extends user charges for unwarranted emergency visits and changes to prescription drug charges to encourage greater use of generic drugs.

Medium-term (two years) measures include:

- better pooling of funds to purchase health services;
- stronger primary care services and a shift in use from hospital services to primary care;
- implementation of patient electronic medical records;
- improvement of hospital costing and budgeting systems; and
- improvement of physician and hospital reimbursement systems.

Longer-term measures include streamlining of responsibilities across agents and stronger health system governance.

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Portugal

The MoU focuses on measures to reduce public spending on pharmaceuticals and hospital care, including the following measures:

- increased user charges via stricter means testing and ensuring charges are higher for outpatient specialist visits than for primary care visits;
- cuts in tax relief for private spending on health;
- streamlining of coverage for civil servants;
- changes in the reimbursement (price-volume agreements, rebates and discounts) of pharmacies and wholesale pharmaceutical suppliers by third-party payers;
- compulsory generic and electronic prescribing and monitoring via prescribing guidelines for physicians;
- the centralisation of procurement procedures for medicines and medical services;
- increase competition among private providers and reduce NHS spending on private diagnostics;
- strengthening primary care, including through performance-based payment of providers and aiming for a better distribution of family physicians across the country, and a shift in use from hospital services to primary care;
- improvement of hospital costing and budgeting systems, IT use and governance and rationalisation of the hospital network; and
- implementation of patient electronic medical records.

Ireland

The Irish MoU requires the government to remove barriers to trade and competition in health care by abolishing restrictions on the number of GPs qualifying, restrictions on GPs wishing to treat public patients and restrictions on GP advertising (European Commission, 2010d).

In contrast to the Council conclusions on the Joint Report and the NRP recommendations, some of the MoU requirements are more controversial, notably the increase in user charges and the cap on public spending on health in Greece. The higher user charges required in the Portuguese

MoU are subject to means testing and reflect, to some extent, a value-based approach. But in Greece the value-based approach is absent where user charges for outpatient care (including primary care) are concerned and more muted for other services (limited to imposing higher user charges for ‘unwarranted’ emergency visits and lower charges for cheaper generic drugs).

Potentially much more damaging, however, is the attempt to cap public spending on health ‘at or below 6% of GDP’ – in other words, at current levels. These levels were already low by EU standards, and an obvious consequence of setting the cap as a share of GDP at a time when real GDP is in substantial decline (-3.5% in 2010, -6.9% in 2011 and -4.4 in 2012)\textsuperscript{19} is a reduction in public spending – an effect highly likely to exacerbate financial barriers to accessing health services.

One other striking aspect of the MoUs for Greece and Portugal is the promotion of e-health (such as e-prescriptions, interoperable IT systems in hospitals and electronic medical records), which may reflect the influence of the EU’s Digital Agenda. This contains an important role for e-health and is intended to boost economic growth. It may also reflect a broader health system trend to enhance e-health, particularly through the development of electronic patient records. E-prescribing can contribute to more efficient and better quality care (McKibbon \textit{et al.}, 2011), but national e-health programmes are neither cheap nor straightforward to implement (see e.g. Greenhalgh \textit{et al.}, 2011). It is therefore questionable whether investment in large-scale e-health projects should be a priority for health systems facing serious financial problems.

A number of trends emerge from this brief overview of EU guidance on health system reform. First, the nature of the guidance has changed, moving from the statement of broad objectives (the Social OMC) to recommendations that include specific policy tools (the conclusions on the Joint Report), and from there to detailed instructions (the MoUs). Second, the content of the guidance has become more controversial. This is not surprising, given the increasingly prescriptive nature of the guidance.

Third, the range of stated objectives for health system reform has grown and the tensions between different objectives are more evident.

Two objectives are explicitly spelled out in almost all of the different policy documents reviewed so far, including the MoU with Greece: ensuring the sustainability of public finances through greater cost efficiency and ensuring access to high quality care. The objective of boosting employment by creating jobs in the health sector is mentioned in the broader policy documents (e.g. the 2012 AGS), but is not taken up in the more concrete guidance (the Joint Report conclusions or the MoUs). Neither is the argument (made in the 2010 Joint Report on Social Protection and Social Inclusion) that countries with poor health indicators will need to spend more (and more effectively) on health care in future. However, the objective of enhancing competition in the health sector is reflected in the 2012 AGS (European Commission, 2011d), the NRP recommendations for Denmark (further liberalisation of pharmacies) and the Irish MoU (European Commission, 2010d and 2011e). Although these particular recommendations are not contested, question marks could be applied to blanket calls to open up health care delivery to competition between public and private providers.

As the EU’s guidance has become more prescriptive, the tensions between some of these goals have become increasingly clear. In Greece, for example, it is difficult to see how large cuts in public spending on health can be reconciled with the objective of ‘maintaining universal access and improving the quality of care delivery’\(^\text{20}\), unless policy makers can achieve substantial efficiency gains very rapidly. However, their ability to do so is called into question by recent reports of growing access problems and worsening health status in Greece (Kentikelenis et al., 2011). Sustained efficiency gains in health care rarely come at a low cost, and this is especially so once relatively easy targets (such as cuts in pharmaceutical prices) have been achieved.

3. **EU discourse and national health system reforms**

This section briefly considers whether the EU discourse summarised in the previous section has been reflected in national reform processes in the last two to three years. Since it is difficult to establish the extent of the EU’s role in stimulating national reforms without significant research, the analysis is tentative and not intended to be systematic.

The EU’s influence is most obviously seen in the three countries subject to EU-IMF adjustment programmes. Here, concrete instructions for reform must be implemented in return for financial assistance. However, there are differences in the quantity of prescriptions provided for Greece and Portugal on one hand, and Ireland on the other. These may reflect the fact that Ireland had already initiated a major programme of health system reform. In early 2011, the newly elected coalition government issued a programme for reform\(^1\) which included plans to move towards ‘universal health insurance’ by 2016. These plans comprise wide-ranging reforms to the structure of health financing and health care delivery and are intended to promote universal access to health care and enhance efficiency in the use of resources.

There are also differences across the three countries in the speed and extent of reform implementation. The Irish parliament has already passed legislation acting on the MoU’s instructions regarding restrictions on GPs’ ability to treat public patients.\(^2\) Significant reforms have also been introduced in Greece, but while many of the Commission’s short-term targets have been partially met, this is not the case with the medium and longer-term targets. Some delays can be attributed to technical complexities; others are regarded as due to opposition from interest groups (European Commission, 2011e).

Other countries have engaged in reform of the health system in the last two to three years. These have largely been nationally initiated processes, often in response to the fiscal constraints imposed by the financial crisis. A comprehensive survey carried out by the European


\(^2\) [http://www.irishtimes.com/newspaper/ireland/2012/0312/12243131535908.html](http://www.irishtimes.com/newspaper/ireland/2012/0312/12243131535908.html).
Observatory on Health Systems and Policies identifies a wide range of health system responses from 2008 onwards and the following paragraphs summarise those reported to have continued in 2011, including in Greece, Ireland and Portugal (Mladovsky et al., 2012).

Several countries reported continuing cuts to public spending on health care (Austria, Greece, Ireland, Italy, Portugal, Romania, the Catalonia region of Spain and the United Kingdom), increasing tax or contribution rates to sustain collective funding (Italy, Greece, Portugal) or delaying or slowing investment in capital projects such as hospital infrastructure (Bulgaria, France, the United Kingdom). Some countries have opted to protect the health budget, to avoid shifting costs to households (Belgium, Denmark, Sweden).

Countries also report making changes that affect levels of statutory coverage. Greece and the Czech Republic reduced entitlement to health care for foreign residents and Catalonia introduced a scheme to obtain compensation for treating patients from other regions. Cyprus once again decided to postpone the implementation of its new National Health Insurance system, which would have extended coverage to the whole population. Greece introduced a uniform benefits package across all health insurance funds, while Portugal removed a range of services from the special system of coverage for public sector workers (ADSE) in 2011, including occupational injury and ill health, unconventional therapies and cosmetic surgery, and made membership of this scheme voluntary.

Pharmaceuticals continued to be a key area of policy focus. Following on from quite widespread efforts to negotiate lower drug prices with manufacturers in several countries in 2009 and 2010, a handful of countries introduced positive lists of reimbursable drugs (the Czech Republic, Greece) or medical devices (Bulgaria). The Czech Republic, Greece, Portugal and Romania increased user charges (in Portugal to create incentives for people to use primary care or outpatient services before accessing inpatient or emergency care), while others (Belgium, Italy) have tried to strengthen access to health care by removing some user charges or extending entitlement to exemption from user charges. The UK government decided not to extend the range of chronic conditions exempt from outpatient prescription charges.
Changes introduced in 2011 to lower health care costs included new procedures for procurement for medical devices (centralisation in Bulgaria, Greece and Portugal and auctions in the Czech Republic); cuts in the price statutory purchasers pay for drugs (Greece, Portugal, Romania), health care supplies (Portugal) or health services (Estonia); cuts in provider salaries or profit margins (France, Greece, Ireland); smaller than usual increases in provider fees (Denmark, the United Kingdom) or slowing down retention and recruitment of staff (Greece, Ireland); and cuts to or caps on administrative budgets (Ireland, the United Kingdom). Hospital reconfiguration continued in Greece.

Health system responses to the financial crisis show considerable overlap with EU guidance, especially in terms of controls on public spending on health and particularly in the area of pharmaceuticals – the ‘low-hanging fruit’ we noted above. Nevertheless, two of the most extensive programmes of national reform proposed since 2010 – in Ireland and in England – do not seem to have been influenced by EU guidance. Rather, they reflect national political processes and domestic policy agendas. In both countries, new governments were made up of political parties who had been out of power for a long time and therefore seized the opportunity to introduce major changes.

The content of reforms has in general involved efforts to lower public spending on health care, although very few countries have done this by explicitly reducing benefits or increasing user charges. Rather, several countries have focused on trying to enhance efficiency by lowering the cost of pharmaceuticals to third-party payers and patients, making more effort to promote rational use of drugs and addressing excess capacity in the hospital sector.

**Discussion and conclusions**

This chapter has outlined recent developments in health system reform at EU and national levels.

At EU level the policy setting and content have developed rapidly in the last two years. Until recently, health systems had been addressed almost exclusively in the context of the internal market and patient mobility. But at the end of 2010, EU finance ministers adopted Council
conclusions setting out policy guidelines for the health sector. Not only were these conclusions the most detailed EU guidance on the health sector then available, they also gave the European Commission a mandate to address health system reform in the context of macroeconomic surveillance.

De Ruijter and Hervey (forthcoming) argue that the Commission is using economic actors and institutional mechanisms (such as the Ecofin Council), where EU competence is less contested, to communicate and progress its policies on health care, an area in which it does not have competence. They also argue that this is because when health care is presented as a social issue, the actors involved do not have enough traction to get policy documents through to the Council.

At first glance, it may seem as though the EU’s shift in policy approach and content is a response to the financial crisis and the crisis in the euro area. But some actors argue that this is not the case: the conclusions to the Joint Report ‘would have been drafted even without the crisis’\(^{23}\). Rather, the financial crisis created a window of opportunity for the EU to claim greater legitimacy to influence this domain of national competency – something that had been on the Commission’s political agenda for a long time.

The chapter has also shown how the nature and content of the EU’s policy guidance on health system reforms has changed, moving from objectives, which can command widespread support; to still relatively general policy tools, which could be controversial, but are couched in appropriately nuanced terms; to specific prescriptions, some of which are much more controversial. This development has several implications. First, it brings to the fore tensions between different EU objectives for health system reform: ensuring the sustainability of public finances through greater cost efficiency; ensuring access to high quality care; boosting employment by creating jobs; boosting economic growth; and enhancing competition in the health sector. In particular, it questions the ability of Member States to promote universal access to high quality services at a time when they are required by the EU to cut public spending on health. Evidence from Greece suggests that these objectives

\(^{23}\) Interview with the chair of the EPC, 4 August 2011.
cannot always be reconciled and the consequences include declining access to health care and lower health status.

Second, and perhaps more significantly, there is now a precedent for the EU to intervene directly in national health policy, severely constraining the ability of Member States to determine national priorities for policy objectives and tools. While Greece, Portugal and Ireland are extreme examples of this intervention, the development may spread to other countries. The Six Pack (and the forthcoming Two Pack) legislative processes substantially strengthen the EU’s powers of macroeconomic surveillance by introducing the possibility of sanctions. Member States with ‘excessive deficits’ (currently all except Estonia, Finland, Luxembourg and Sweden) will from now on be obliged to comply with country-specific recommendations issued by finance ministers in the Ecofin Council. Since the 2012 AGS included health care, future recommendations also seem likely to do so.

As others have noted, the health sector may be an attractive target in comparison to other areas of public spending (such as pensions and education), not least due to its size, but also due to its potential for improved productivity and other efficiency gains (Fahy, 2012). The recent trend in national reform processes gives credence to this view, with many countries focusing on obtaining better value for money in health care, rather than simply cutting benefits across the board.

Now more than ever, however, it is vital that those accountable for health care policy take part in EU debates and decision-making processes so that EU-driven policy guidance is evidence based, informed by social objectives and understands the importance of national context.

References


The Court of Justice of the European Union (CJEU) is central to the European institutional framework and applies and interprets Community law. By virtue of its regulatory function it is involved in a variety of disputes and acts as a constitutional court in interpreting the EU Treaty. The successive enlargements have strengthened its role and increased its caseload as a result of the growth in the number of national courts which can apply to it for preliminary rulings (Moreau, 2009). Somewhat absent from the Treaty of Rome, the social dimension of the EU has gradually developed in step with socio-economic changes and the growing economic and monetary integration of the Member States. The Community social acquis comprises over 200 pieces of legislation whose application still raises as many preliminary questions as ever (Yung, 2009). The case law on social matters has made a significant contribution not only to clarifying the rights of European citizens, but also to defining the principles of the effectiveness of Community law, effective judicial protection and freedom of movement for citizens (Moreau, 2009).

We propose to review below a number of judgments delivered by the Court in the past year. Given the limited space available, we have made a selection from amongst the topics analysed and the relevant cases. We have therefore focused on topics which concern the fundamental rights of workers but also contain less legal technicality. The aim has been to enable readers who are unfamiliar with the law to learn about some of the cases brought before the Court whilst minimising their complexity. For those reasons, reference will be made successively to the principles of equal treatment and non-discrimination, social security for migrant workers and working conditions. The much more technical issues of the
rights and obligations of employers and workers will not be discussed but we invite interested readers to look at the judgments in Scattolon and CLECE\(^1\) (transfer of undertakings), Defossez and Anderson\(^2\) (employer insolvency) and Claes\(^3\) (collective redundancy and the duty to consult).

1. **The principles of equal treatment and non-discrimination**

Since the Treaty of Amsterdam entered into force in 1999, the EU has had power to legislate against discrimination based on gender, race or ethnic origin, religion or belief, disability, age or sexual orientation. In so far as Article 13 EC (Article 19 TFEU) does not have direct effect, the principle of equal treatment has been implemented through the two ‘discrimination’ directives adopted in 2000. Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, adopted in November 2000 (Council of the European Union, 2000a), laid down a general framework intended to foster equal treatment in employment and occupation to combat discrimination based on religion or belief, disability, age or sexual orientation\(^4\). More than 10 years have elapsed since adoption of those two fundamental texts which all Members States had to put into operation by 2003 (Uyen Do, 2011).

1.1 Comparability between marriage and life partnerships in the field of pensions: the Römer case

Only one case had been brought before the Court concerning an issue associated with sexual orientation: Maruko\(^5\), which concerned a survivor's

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1. Case C-108/10, Scattolon, 6 September 2010, not yet published in the Court Reports; Case C-465/09, CLECE, 20 January 2011, not yet published in the Court Reports.
2. Case C-477/09, Defossez, 10 March 2011, not yet published in the Court Reports; Case C-30/10, Anderson, 10 February 2011, not yet published in the Court Reports.
3. Joined Cases C-235/10 to C-239/10, Claes, 3 March 2011, not yet published in the Court Reports.
4. Directive 2000/43/EEC, adopted in June 2000, for its part gives protection to people of a different racial or ethnic origin in fields such as employment, social protection, social advantages, education and access to and supply of goods and services, including housing (Council of the European Union, 2000a).
5. Case C-267/06 [2008] Maruko ECR I-1757. The partner of a deceased person contested the provision of German law under which a compulsory occupational pension scheme was limited to workers in a relationship with a life partner of the opposite sex. It was settled case
pension for the same-sex partner. The Römer case enabled the Court to revisit these issues for the second time in its history.

An employee of the Freie und Hansestadt Hamburg from 1950 to 1990, Mr Römer received a retirement pension with a related supplementary pension of 615.88 euros. Having entered into a registered life partnership with his companion under the German legislation (‘LPartG’), he requested his former employer to recalculate the amount of his supplementary retirement pension taking into account from 1 November 2001 a tax deduction which would increase his monthly pension by 302.11 euros. The Freie und Hansestadt Hamburg refused on the grounds that according to the Land of Hambourg law on supplementary retirement and survivors’ pensions for employees of the Freie und Hansestadt Hamburg (‘the First RGG’), that deduction was reserved for married, not permanently separated, partners and pensioners entitled to claim child benefit or an equivalent benefit. The Hamburg Labour Court, hearing the case, asked the Court of Justice if the concept of a ‘married pensioner not permanently separated’, under Paragraph 10(6)(1) of the first RGG, included a pensioner who had entered into a registered life partnership under the LPartG.

Referring to the interpretation of Article 157(2) TFEU in Maruko, the Court pointed out that a retirement pension is pay within the scope of application of Article 157 TFEU and of Directive 2000/78 wherever it ‘is paid to the worker by reason of the employment relationship between him and his former employer, that is to say, the criterion of employment’ (paragraph 46).

As to whether there was discrimination, the CJEU noted that whilst admittedly ‘legislation on the marital status of persons falls within the competence of the Member States’ (paragraph 38), that competence is constrained by EU law. Indeed, ‘the purpose of Directive 2000/78 is to

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6. Case C-147/08, Römer, 10 May 2011, not yet published in the Court Reports.
7. Gesetz über die Eingetragene Lebenspartnerschaft of 16 November 2001 (‘LPartG’).
8. Erstes Ruhegeldgesetz der Freien und Hansestadt Hamburg of 28 June 2000 (‘the First RGG’).
9. ‘For the purpose of this Article, “pay” means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer’.
combat, as regards employment and occupation, certain types of discrimina-
tion, including discrimination on the ground of sexual orientation, with a view to putting into effect in the Member States the principle of 
equal treatment’ (paragraph 38). Having made that clarification, the Court 
could then determine whether or not there was discrimination. According to Article 2(2)(a) of Directive 2000/78, ‘direct discrimination 
shall be taken to occur where one person is treated less favourably than 
another is, has been or would be treated in a comparable situation’ in 
respect of employment and occupation, on grounds relating to religion, 
belief, disability, age or sexual orientation. The Court had to determine, 
on the one hand, whether the situations were comparable and, on the 
other, whether the treatment was less favourable.

According to the Maruko judgment, for situations to be comparable they 
do not have to be identical, and the assessment of comparability ‘must be 
carried out not in a global and abstract manner, but in a specific and 
concrete manner in the light of the benefit concerned’ (paragraph 42). The 
CJEU compares situations on the basis of the rights and obligations of 
spouses and registered life partners. Pointing out that registered life 
partnerships were established ‘to allow persons of the same sex to live in a 
union of mutual support and assistance which is formally constituted for 
life … the regime of which has been gradually made equivalent to that of 
marriage’ (paragraph 44), the Court drew the conclusion that ‘there is no 
significant legal difference between those two types of status of persons as 
understood in German law’ (paragraph 45). Even though the legal status of 
life partnerships converged with that of marriage only after the facts of the 
case (in 2004), the Court found that since the outset the two regimes were 
tended to be in alignment in so far as the 2001 legislation provided that 
life partners had mutual duties ‘to support and care for one another and to 
contribute adequately to the common needs of the partnership by their 
work and from their property, as is the case between spouses during their 
life together’ (paragraph 47). The situations were indeed comparable.

Was the treatment less favourable? The applicant’s supplementary 
retirement pension would be higher if he were married rather than in a 
registered life partnership. The contested German legislation established 
equal treatment contrary to EU law, in so far as ‘marriage is reserved 
to persons of different gender and exists alongside a registered life 
partnership such as that provided for by the LPartG, which is reserved 
to persons of the same gender’ (paragraph 52).
From what date did equal treatment have to apply – from expiry of the period for transposition of the Directive or from the date on which the life partnership was registered, 15 October 2001? To find that equal treatment had to apply between registration of the life partnership and expiry of the transposition period of Directive 2000/78 would imply recognising that the applicant had a right to non-discrimination on grounds of sexual orientation enforceable in the courts against his employer independently of the Directive. Reiterating its reasoning in Mangold and Küçükdeveci (Ghallani, 2007 and 2011), the Court pointed out that in so far as it is based on Article 13 EC, Directive 2000/78 does not itself enshrine the principle of equal treatment in work and occupation. Without expressly describing it as a general principle of EU law, the Court examined the principle of non-discrimination based on sexual orientation on the basis of the same criteria as those used in the aforementioned judgments relating to the general principle of non-discrimination on grounds of age. In order to be applicable in the present case, the principle had to fall within the scope of application of EU law. However, Article 13 EC (Article 19 TFEU) does not relate to employment and occupation-based social welfare benefits. Furthermore, the contested legislation was not a text transposing Directive 2000/78/EC. The Court held that the right to equal treatment could only be relied upon from expiry of the time limit for transposing Directive 2000/78/EC (3/12/2003).

We would draw attention to the absence of any reference to Article 21 of the Charter of Fundamental Rights which prohibits any discrimination based on sexual orientation. That omission is curious to say the least. Clarification of the interrelation between the various pieces of legislation in force and of their legal scope would therefore be helpful.

1.2 The age limit for airline pilots: Prigge

Age is the ground of discrimination most often invoked before the Court. No fewer than nine judgments have been delivered since 2005, when the Mangold ruling was made. Much has been written about the case because it gave rise to the first decision based on the directive on

equality in employment and occupation, and it signalled a progressive new direction in Community law. The Prigge\(^\text{11}\) judgment, concerning an age limit imposed for carrying on an occupation, will not go unnoticed in so far as it is the first to reject the justification for such a measure. It highlights the need to be clear about the meaning and conditions for using derogations which are rarely relied upon in the context of Directive 2000/78/EC.

International and German legislation provides that an airline pilot, aged between 60 and 64, can only continue to carry out their activity if they are a member of a crew comprising several pilots, who must be aged less than 60. It furthermore prohibits all pilots from carrying out their activity beyond the age of 65. The collective agreement applicable to Lufthansa flight crew nevertheless prevents its pilots from piloting aircraft beyond the age of 60. The employment contracts of three pilots employed for many years were automatically terminated, in accordance with the collective agreement, when they reached 60. Believing themselves to be victims of discrimination on grounds of age, they brought proceedings in the German courts claiming that their employment relationships with Lufthansa had not ended at the age of 60. Hearing the case on appeal, the Bundesarbeitsgericht enquired of the Court of Justice wherever the age limit under the collective agreement could be justified by the aim of ensuring air traffic safety, in the light of Articles 2(5), 4(1) or 6(1) of the Directive.

After pointing out that the right to collective negotiation enshrined in Article 28 of the Charter of Fundamental Rights does not however relieve the social partners of the requirement to comply with the principle of non-discrimination on grounds of age, recognised as a general principle of EU law and embodied in Directive 2000/78/EC, the Court examined the grounds adduced in defence of the contested clause, known as a ‘sunset clause’. It focused for the first time on the requirements for using the derogation under Article 2(5) of the Directive according to which: ‘This Directive shall be without prejudice to measures laid down by national law which, in a democratic society, are necessary for public security, for the maintenance of public order

\(^{11}\) Case C-447/09 Prigge and Others, 13 September 2011, not yet published in the Court Reports.
and the prevention of criminal offences, for the protection of health and
for the protection of the rights and freedoms of others.’ In the case
before the Court, the measures intended to prevent accidents by
controlling the physical fitness of pilots did contribute to the objective
of public security. However, in the absence of express powers on the
part of the social partners to adopt measures in the fields covered by
that Article, the Court refused to treat the provision of the collective
agreement as a legislative measure. It had all the more reason to do so
since there was already international and national legislation on air
transport safety which did not consider it necessary to prohibit pilots
over the age of 60 from continuing to do their job.

The Court analysed the possible justification based on Article 4(1) of the
Directive. Unequal treatment does not amount to discrimination
‘where, by reason of the nature of the particular occupational activities
concerned or of the context in which they are carried out, such a
characteristic constitutes a genuine and determining occupational
requirement, provided that the objective is legitimate and the
requirement is proportionate’. The judgment is important because the
Court has only ruled once on this issue, in Wolf\textsuperscript{12}, concerning an age
limit for access to the profession of firefighter (Ghailani, 2011). The
need for particular physical capacities could be regarded as a genuine
and determining requirement to work as an airline pilot, and air
transport safety was a legitimate aim. On the other hand, the measure
prohibiting flying after the age of 60 was disproportionate. In contrast
to Wolf, in which Germany had submitted a scientific study
demonstrating the direct link between the age and the physical capacity
of firefighters, no evidence was submitted proving such a link in
relation to aircraft pilots. It was all the more disproportionate, the
Court observed, in so far as national and international legislation
allowed pilots to fly up to the age of 65 provided certain safety
conditions concerning the composition of the crew around them were
satisfied. As regards whether Article 6(1), properly raised, could apply,
the Court held that the aim of ensuring air traffic safety was not one of
the ‘legitimate employment policy, labour market and vocational
training objectives’ to which that article refers.

\textsuperscript{12} Case C-229/08 Wolf [2010] ECR I-1.
Prigge is interesting in so far as for the first time the Court invited a national court to censure a sunset clause which was incompatible with Directive 2000/78/EC. In the cases previously brought before it, unequal treatment was justified by social policy considerations in respect of which the Court found that the public authorities and social partners had wide discretion. In Prigge, the justification was based directly on considerations of individuals’ health and physical aptitude. As in Wolf, the Court required a convincing demonstration to the judge that the treatment, which remained nonetheless an encroachment upon a fundamental right, was necessary and proportionate.

1.3 Equal treatment between men and women in relation to insurance: the Test-Achats case

By ruling that the derogation provided for in Directive 2004/113/EC implementing the principle of equal treatment between men and women is invalid, the Court put an end to insurance premiums adjusted in consideration of the fact that sex is a determining factor in assessing certain risks.

The case was between the Association belge des consommateurs Test-Achats ASBL and the Belgian Conseil des Ministres (Council of Ministers) concerning annulment of the Law of 21 December 2007 combating discrimination between men and women, in respect of the different treatment in relation to insurance premiums. Directive 2004/113/EC (Council of the European Union, 2004) prohibits any direct or indirect discrimination on grounds of sex in fields other than the labour market. Under Article 5(1) of the Directive, ‘Member States shall ensure that in all new contracts concluded after 21 December 2007 at the latest, the

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13. The Court upheld a sunset clause providing for the compulsory retirement of prosecutors at the age of 65 in Fuchs and Khöler: Joined Cases C-159/10 and C-160/10 Fuchs and Khöler, 21 July 2011, not yet published in the Court Reports.

14. Laetitia Driguez, note at CJEU, November 2011, Europe 2011, commentary 430. See also: Joined Cases C-297/10 and C-298/10, Hennigs and Land Berlin, 8 September 2011, not yet published in the Court Reports. The Court’s judgment provides a further illustration of discrimination on grounds of age and could be seen as a signal to the social partners to remove the discriminatory provisions which persist in collective agreements, whilst ensuring that in order to do so they will temporarily be given a degree of latitude in applying EU law.

15. Case C-236/09, Association belge des Consommateurs Test-Achats ASBL and Others v Conseil des ministres, 1 March 2011, not yet published in the Court Reports.
use of sex as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services shall not result in differences in individuals’ premiums and benefits’.

Prior to Test-Achats, Article 5(2) of the Directive allowed Member States to derogate from the rule of unisex insurance premiums and benefits: ‘Member States may decide before 21 December 2007 to permit proportionate differences in individuals’ premiums and benefits where the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data. The Member States concerned shall inform the Commission and ensure that accurate data relevant to the use of sex as a determining actuarial factor are compiled, published and regularly updated’. Belgian law established a derogation in relation to life insurance, the legality of which was called into question in the Test-Achats case.

The Court relied on several provisions in ascertaining whether Article 5(2) was valid: Articles 21 and 23 of the Charter of Fundamental Rights which prohibit any discrimination on grounds of sex and require equality between men and women to be ensured in all areas, and Article 19(1) (ex Article 13 EC), the second subparagraph of Article 3(3) and Article 8 TFEU16. The use of actuarial factors related to sex enabling insurance premiums to be adjusted was very widespread in the provision of insurance services at the time the Directive was adopted. In seeking the progressive achievement of equality between men and women in the field, it was permissible for the legislature to implement the rule of unisex premiums and benefits gradually, with appropriate transitional periods. Beyond that, the principle of equal treatment requires that comparable situations must not be treated differently, and different situations must not be treated in the same way, unless such treatment is objectively justified. Moreover, the comparability of situations must be assessed in the light of the subject-matter and

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16. According to Article 19(1), ‘the Council, ... after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation’. The second subparagraph of Article 3(3) provides that the Union ‘shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child’. According to Article 8 TFEU, ‘in all its activities, the European Union is to aim to eliminate inequalities, and to promote equality, between men and women’.
The Court held that ‘Directive 2004/113 is based on the premiss that, for the purposes of applying the principle of equal treatment for men and women, enshrined in Articles 21 and 23 of the Charter, the respective situations of men and women with regard to insurance premiums and benefits contracted by them are comparable’ (paragraph 30). In so far as there was a risk that the derogation available under Article 5(2) could be an indefinite derogation, it was ruled invalid in the light of the principle of equality between men and women enshrined in the Charter of Fundamental Rights. The Court qualified the timescale of that invalidity, making it effective ‘upon the expiry of an appropriate transitional period’ (paragraph 33) which it set as 21 December 2012.

Hailed by the Commissioner for Justice, Viviane Reding, as signalling ‘an important moment for gender equality’ (European Commission, 2011a), the Test-Achats judgment was widely covered by the press which of course headlined the increase in insurance premiums for women, particularly motor insurance premiums, in December 2012. In September 2011, Viviane Reding met with the principal EU insurance companies to consider the measures which the sector was having to take in order to comply with the Court’s judgment (European Commission, 2011b). Guidelines were adopted by the Commission on 22 December 2011, based on consultation of the Member States, insurers and consumers, to meet the need for practical advice on the implications of the Test-Achats ruling (European Commission, 2011c). They are aimed at both at consumers and insurance companies and make clear that the judgment applies only to new policies taken out from 21 December 2012. The guidelines also give examples of insurance practices based on differentiating between men and women which are compatible with the principle of unisex premiums and benefits and which therefore will not need to be changed as a result of the Test-Achats ruling.
2. Social security for migrant workers

2.1 The acquisition of definitive entitlements to supplementary pension benefits: Casteels v BA

The first pillar of social protection, that is to say, the statutory regimes for basic social security, was very quickly provided for at European level under Article 42 EC (now Article 48 TFEU) by means of coordinating regulations (European Parliament and Council of the European Union, 2004). The same cannot be said of statutory or collective agreement-based supplementary regimes. The difficulties caused by occupational mobility in relation to supplementary social protection are nevertheless real, and all the more significant in view of the comparative decline in significance of the basic statutory regimes under the first pillar, in which the replacement ratio has tended to fall in comparison with final earnings. Progress in EU level harmonisation is still modest (Council of the European Union, 1998) in this field (Hennion et al., 2010).

The Casteels ruling provides an opportunity to review these issues, particularly the acquisition of definitive rights to supplementary pension benefits, as part of an interpretation of Article 45 TFEU which enshrines the principle of freedom of movement for workers in the EU. Maurits Casteels was employed by British Airways in 1974 and spent his whole working life with the company. After working for 14 years in Belgium, he moved to the Düsseldorf establishment in 1988. Less than three years later, he was transferred to France, which he left in 1996 to return to an establishment in Belgium. On expiry of his period of employment in Germany, he had not acquired entitlement to supplementary retirement benefits on the grounds that he had not completed the statutory period of activity under that scheme. Article 7(b)(1) of the collective agreement on pensions in force at the Düsseldorf establishment was also relied on against him, according to which employees who voluntarily leave the company before expiry of five years’ service are entitled only to the benefits guaranteed by the contributions they have paid themselves. British Airways furthermore refused to allow him to avail himself of Article 7(2) according to which, after five years’ service but before

17. Case C-379/09, Casteels v British Airways, 10 March 2011, not yet published in the Court Reports.
completing the statutory entitlement periods, an employee who leaves the company is also entitled to the pension benefits guaranteed as at that date by the contributions paid by BA.

The national court raised two points. The first related to whether the transfer of an employee, with his agreement, to a different establishment of the same employer in another Member State could be treated as a voluntary departure by the worker. The second point concerned whether Article 7 of the collective agreement applicable in the case was compatible with Article 45 (ex Article 39 EC) and Article 48 (ex Article 42 EC) TFEU on the freedom of movement for workers.

Having pointed out that Article 48 TFEU does not have direct effect, the Court focused on whether the collective agreement in force at the Düsseldorf establishment was compatible with Article 45 TFEU which enshrines the principle of the freedom of movement for workers. It is settled case law that the provisions of collective agreements must be in line with the Treaty. Article 7 of that agreement, however, although applicable indistinguishably to all employees, does penalise employees of the company who have spent part of their working life outside Germany. ‘By making no provision for account to be taken of years of service completed by a BA employee in a BA establishment in another Member State, and by treating the consensual transfer of a BA employee to a BA establishment in another Member State as a voluntary departure from BA’ (paragraph 29), the collective agreement in question established a regime which ‘constitutes an obstacle to the freedom of movement for workers’ and cannot be permitted in so far as it does not pursue an objective in the general interest (paragraph 30).

Moreover, a worker who has been transferred to a different non-German establishment of BA is treated as having left the company and is thereafter entitled only to the benefits guaranteed by their contributions alone whereas a worker consenting to be transferred to a different establishment in Germany is not treated under the collective agreement as leaving the company and can claim the benefits guaranteed both by their contributions and by the employer’s contributions. The former is quite clearly disadvantaged. Incompatibility with Article 48 TFEU was so evident that the Court did not dwell on whether there could be any justification for such an obstacle but took pains to point out to the national court its duty to interpret domestic provisions in conformity with EU rules.
The facts which gave rise to the *Casteels* judgment were very specific in so far as Mr Casteels had worked for the same company despite the transfers. It is therefore not easy to say how such a decision would be applied in the case of an employee working for company A in the United Kingdom, for example, who was transferred to company B belonging to the same group but in a different Member State (Slaughter and May, 2011). Court of Justice case law has an essential role in the field of coordinating social security regimes and has in the past already enabled the material scope of Regulation 1408/71 to be extended to special schemes for civil servants as a result of its ruling in *Vougiakas*\(^\text{18}\). Along the same lines, *Casteels* could be read as a sign of encouragement urging the European Commission to launch new initiatives on the portability of supplementary pension entitlements and to reopen the debate on the issue, which has been at a standstill since the 2007 proposal for a directive to improve the portability of supplementary pension rights was put on hold (European Commission, 2007a). The White Paper on pensions, expected in February 2012, is expected moreover to include a certain number of proposals on the role of supplementary pensions in achieving pension adequacy (Petitjean, 2011).

2.2 Recognition of the status of worker in relation to social security: the *Borger* case

The concept of a worker is complex and is defined in different ways depending on the rules of EU law to be applied. A ‘worker’ is a legal category with many faces and no real single meaning. In *Tanja Borger v Tiroler Gebietskrankenkasse*\(^\text{19}\), the Court of Justice was called upon to rule on the notion of an ‘employed person’ within the meaning of Article 1(a) of Council Regulation (EEC) No.1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community.

The main proceedings were between Tanja Borger, an Austrian National, and her employer, the *Tiroler Gebietskrankenkasse*. Having taken unpaid leave of two years following the birth of her son with

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payment of childcare allowance and maintenance of entitlement to social security, she requested an extension of that leave for six months. Although her employer granted extension of the unpaid leave for six months, the social security fund refused to pay her childcare allowance and to maintain entitlement to social security for the period. According to the social security fund, the claim was unfounded on the grounds that, on the one hand, Ms Borger was not in a de facto employment relationship in Austria and, on the other hand, the whole family had been living for a year in Switzerland where the father was working, and that the Swiss institutions should therefore be approached for family benefits. Unsuccessful on the merits, the social security fund brought all the available appeals up to the appeal in cassation. The Court of Justice was asked whether or not Ms Borger, who had been on unpaid leave for two and a half years, could be recognised as having the status of worker within the meaning of Regulation 1408/71/EEC.

Referring to its earlier case law, the Court observed that a ‘a person has the status of ‘worker’, within the meaning of Regulation No.1408/71, where he or she is covered, even if only in respect of a single risk, on a compulsory or optional basis, by a general or special social security scheme referred to in Article 1(a) of that regulation, irrespective of the existence of an employment relationship’ (paragraph 26). The Court rejected the three types of objection made by the referring court. Neither the fact that Tanja Borger was covered by a social security scheme unrelated to any past or current professional activity (paragraph 28), nor the fact that she deliberately extended her unpaid leave (paragraph 29), nor the fact that she lived in Switzerland during that leave (paragraph 30), could affect her status as an employed person. It was the fact of being insured under a social security regime which the national court had to verify, and not the existence of an employment relationship.

Limited in scope, the Regulation is intended only to coordinate entitlements and not to establish them. It is for the Member States to indicate who are the beneficiaries of the social security regimes for which employed work gives rise to, and constitutes, the initial point of connection. It is worth noting that Regulation 883/2004 (which replaced Regulation 1408/71) no longer refers to workers but evokes ‘activity as an employed person’ which, by virtue of Article 1, also covers equivalent situations.
We would refer readers interested in the issues of social security for migrant workers to the ruling in Stewart\(^20\) in which the Court found that the fact that short-term incapacity benefit in youth was non-contributory did not preclude waiver of the residence and presence clauses which restricted grant of the benefit.

### 3. Working conditions

#### 3.1 Entitlement to paid annual leave where the worker has been unfit for work: *KHS v Winfried Schulte*

For several years the Court of Justice has been making rulings very favourable to absent employees. In Pereda\(^21\), it emerged that an employee who falls sick before taking annual leave is entitled to carry over that annual leave, and the right to carry over is probably acquired even if the employee falls ill during the annual leave. Similarly, according to the judgment in Schultz-Hoff and Stringer\(^22\), an employee who is unable to take leave before expiry of the leave year is entitled to carry over the leave. Does that favourable case law mean that, however long the time off work, the right to annual leave can be accumulated and carried over indefinitely? The question was determined, most reasonably, on 22 November 2011 in the case between KHS and Winfried Schulte\(^23\).

Employed by KHS AG since 1964, Mr Schulte was covered by a collective agreement which provided for a right to 30 days’ paid annual leave a year. The agreement permitted allowances in lieu of paid annual leave not taken only at the end of the employment relationship and provided that entitlement to paid annual leave not taken because of sickness would lapse on expiry of a carry-over period of 15 months after the leave period (calendar year). After suffering a heart attack in 2002, Mr Schulte was declared unfit for work and was in receipt of an invalidity pension until August 2008, the date when his employment

\(^{20}\) Case C-503/09, *Stewart*, 21 July 2011, not yet published in the Court Reports.


\(^{22}\) Joined Cases C-350/06 and C-520/06 *Schultz-Hoff and Stringer* [2009] ECR I-179.

\(^{23}\) Case C-214/10, *KHS AG v Winfried Schulte*, 22 November 2011, not yet published in the Court Reports.
relationship with KHS ended. Having been on sick leave during all the leave periods, he was deprived of his right to paid annual leave in 2006, 2007 and 2008 and brought proceedings to obtain allowances in lieu of that leave.

Hearing the case on appeal, the Higher Labour Court of Hamm wished to know whether German law was compatible with Directive 2003/88/EC of 4 November 2003 concerning certain aspects of the organisation of working time (Council of the European Union, 2003), Article 7(1) of which provides that ‘Member States shall take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice’.

The Court wisely took the view that ‘a worker who is unfit for work for several consecutive years and who is prevented by national law from taking his paid annual leave during that period cannot have the right to accumulate, without any limit, entitlements to paid annual leave acquired during that period’ (paragraph 34). It based its reasoning on the dual purpose of paid leave as apparent from Pereda: on the one hand, it enables workers to rest from carrying out the work they are required to do under their contract of employment and, on the other, to enjoy a period of relaxation and leisure. So, ‘the right to paid annual leave acquired by a worker who is unfit for work for several consecutive reference periods can reflect both the aspects of its purpose [...] only in so far as the carry-over does not exceed a certain temporal limit. Beyond such a limit annual leave ceases to have its positive effect for the worker as a rest period and is merely a period of relaxation and leisure’ (paragraph 33). Granting a right to accumulate annual leave entitlement indefinitely would go beyond the very purpose of the right to paid annual leave.

From what moment, then, can paid annual leave acquired despite the involuntary absence of the employee no longer be carried over? Taking its inspiration from Article 9(1) of ILO Convention 132 on paid annual leave, the CJEU held that ‘it may reasonably be considered that a period of 15 months for carrying over the right to paid annual leave, [...], is not contrary to the purpose of that right, in that it ensures that the latter retains its positive effect for the worker as a rest period’ (paragraph 43).
The Court stated that ‘any carry-over period must take into account the specific circumstances of a worker who is unfit for work for several consecutive reference periods’, and that period must ‘inter alia ensure that the worker can have, if need be, rest periods that may be staggered, planned in advance and available in the longer term’, with the effect that ‘[a]ny carry-over period must be substantially longer than the reference period in respect of which it is granted’ (paragraph 38). However, ‘[t]hat carry-over period must also protect the employer from the risk that a worker will accumulate periods of absence of too great a length, and from the difficulties for the organisation of work which such periods might entail’ (paragraph 39).

Amongst the questions which are undoubtedly going to be raised is whether the carrying-over should relate solely to the minimum four weeks’ annual leave required by the Directive or to all the statutory leave or leave under a collective agreement. Similarly, it will need to be decided whether, in calculating the number of days’ leave (and therefore the number of days’ leave which can be carried over), all periods of absence should be taken into account or only those treated as actual working time24.

3.2 Abusive use of fixed-term contracts: *Lufthansa v Kumpa*

European legislation on fixed-term contracts went down the social dialogue route, since Directive 1999/70/EC of 28 June 1999 (Council of the European Union, 1999) implemented the framework agreement concluded between the social partners at European level. The intention was to take into account the increasingly frequent use contracts of this kind and the loss of security which they can bring, in other words, to reconcile employee protection and undertakings’ needs for flexibility. The framework agreement was presented as ‘a new contribution to a better balance between the flexibility of working time and worker security’ (Hennion et al., 2010). The Directive was a precursor of the

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24. See also the judgment in *Williams* by means of which the Court clarified the components to be taken into account in calculating the remuneration paid during the paid annual leave in the case of airline pilots whose remuneration includes a fixed basic salary and a large number of supplements. Case C-155/10, *Williams and Others*, 15 September 2011, not yet published in the Court Reports.
concept of flexicurity, first mooted by the Commission in 2006 in its Green Paper on modernisation of labour law (European Commission, 2006), and passed on in turn by a Communication devoted entirely to that new approach (European Commission, 2007b).

The Court reviewed the German law transposing Directive 1999/70/EC on the framework agreement on fixed-term work (Council of the European Union, 1999), which afforded an opportunity to rule on interpretation of the provision relating to successive fixed-term contracts. The proceedings were between Lufthansa and Gertraud Kumpa. An air hostess since 1971 with the airline PanAmerican World Airways Inc, Ms Kumpa became an employee of Lufthansa when it purchased the assets of PanAmerican World Airways Inc. The German law which came into force on 1 January 2001 and the collective agreement applicable to Lufthansa cabin crew allowed the company to terminate the contract of an air hostess recruited under a contract of indefinite duration in the year of her 55th birthday, and thereafter continue the employment relationship until she reached the age of 60 on the basis of successive fixed-term contracts. Whilst the collective agreement precluded working as cabin crew beyond the age of 60, it nevertheless included an option to continue the employment relationship as ground staff, under a fixed-term contract and at the discretion of the employer, which, in the case in question, refused to do so. Her employment contract having been terminated, the employee brought proceedings seeking to continue her employment contract on the basis that the collective agreement and the German transposing legislation were incompatible with Directive 1999/70.

The German legislation seems to present problems in that, for any worker aged over 58, it authorises an unlimited number of successive fixed-term contracts to be concluded with no objective justification, where there is no close objective connection with a previous employment contract of indefinite duration concluded with the same employer.

25. Case C-109/09, Lufthansa v Gertraud Kumpa, 10 March 2011, not yet published in the Court Reports.
The Court based its reasoning on the framework agreement on fixed-term work, referring to the judgment in Adelener\textsuperscript{26}. It emphasised the principles of the framework agreement: ‘the benefit of stable employment is viewed as a major element in the protection of workers’ (paragraph 31); ‘contracts of indefinite duration are the general form of employment relationship’ (paragraph 30). The Court inferred from this that the use of fixed-term contracts is exceptional in comparison with the use of contracts of indefinite duration (paragraph 30) – exceptional and therefore limited. It also emphasised the fact that ‘the framework agreement seeks to place limits on successive recourse to the latter category of employment relationship, a category regarded as a potential source of abuse to the disadvantage of workers’ (paragraph 31). Having drawn attention to those principles, the Court turned to the contested provision of the German Law on part-time employment and fixed-term employment contracts of 21 December 2000. Article 14 restricts the use of fixed-term contracts by making conclusion of fixed-term contracts subject to there being objective grounds for doing so, such as the need to replace an employee or to provide mentoring for young workers (Article 14(1)). It allows a fixed-term contract to be concluded where there are no objective grounds by imposing a limit of three renewals in a total period of two years (Article 14(2)). Article 14(3), however, qualifies that limitation on the use of fixed-term contracts: ‘The conclusion of a fixed-term employment contract shall not require objective justification if the worker has reached the age of 58 by the time the fixed-term employment relationship begins’, unless ‘there is a close objective connection with a previous employment contract of indefinite duration concluded with the same employer’.

The Court found that provision not to be contrary to clause 5(1) of the framework agreement and held that the Bundesarbeitsgericht’s interpretation of Article 14(3) was ‘contrary to the purpose of the framework agreement and of clause 5(1) thereof, which is to protect workers from instability of employment and to prevent abuses arising from the use of successive fixed-term employment contracts or relationships’ (paragraph 50). According to the referring court, the restriction on the unlimited use of successive fixed-term contracts for employees aged over 58 could not apply because Gertraud Kumpa had

\textsuperscript{26} Case C-212/04 Adelener [2006] ECR I-6057.
been employed by Lufthansa on the basis of successive fixed-term contracts since 2000. The Court’s interpretation therefore satisfies the objectives both of combating successive contracts and of combating the conclusion of fixed-term contracts with no objective grounds and without limitation.

We would point out that the Court also ruled on equal treatment between fixed-term and permanent workers (clause 4(1) of the framework agreement) in Rosado Santana27 in relation to the eligibility requirements for a competition for internal promotion in the administration of the Autonomous Community of Andalusia. The Court held that unless there were objective grounds, the functions performed as an interim worker should be taken into account in determining the length of service required to participate in a civil service competition.

**Conclusions**

2011 was therefore a relatively quiet year in terms of case law. It will be remembered here that 2007 and 2008 had on the contrary been tumultuous. The Laval and Viking rulings in 2007, followed by Rüffert and Luxembourg in 2008 had in fact caused a veritable upheaval in the social field. There was nothing of that kind in 2011. Faithful to the task entrusted to it under the Treaty, the Court both confirmed its earlier case law and clarified some still obscure points of law. Through its case law, it also allowed a number of social realities to be reflected in legal terms. The Römer ruling is highly significant in this sense in so far as it places marriage on an equal footing with registered partnerships, a ‘new’ model of commitment for couples, very widespread in France and Germany in particular. The Court has also been a driving force of the Community legislative machine. Its decision in the Casteels case will undoubtedly have caused rather a stir at the European Commission by urging it to relaunch its suspended work on the problems relating to supplementary pensions. We have already referred to the consequences of the Test-Achats decision.

27. Case C-177/10, Rosado Santana, 8 September 2011, not yet published in the Court Reports.
Although they are not fundamental, the other decisions referred to in this chapter are not unhelpful since they enabled the Court to clarify the meaning and objectives of certain provisions of Community law and to ensure that they are interpreted uniformly. That work of interpretation will continue to increase in the future in view of the growing number of national courts able to refer preliminary questions to the Court. 2012 will quite clearly be no exception. The Court will revisit the right to paid annual leave.\textsuperscript{28} It will also rule on whether domestic provisions of French labour law are compatible with EU law and on the duty of the national courts to prevent the application of domestic provisions which are contrary to EU law.

References


\textsuperscript{28} Case C-282/10, Dominguez.


Future prospects
Has the European Social Model really ‘gone’?

David Natali

Recent events at EU level have led some analysts to discover a ‘new’ reality. European integration has always been a complex process, consisting of lengthy compromises, ambiguous deals, references to many principles and ideas that each actor then tries to align with her/his own interests and viewpoints. Yet the past few months have seen more unilateral action, consistent with increased conflicts.

For years, the key traits of the European governance – see the Lisbon Strategy in the past and Europe 2020 nowadays – have been defined by and justified through different normative perspectives: neo-liberals have seen the attempt to reinvigorate economic growth and competitiveness according to the free-market principles at the basis of the European project. Social democrats, and ‘third way’ representatives, have seen new ideas and perspectives (activation, flexicurity, social investments, etc.) taken seriously by EU policymakers. Christian democrats have recognised the traditional principles of subsidiarity and social market economy in the decisions made. Everybody had reason to believe the EU would implement at least part of her/his agenda (see Pochet, 2006 for an overview of the political coalitions supporting the EU project).

2011 did in many respects end the dynamics of the past. Ambiguous deals – originated by the synthesis between different political, ideological and programmatic positions – have been substituted by more ideologically oriented and unilateral interventions. Key official documents (like the Annual Growth Survey or the recent White Paper on Pensions) are more likely to pressurise Member States into introducing austerity measures without any major ‘trade-off’ with solidarity and growth-oriented measures. And official statements from EU leaders seem to be confirming the new trends. In the following, we take the very recent interview given by the president of the European Central Bank (ECB) to the Wall Street
Journal as a sign of the end of the logic of mediation. Mario Draghi was extremely clear about the state of Europe: ‘The European Social Model has already gone!’ (Blackstone et al., 2012).

That interview did, in many ways, illustrate the very recent evolution of EU discourse about the present and future of the integration process. The following pages focus on three main issues. First we start with an analysis of the supposed death of the European Social Model (ESM). Section two then looks at the actual problem in balancing the ESM with European integration. Section three provides some tempting answers about the need for the EU to further develop its social dimension: while many have interpreted this social dimension as the origin of the European disease, others (including ourselves) stress that it is the most promising step to exit the crisis. We consider this a fundamental element to provide more legitimacy to the European project and to make the European economy grow again. Section four offers some conclusions.

1. The European Social Model is already gone... said Mario Draghi

As shown by the chapters in this book, in the last year the European economic and social context has worsened. The Great Recession of 2008-2009 led to the fundamental crisis of the EU project. The EU’s incapacity to find a solution to the Greek challenge has put the entire euro zone in danger. Many countries are now coming under pressure from the international financial markets that distrust both EU and national policymakers. Fears expressed by European public opinion have been paralleled and reinforced by the persisting economic problems. And the political debate still seems dominated by the neo-liberal reading.

In The Wall Street Journal on Friday February 24 2012, European Central Bank (ECB) President Mario Draghi put forward his ideas on the future of the European social model: it is already dead! For Draghi there is no alternative to tough austerity measures in all of the over-indebted countries; and this will necessarily involve giving up a social model based on job security and generous social benefits. Draghi quoted Rudi Dornbusch: his famous provocative phrase – ‘the Europeans are so rich they can afford to pay everybody for not working’ – stating that it no longer applies.
While this message from the ECB can be interpreted in terms of a tactic and ‘role-shaped’ declaration – the ‘bad cop’ trying to calm international financial markets, confirming that the ECB will control public spending and the implementation of structural reforms across Europe – this appears as further confirmation of the strategy EU institutions are pursuing. The ECB, its allies in Brussels and in some Member States, are using the crisis to finally push through their neo-liberal programme of deregulation and flexibilisation (Leschke et al., 2012). The argument goes like this: Europeans cannot afford the costs of an expensive welfare state and social entitlements that are increasingly outmoded in a global context marked by increased competition from emerging economies whose social standards are much weaker. In the literature the label ‘Frankfurt-Brussels consensus’ is often used to represent this paradigm. We use it to represent any set of policies that follow three basic principles (see De Grauwe, 2006). First, the way to deal with asymmetric shocks is to increase flexibility. An increase in flexibility and structural reforms raises the sustainability of a monetary union. Second, the Stability and Growth Pact (SGP) provides all the needs for countries to use national fiscal policies as an instrument for dealing with asymmetric shocks that have a cyclical (temporary) component. Third, there is no need to have a Europe-wide budgetary policy to stabilise the business cycle. ECB monetary policy is perfectly equipped to provide for macroeconomic stability. By focusing on price stability the central bank does all that can be done to stabilise output movements.

The EU reflects the neo-liberal doctrine that prevailed in the early 1990s, whereby the areas of competition and macroeconomic policies have to be seen largely as substitutes (Fitoussi and Saraceno, 2004). This is consistent with the reduction in the governments’ role in the economy; at the same time the freed resources should be used to increase competition by means of structural reforms. This is why macroeconomic policy in the European institutional setting is not at the centre of the stage; furthermore, it is in the hands of technical bodies like the ECB and constrained within the limits of inflexible rules like the Stability and Growth Pact (Fitoussi and Saraceno, 2004: 8). This fundamentalism

1. By following the SGP prescription of a balanced budget in the medium run, countries have enough flexibility to allow their budget deficit to increase up to 3% during an economic downturn.
is then further aggravated by the objective difficulties of a currency area that is far from optimal (De Grauwe, 2011). The low labour mobility creates a rigidity in the system, for which the solution would be price and wage flexibility. However, in the form required by the theory this has not been experienced anywhere, as it would be socially unbearable. The only way out of this impasse, consistent with the neo-liberal doctrine that permeates the European institutions, is a form of indirect ‘flexibilisation’, cost containment through fiscal competition and the progressive rationalisation of the welfare state.

The words of the ECB President tally with this perspective. The sacrifice of the European Social Model, through austerity measures plus flexibility and the reduction of social standards, seems to be the only strategy left in order to save the EU.

2. The European Social Model and the difficult balance between economic integration and social cohesion

But what precisely is the European Social Model? And what have been the conditions making it work for so many years in Europe? We refer below to the basic elements of the ESM and the division of labour between EU and national competencies that were supposed to defend it.

The basic idea of the ESM is that economic and social progress must go hand in hand; economic growth, in other words, is to be combined with social cohesion. Jepsen and Serrano Pasqual (2008) see the ‘identity marks’ of the ESM as generous welfare-state transfers and services together with social regulation of the economy. These translate into the provision of social assistance to the needy, universal provision of education (primary and secondary) and health care, a complex nexus of social insurance and social services, as well as an elaborate system of industrial relations (for a subtler comparison between the European and American models see Alber, 2010).

The past few months have shown the increased pressure on the ESM. As stressed by many contributors in the previous chapters, last year saw an impressive acceleration of European integration, especially in three areas: the attempt to address the sovereign debt crisis; reinforcement of economic governance and stricter EU control over members’ public
finances. This is full of consequences for the safeguarding of the ESM. The latter is at risk, not just because Europeans seem unable to afford its costs. The mismatch between economic integration and support for social conditions is a further challenge (see also Lehndorff, 2012).

The ESM is at risk because of a changing economic and political context, where the supposed balance between the EU’s economic and social dimensions (especially in its new configuration) is difficult to sustain. In the words of Ferrera (2008), when it was launched in the 1950s the EU project was not intended to challenge the national welfare state that is at the core of the so-called European Social Model. By contrast, the founding fathers conceived a virtuous interaction between the Member States’ open and integrating economy and the closed space of solidarity defined at the national level. The idea was akin to the division of labour exemplified by the famous ‘Keynes at home, Smith abroad’ (Gilpin, 1987). The integration project was meant to favour the Member States’ economic competitiveness, through the concrete implementation of the four fundamental freedoms to actually support the completion of the single market. The benefit of this increased economic growth and wellbeing was expected to help reinforce the national roots of the welfare state. And this did happen, at least until the 1970s. Ongoing economic growth granted increased legitimacy to the European project, while it provided the resources the national welfare states required to further integrate European societies.

The virtuous interaction between economic integration at European level and the welfare state at national level culminated in the 1970s (at the end of the ‘golden age’ of welfare). Afterwards, such an interaction has become much more complicated and hard to fix. In the 1980s, the need to relaunch the European project while safeguarding the national domain of social policies gave scope for a new ambitious project: to complete the single market and then to reach a higher degree of unity through the EMU. At that time, the idea was to revise (not to destabilise) the old compromise between economic integration and social cohesion. The more marked protection under the four fundamental freedoms and the stricter control of budgetary and macro- and micro-economic policies should have been paralleled by the new impetus on the definition of the minimum social ‘floor’ and the launch of European social dialogue (see Pochet, 2005 for a broad review of the integration of social and economic policies at EU level).
Unfortunately, the supposed balance between the economic and social dimensions has not materialised. Despite all the attempts made, the European social dialogue has seen both advances and setbacks, EU social legislation has not advanced very much, while the attempt to achieve soft coordination through new modes of governance has been partially successful (see Peña-Casas in this issue, and de la Porte and Jacobsson, 2011). What has become increasingly evident (especially after the Great Recession) is the different pace of integration in the two economic and social dimensions, and the predominance of the neo-liberal orthodoxy in EU policymaking. As proved by Degryse and Pochet in this issue, economic integration (through the single currency) and especially the coordination of budgetary, macro- and micro-economic policies have largely advanced (see the recent Euro Plus Pact and the European Semester). By contrast, social policy coordination has evidenced more limited steps forward.

The hypothesis outlined below is that the ESM is one part of EU integration and that what is required for more austerity measures is not a more competitive economy. Rather, we need a new articulation of economic growth and social cohesion imperatives.

3. **How the European Union can save the ESM: competition, cooperation and solidarity**

Starting from our reading so far of the main shortcomings of the strategy pursued, we look here at the more promising ideas proposed by some authors, scholars and think tanks in order to revive the European project (see Bertoncini, 2012; Vignon, 2012, and to some extent Vandenbroucke et al., 2011). We focus first on the substantive steps EU policymakers should take to address the main shortcomings of the integration project. We then look at the more political issues, related to the need to revise the strategic game social groups (primarily the trade union movement) must define.

**How to save the EU: the substantive dimension**

As stressed by contributors to this volume, what marked the year 2011 was the fact that the EU’s focus shifted further from the broad socio-economic challenges for smart, sustainable and inclusive growth, to the
unidimensional austerity plans for increasing the financial sustainability of public budgets. Despite all this, the economic crisis did not stop, and the EU’s political legitimacy declined. ‘Balanced budget fundamentalism’ (to quote De Grauwe, 2011) therefore seems an inadequate term for a number of reasons. The first has to do with the actual reinforcement of a deflationary bias, where the current priority in Europe ought to be growth and jobs. Targeting public sector deficits entails a continuing emphasis on austerity programmes which risks prolonged stagnation. The second problem and incoherence has to do with the need for adequate and diversified responses to the economic imbalances of individual Member States (Collignon, 2011). The third limit flows from the incapacity to link the new coordination arrangements with the question of financial regulation (Leschke et al., 2012).

A more fundamental criticism relates to the normative place of solidarity in the building of the EU. A number of contributions have recently focused on that issue. While the European integration process is basically keen to develop economic integration through completion of the single market, solidarity has always been present in European discourse and policy decisions since the Treaty of Rome. Since the beginning, as stated by Bertoncini (2012), the ambitious goal of creating a common market and a customs union was set up together with the engagement of the Member States to support farm production. Agriculture solidarity was the first example of solidaristic traits of the integration project. This first step was thereafter complemented by territorial solidarity (through structural funds aimed at promoting financial transfers between countries and territories) and solidarity towards workers through the European Social Fund – to finance workers’ training and retraining – and the more recent European Globalisation Adjustment Fund to compensate workers who are victims in the event of company relocations)\(^2\).

In the words of Fabry (2012: 7), solidarity in the EU is not ‘an asymmetric mechanism but rather a component in a network of interlocking interests where each party gains something’. Solidarity mechanisms are a natural complement of economic integration and development. Each milestone in the integration process has marked a (renewed) ‘solidarity

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\(^2\) Further solidarity tools relate to the Schengen area and the strategy to deal with natural disasters (see Bertoncini, 2012).
deal’ between the Member States to redistribute risks and opportunities. As Delors stressed some decades ago, the EU is based on three key elements: competition, cooperation and solidarity (Vignon, 2012).

If this is the normative starting point of the European project, and the old division of labour between national and supra-national authorities does not work anymore, we need a new balance between the economic and social dimensions. On the basis of what Amato and Mény on the one hand, and Diamond and Liddle on the other, have stressed in their chapters, it is evident that the ‘solidarity angle’ is now missing. Actually the European Union has tried to implement a new form of solidarity through the stability mechanisms set up after the Greek crisis. But these mechanisms have proved ineffective both from a political and an economic point of view. Europeans are thus in need of more effective solidarity (see Leschke et al., 2012 for a similar analysis). In the literature and the political debate some proposals have been put forward. Here we refer to four of them:

— The financial stabilisation mechanism is for the moment incapable of inverting the negative trends in the financial/bond markets. For some authors this has to do with the curative and emergency nature of the tools set up by the Member States. The same toolkit could be used in line with a different logic: preventing further crises, using resources to boost economic competitiveness and growth through investments, rather than paying national debts (Fabry, 2012);

— The ECB should protect indebted Member States. Highly indebted countries cannot survive attacks from the financial markets without protection from Europe. Their debts exist and cannot be reabsorbed in the short term. The simplest option from an economic point of view is to give the ECB the mandate to intervene to purchase the public debt of the countries under attack. Alternatively, and probably with no need to change the Treaty, the European Financial Stability Facility (EFSF) could be instructed to play this role without any prior political approval. In the latter case, the EFSF should receive financial assistance from the ECB, with practically unlimited resources (Tabellini, 2011; Terzi, 2011).

— Implementing the Lisbon Treaty and the principle of the social market economy. In a more long-term perspective, a growth-enhancing strategy should be pursued by the EU. In line with Articles 3 and 14 of
the Treaty of Lisbon, economic services of general interest are a pillar of the social market economy and could be a source of new economic dynamism. Health care, education and training services, and social housing are all instruments that could be at the core of a broad EU strategy to reinforce (rather than destabilise) the social market economy. This could be encompassed in the social investment pact proposed by Vandenbroucke et al. (2011) and being paralleled by the revision of the Stability and Growth Pact (SGP) with explicit exemption of ‘social investment’ spending from the strict budgetary rules. The limited progress made in the social dimension of Europe 2020 (as stressed by Peña-Casas in this issue) could benefit from these new efforts (see also Vignon, 2012);

— Launching a broad project for a truly European public policy solidarity. As stressed by Vignon (2012), Article 194 refers to the solidarity spirit Member States can implement. The energy and climate change policies may represent the perfect field where shared interests could be identified and then pursued. Another field of shared interest could be the military one. Security policy through defence spending is clearly a burden on national budgets, whereas a coordinated EU effort could be the source of decisive economies of scale.

How to save the EU: the political dimension

As stressed by Natali and Vanhercke in the foreword, one of the major effects of the recent trends in European integration has been the growing tension between different political and social actors. This is the result of the more unilateral strategy proposed and pursued by the European Union. Balanced budget fundamentalism implies the more unilateral definition of the EU’s political economy and of its economic and social strategy.

Some years ago Pochet (2006) provided an interesting picture of the key coalitions struggling to shape the European economic and social paradigm. Neo-liberals, endogenous-growth theorists, neo-Keynesians and the moderate left represented the four advocacy groups that participated in revising the European political economy. They interacted with each other, influencing the emergence and development of the socio-economic strategy: from Maastricht to Lisbon and beyond. The last few years – especially the transition from the first years of the Lisbon Strategy
to its revision and then the emergence of Europe 2020 - have marked the growing role of neo-liberals (‘mainstream economists’ in the words of Pochet). Their power has been reinforced through the Great Recession and now they seem to dominate the political game in Brussels. As a consequence, the compromise between ‘endogenous-growth’ theorists and the moderate left (at the basis of the Lisbon Strategy) evaporated.

This has led to the marginalisation of both moderate leftists, leaving neo-Keynesians and the economists more open to a demand-side perspective isolated. While much more research is needed to better understand the political games between different advocacy coalitions, some elements seem already clear.

Orthodox liberalism is now dominating both EU discourse and national policymaking. While DG Ecfin and other economic-oriented actors dominate the scene in Brussels, a new season of technocrats is now taking the lead in some Member States (see the case of Greece and Italy). The left is becoming ever weaker, lacking a real alternative policy proposal. The labour unions (both at European and national level) have reacted but find themselves between a rock and a hard place: the dialogue with liberals seems tense while the interaction with the far left seems unproductive.

Beyond the advocacy coalitions mentioned by Pochet, the role of interest groups seems important here. The alternating interplay between these groups and their resources may alter the political game (see Pierson, 2011). As stressed above, we could interpret last year’s innovations as the result of a changing ‘balance of power’ between different coalitions operating at EU level. If this is the case, the labour movement should question its strategy. The alternative seems to be between once again trying out new compromises with neo-liberals and the endogenous-growth theorists (maybe through a social investment strategy at EU level); and a new attempt to a leftist coalition to reverse the actual paradigm.

4. **Prospects and risks for the European Social Model and the EU's social dimension**

As shown above, the austerity paradigm is risky and represents a challenge for Europe and its social dimension. While many commentators and policymakers stress that the European Social Model is gone, the
policy mix proposed by the EU seems largely ineffective. The countries most at risk are especially incapable of sorting out the vicious circle represented by the reduction in public spending, the freezing of wages, the decentralisation of collective bargaining and the consequent reinforcement of both inequality and economic stagnation.

While many have interpreted the crisis as a challenge to Europe’s competitiveness in the global market, a more pressing issue affects the integration process and the ability to renew the balance between economic integration and social cohesion. The old compromise – solidarity within national boundaries, and liberal economic integration in the supra-national context – (as Gilpin put it, ‘Keynes at home, Smith abroad’) has disappeared. And the feasibility of the austerity paradigm (a sort of ‘Smith both abroad and at home’) is doubtful.

In our opinion, the EU thus requires a new political economy to be supported by a new coalition of interests and ideas. In other words, a new compromise is needed to exit the crisis and provide new legitimacy to the European project. Above, we have put forward some initial ideas for a new EU growth and solidarity-oriented strategy: the development of truly EU policies (e.g. environmental, energy and defence policies), the renewal of solidarity at EU level (new tasks for the European stability mechanism, a more active ECB), and the coordination of national socio-economic policies in line with the ‘social investment’ paradigm) seem promising.

Nevertheless, to implement a new compromise, political conditions have to change. In the next few months some political events (e.g. the French presidential elections, then the German and Italian elections) could subvert the actual balance of power between the EU and national actors. In such a context two risks seem alarming. On the one hand, the EU’s misguided policy strategy is putting the Community’s entire economic growth and European integration at risk. On the other, the balance between economic and social groups is particularly negative for the labour movement. Trade unions must react to the actual state of affairs, but they need a clear vision of what alliances and coalitions to build in the near future. All these questions will need to be addressed in the near future.

February 2012
References


Pochet, P. (2005), 'The Open Method of Coordination and social Europe: An historical perspective', in Zeitlin, J. and Pochet, P. with Magnusson, L. (eds.), The Open Method of Coordination in Action, PIE-Peter Lang, Brussels, pp.37-82.
Chronology 2011
Key events in European social policy

Cécile Barbier

January

1st January: Estonia becomes the 17th Member State of the Eurozone.


11 January: in a letter to Commissioner Olli Rehn (Economic and Monetary Affairs), John Monks, General Secretary of the European Trade Union Confederation, voices his concern about the implementation of the EU and IMF bailout plans, in the wake of reports from the Greek and Irish trade unions (http://www.etuc.org/IMG/pdf/110111_Olli_Rehn.pdf).


14 January: the European Anti-Poverty Network (EAPN) is critical of the Commission’s ‘Annual Growth Survey’ and calls for an integrated approach to social cohesion.
17 and 18 January: at the initiative of the Hungarian Presidency, the Ministers of Employment and Social Affairs hold an informal meeting in Gödöllő (Hungary).

18 January: in response to John Monks’ letter to Commissioner Olli Rehn (Economic and Monetary Affairs), the Director General of BusinessEurope, Philippe de Buck, expresses his total disagreement with the substance and tone of that communication.

21 January: according to a ruling (app. no. 30696/09) handed down by the European Court of Human Rights, the Belgian authorities should not have deported an asylum seeker to Greece. Thus the Court is calling into question the basis of Community regulation Dublin II on asylum rights.

24 January: after Germany (19 January), Sweden and the United Kingdom, Finland and Denmark announce that they are to think about ways of suspending the return of asylum seekers from their countries to Greece, thereby giving more feedback to the condemnation of Belgium and Greece by the European Court of Human Rights (ECHR).

25 January: the European Financial Stability Facility (EFSF) placed its inaugural five-year bonds for an amount of €5 billion, with a deadline of 2016.


26 January: the European Commission deems incompatible with EU rules on State aid the French plan for tax exemption or relief for insurers on the arranging of supplementary health insurance contracts described as ‘inclusive and responsible’.
28 January: a network of trade unions (EPSU), social organisations (Solidar) and free trade bodies (EFTA) is critical of the explanatory guidelines put forward by the European Commission on taking social considerations into account when awarding public contracts.


February


2 February: in the Eurozone, the unemployment rate corrected for seasonal variations settled at 10.0% in December 2010, stable as compared with November.

2 February: the European Union Agency for Fundamental Rights (FRA) publishes its conclusions on discrimination.

4 February: Berlin and Paris propose a ‘competitiveness pact’ (see 11 March).

4 February: in response to the idea of a competitiveness pact, the European Trade Union Confederation (ETUC) states that it cannot tolerate competitiveness being used as yet another alibi to intervene in collective bargaining systems across Europe (http://www.etuc.org/a/8256).
8 February: the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, speaks out against the detention of unaccompanied minors residing illegally in Europe.

14 February: after the opinion of the EP on 15 December 2010, the Council adopts the ‘Citizens’ Initiative’ Regulation. From 1 April 2014 onwards, it will enable EU citizens to ask that legislative proposals be put forward on a precise issue. Regulation 211/2011, OJ L 65 of 11 March.

15 February: according to the Court of Justice, ‘During the transition period provided for in the Act on the accession conditions of the new Member States, the principle of free movement of services does not prevent the older member states requiring that posted workers from the new member states obtain work permits’, Joined Cases C-307/09 to C-309/09 (Bulletin of the European Union, No.10315 of 15 February).

16 February: the European Parliament asks the Member States to ensure that pension schemes ensure adequate earnings for retired persons and that attention be devoted, as concerns women and older workers, to the issues of portability pension entitlements and inequality.

21 February: the European Trade Union Confederation (ETUC) deeply regrets the stance, taken by Jean-Claude Trichet, the president of the European Central Bank (ECB), saying that ‘increasing wages would be the ultimate error to be committed’ and setting German style wage moderation as the prime example to be followed by the rest of Europe (http://www.etuc.org/a/8302).

24 February: the European Commission publishes an assessment of the after-effects of the framework agreement on work-related stress, stating that the agreement has had beneficial outcomes where it has been implemented, SEC (2011) 241.


In February 2011, the unemployment rate was 9.9% in the Eurozone and 9.5% in the EU27, STAT/11/49 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/49&format=HTML&aged=1&language=EN&guiLanguage=fr).
March

1st March: in a ruling handed down in Case C-236/09, the European Court of Justice ruled that, from 21 December 2012, insurers cannot use gender as a factor in product pricing. So future calculations of life assurance and annuity policies will have to take gender into account.


5 March: Paris suspends the return of asylum seekers to Greece.

7 March: the EPSCO Council adopts the Joint Employment Report, according to which 'Fiscal consolidation will also require a better targeting of social expenditures' (Doc. 7396/11).

8 March: the European Parliament, adopting a resolution on innovative financing, comes out in favour of establishing a Financial Transaction Tax (FTT) at worldwide and European level.

8 March: on the occasion of International Women’s Day, a survey by the European Trade Union Confederation (ETUC) highlights how the crisis is affecting female workers (http://www.etuc.org/a/8426).

9 March: euro-demonstration in Budapest, on the occasion of the informal Economic and Financial Affairs Council (Ecofin) meeting under the Hungarian presidency.

9 March: the European Parliament adopts a resolution calling for action to eliminate the exclusion of and discrimination against Roma and promoting a strategy on their integration.

10 March: to mark the 100th anniversary of International Women’s Day on 8 March, Parliament adopts three resolutions: one on gender inequality, another on female poverty and the third on health inequalities.

11 March: the Pact for the Euro, which 'establishes stronger economic policy coordination for competitiveness and convergence (initially known as the Competitiveness Pact), is endorsed by the Eurozone Heads of State and Government.

15 March: the Ecofin Council reaches a policy agreement of principle on the package of six legislative texts, known as the Six Pack in European jargon, strengthening EU economic governance (the Stability and Growth Pact), especially in the Eurozone countries.


16 March: the European Trade Union Confederation (ETUC) is calling to ensure that the negotiations over the European Private Company Statute (SPE) will lead to effective worker participation rights (http://www.etuc.org/a/8484).

21 March: the European Union Agency for Fundamental Rights (FRA) announces the publication of a joint statement on European non-discrimination law, on the International Day for the Elimination of Racial Discrimination.
**23 and 24 March:** the European Council adopts the Euro Plus Pact, as well as the limited revision of the Treaty on the Functioning of the European Union, in order to insert the conditions whereby the stability mechanism that will replace the European Financial Stability Fund (EFSF) and the European Financial Stabilisation Mechanism (EFSM).

**23 March:** returning to the decision of the late President Lech Kaczyński, Polish Prime Minister Donald Tusk announces his government’s intention to ratify the Charter of Fundamental Rights.


**23 March:** the European Commission adopts a Staff Working Paper to launch a debate on reviewing State Aid rules on Services of General Economic Interest (SGEI), SEC (2011) 397.

**23 March:** in Portugal, the parliamentary opposition rejects the austerity programme, provoking the resignation of the Socialist Prime Minister, José Socrates.

**24 March:** an ETUC Day of European Action in Brussels, on the occasion of the European Summit of 24 and 25 March, for the European union movement to say ‘no’ to the proposed ‘European economic governance’ (http://www.etuc.org/a/8505).

**24 March:** the European Parliament gives its backing to the proposed ‘single permit’ directive which will enable workers from third countries to lodge a single application for work and residence purposes.

**28 March:** in response to the consultation of the social partners on the revision of the Working Time Directive (WTD), the European Trade Union Confederation (ETUC), disappointed with the European Commission’s proposals, says it is ready to start negotiations with the social partners on working time (http://www.etuc.org/a/8542).


April

1st April: the European social partners’ survey on flexicurity highlights the complexity of this concept, and even the impossibility of extending it to all the European countries.

**4 and 5 April:** the informal Council of Health Ministers, meeting in Gödöllö, discusses the need for more European cooperation in the area of healthcare.

**4 April:** the Frontex Management Board endorses the Agency’s Fundamental Rights Strategy.


**5 April:** the European Parliament adopts an own-initiative resolution on migration flows caused by instability, calling on the Council in particular to set up an action plan for the resettlement of refugees in Europe.

**7 April:** Portugal requests international financial aid.

**7 April:** the European Central Bank (ECB) raises its main interest rate from 1% to 1.25%. This increase, the first since 2008, could further jeopardise the crisis-hit countries of Greece, Portugal and Ireland.

**9 April:** an informal Ecofin Council meeting held in Gödöllö decides on indicators intended to monitor the macro-economic imbalances in the European Union.

**9 April:** in the margins of the informal Ecofin Council, the European Trade Union Confederation (ETUC), along with its six Hungarian affiliates (LIGA, ASZSF, SZEF, ESZT, MszOSz and MOSz), holds a euro-demonstration in Budapest against austerity and in favour of Social Europe, for fair pay and for employment.

**11 April:** the JHA (Justice and Home Affairs) Council adopts a Directive granting refugees and beneficiaries of international protection in the EU the same resident status as third-country nationals who have been living within Europe for at least 5 years. The European Parliament adopted its own position on 14 December 2010. Ireland, the UK and Denmark are not taking part in the adoption of this Directive. Directive 2011/51, OJ L 132 of 19 May.


13 April: through its ruling handed down in Case T-576/08 the European Court of Justice annulled part of Regulation (EC) No.983/08 on funding the EU’s ‘Food Distribution Programme for the Most Deprived Persons (MDP), which was attacked by Germany on the grounds that this programme no longer derived from the Common Agricultural Policy but from social policies which fall under the competences of the Member States.

15 April: according to the IMF, the European banks are threatening global financial stability: a ‘debt wall’ of $3,600 billion will be payable within two years.

15 April: at the end of their first quarterly assessment period, the European Commission, the ECB and the IMF express their satisfaction concerning Dublin’s implementation of its economic adjustment programme in return for international financial aid of €67.5 billion.

17 April: Finland’s parliamentary election was marked by the upsurge of the ‘True Finns’ party which opposes the European aid plans.

19 April: 47 million Europeans are living in extreme poverty. It cannot be denied that one consequence of the recession is an alarming increase in poverty and homelessness throughout Europe.
29 April: the President of the European Commission, José Manuel Barroso, replies to the joint letter from the French President and the Italian Prime Minister, stating that he is prepared to re-introduce checks at internal EU borders.

In April 2011, the unemployment rate was 9.9% in the Eurozone and 9.4% in the EU27, STAT/11/76 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/76&format=HTML&aged=1&language=EN&guiLanguage=fr).

May

1st May: Germany and Austria open their labour markets to Polish, Czech and Hungarian workers.

1st May: ten Member States wish to await the end of the transitional period, on 31 December 2013, before fully opening their labour markets to Bulgarians and Romanians.

3 May: the EU and the IMF sign an agreement with the Portuguese government of José Socrates for a loan of €78 billion. It is conditional on reforms including a wage freeze for civil servants, income tax rises and privatisation.


10 May: Europe as a whole must shoulder its responsibilities by being involved in reception work, states Laura Boldrini, spokeswoman of the UNHCR (United Nations High Commissioner for Refugees), who was in Italy following the arrival of migrants from Libya.

10 May: the Commission considers halving, as from 2014, the list of 176 nations currently benefiting from the trade preference scheme granted by the EU to developing countries under its generalised system of preferences (GSP), COM (2011) 241.
10 May: the Commissioner for Economic and Monetary Affairs, Olli Rehn, announces that the Commission has accepted the three-year bailout package for Portugal. Concerning Greece, he deems it necessary to await the outcomes of the international visit to Athens before quantifying the additional requirements of Greece.


11 May: signing by thirteen countries of the new Council of Europe Convention on preventing and combating violence against women and domestic violence.


14 May: the Commission asks Denmark for details of its plan to set up permanent customs checks at certain points along its borders with Germany and Sweden so as to combat organised crime and tax fraud.

16-19 May: the European Trade Union Confederation (ETUC) Congress takes place in Athens from 16-19 May. The message of Europe’s trade unions is clear: European governance means strengthening – not attacking – its social model. Bernadette Ségol becomes the new ETUC General Secretary.

17 May: the Ecofin Council nominates Mario Draghi as successor to Jean-Claude Trichet as president of the European Central Bank. It unanimously approves the three-year bailout plan for Portugal in return for financial aid of €78 billion.

19 May: the EPSCO Council adopts conclusions on a European framework for national Roma integration strategies until 2020, and approves the opinion of the Social Protection Committee. It adopts a decision approving guidelines for the employment policies of Member States for 2011.
24 May: the Commission presents a communication aimed at establishing long-term ‘dialogue on migration, mobility and security’ with Tunisia, Egypt and Morocco, COM (2011) 292.

24 May: the Commission proposes to review the ‘Visa’ Regulation 539/2001 by inserting a safeguard clause allowing for rapid, temporary suspension of the visa waiver for a third country on the positive list if its nationals were to misuse this scheme and came to constitute a new source of illegal immigration in the EU, COM (2011) 290.

24 May: the Commission presents an annual report for 2010 on the way the Member States have implemented the 2008 Pact on Immigration and Asylum as well as the Stockholm Programme adopted in 2009 and a communication on mobility partnerships with the southern Mediterranean countries, COM (2011) 291 and COM (2011) 292.

24 May: on its 50th anniversary, the OECD launched the ‘Better Life’ Index, allowing citizens to compare well-being across 34 countries, based on 11 dimensions (material living conditions and quality of life: housing, income, jobs, community, education, environment, governance, health, life satisfaction, safety, work-life balance), and enabling them to rate their country on the things they feel make for a better life.

25 May: the European Agency for the Management of Operational Cooperation at the External Borders, Frontex, expresses reservations about the plans to resurrect internal border checks within the Schengen area, especially given the risk of large-scale immigration from North Africa.


June

1st June: the European Commission proposes recasting the directives laying down standards for the reception of asylum seekers and on asylum procedures with a view to establishing a harmonised asylum system by the end of 2012, COM (2011) 320.

5 June: the Social-Democrat Party (SDP) of Pedro Passos Coelho wins the Portuguese parliamentary election with 40% the votes, easily outstripping the Socialist Party of outgoing Prime Minister José Sócrates (24%). The abstention rate exceeded 41%, a record for such an election since the advent of democracy in 1974.

6 June: the EPSCO Council adopts conclusions ‘towards modern, responsive and sustainable health systems’.

7 June: the European Commission puts forward its country-specific thoughts about the national stability and growth programmes, presented as part of the European semester, COM (2011) 400.

8 June: in 2060, the proportion of the population aged 80 and over is likely to be 12% on average in the EU27.

8 June: the European Parliament advocates a new financial framework and a 5% rise in the European budget over the period 2014-2020. In addition, it warns against the idea of subjecting Cohesion Fund grants to penalties in the context of macro-economic conditions in association with the Stability and Growth Pact.

8 June: the European Parliament adopts a resolution on the external dimension of social policy, the promotion of social and employment standards and corporate social responsibility.
**14 June:** the European Commission publishes a Green Paper on detention conditions in the EU and on strengthening mutual trust in the European judicial area, COM (2011) 327.

**16 June:** first estimate for the first quarter of 2011. In the Eurozone and EU27, employment is stable at +0.1% and +0.3% respectively compared with the first quarter of 2010, STAT/11/86, (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/86&format=HTML&aged=1&language=EN&guiLanguage=fr).

**17 June:** George Papandreou fails to gain the opposition’s backing for the austerity programme and reshuffles the Greek executive.

**17 June:** the emerging countries do not want a single Social Model. The 100th International Labour Conference is marked by the rise to power of the ‘BRICS’.

**17 June:** according to the European Trade Union Confederation (ETUC), ‘The governance of austerity is stifling our economies and keeping unemployment persistently high. Developments in Greece are particularly worrying’ (http://www.etuc.org/a/8802).

**18 June:** the EU’s Ministers of Employment and Social Policy issue guidance on the ‘employment’ aspects of the country-specific recommendations adopted by the Commission on 7 June. Belgium, Cyprus and Malta enter reservations on these recommendations, and the United Kingdom enters a parliamentary scrutiny reservation.


**22 June:** the Commission publishes a Green Paper on modernising the professional qualifications directive, COM (2011) 367.
22 June: the Council and the European Parliament reach a compromise on recasting the Frontex Agency regulation.

23 June: when voting on the legislative package strengthening the Stability and Growth Pact, the MEPs stand by their demand for more decisions to be taken automatically in respect of the preventive side of the Pact.

24-25 June: the EU undertakes to help Greece and save the euro. It endorses Mario Draghi, appointed to head the ECB until 2019. The European Council adopts a plan for the integration of Roma.


29 June: Council policy agreement on the Commission’s proposal to establish a single work and residence permit for third-country nationals.

30 June: launch of Finance Watch, a non-governmental organisation seeking to act as a counterweight to the financial lobby in Brussels (http://www.finance-watch.org).

30 June: completion of accession negotiations between the EU and Croatia.


July

4 July: the ETUC writes to BusinessEurope saying that it is prepared to negotiate an agreement on reviewing the Working Time Directive.

5 July: a European Union Agency for Fundamental Rights (FRA) publication criticises the exploitation and ill-treatment of illegal migrants employed as domestic staff in the EU27.
6 July: the European Parliament adopts a resolution on the financial, economic and social crisis, as well as a resolution on accessible, affordable and high-quality social services.

7 July: keeping people of a certain age active, improving their social inclusion and eliminating barriers between generations: these are the topics that should be central to activity in the European Year 2012 for Active Ageing and Solidarity between Generations, according to the European Parliament.

8 July: the Council of European Municipalities and Regions (CEMR) and the European Federation of Public Service Unions (EPSU) issued a press release welcoming the Guide on Socially Responsible Public Procurement (SRPP) published by the Commission as a tool to better explain how social criteria could be applied to public procurement and help determine responsible purchasing priorities.

9 July: almost a year after their launch on 7 July 2010, completion of the technical negotiations between the Council of Europe and the European Union on the EU’s accession to the European Convention on Human Rights.

11 July: extra funds for education, youth and creativity will boost jobs, says the Commission, especially through a new programme to be allocated €15.2 billion over seven years. The Commission is aiming to nearly double the number of young people, teachers and researchers who get EU grants for study and training abroad, IP/11/857 (http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/857&format=HTML&aged=1&language=EN&guiLanguage=fr).

11 July: the Eurozone Ministers of Finance sign the Treaty setting up the European Stability Mechanism.

12 July: the Ecofin Council adopts the country-specific recommendations addressed to the Member States as part of the first European semester. It also adopts for the first time a recommendation on the implementation of the broad guidelines for the economic policies of the Member States whose currency is the euro, OJ C 217 of 23 July 2011.
14 July: in 2010, 32.5 million foreign nationals were living in the EU27 Member States: 12.3 million of them were nationals of another EU27 State, while the other 20.2 million were nationals of non-EU27 Member States.

18 July: BusinessEurope replies to the ETUC: it agrees to negotiate on reviewing the Working Time Directive, but does not agree to setting up a restricted pre-negotiation group.


22 July: the Spanish Government introduces work permits for Romanian workers.

25 July: the European Commission announces that France and Italy infringed the spirit of Schengen, but not its rules, in April 2011 at the time of their controversy caused by an inflow of Tunisian migrants.

In July 2011, the unemployment rate was 10.0% in the Eurozone and 9.5% in the EU27, STAT/11/124 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/124&format=HTML&aged=1&language=EN&guiLanguage=fr).

August

2 August: there is no bailout plan on the table for assistance to Spain, Italy or Cyprus, three Eurozone countries under growing pressure from the markets and the rating agencies, states the European Commission.

4 August: the European Central Bank (ECB) reactivates its programme of purchasing Eurozone public bonds on the markets.
5 August: S&P downgrades the rating of the United States to AA+.

6 August: the ECB makes fresh supplies of cash available to ailing banks by reviving a measure taken in 2008 after the collapse of Lehman Brothers.


17 August: France and Germany wish to introduce economic governance and rely on austerity.

23 August: the second bailout plan for Greece is thrown off course by the demands of certain European countries. Finland obtained from Athens a financial guarantee in return for its contribution.

25 August: after Ireland, the United Kingdom confirms its participation in the European Commission’s proposals on victims’ rights, published on 18 May.

In August 2011, the unemployment rate was 10.0% in the Eurozone and 9.5% in the EU27, STAT/11/143 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/143&format=HTML&aged=1&language=EN&guiLanguage=fr).

September

2 and 6 September: after the agreement between the PSOE and the PP, Spain’s Members of Parliament vote in favour of enshrining a ‘golden rule’ in the Spanish constitution, with a view to limiting public expenditure. The trade unions and ‘indignant protesters’ rally against this ‘golden rule’.

7 September: Germany’s Constitutional Court validates the first bailout plan for Greece and the package to safeguard the euro.
9 September: France and Germany forward to the European Commission their proposals on establishing a tax on financial transactions.

10 September: resignation of the Chief Economist and Member of the Executive Board of the European Central Bank (ECB), the German Jürgen Stark.

12 September: the first volume of the Social Europe guide, devoted to the issue of employment, is published by the European Commission.

15 September: first estimate for the second quarter of 2011. Eurozone employment is up by 0.3% and EU27 up by 0.2%. It is up +0.4% and +0.3% respectively, compared with the second quarter of 2010, STAT/11/131 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/131&format=HTML&aged=1&language=EN&guiLanguage=fr).

16 September: the Commission publishes its proposed new rules on State aids for services of general economic interest (SGEI), which it is likely to adopt between now and the end of January 2012 after consultations with stakeholders (Member States, local authorities, businesses, consumers).


21 September: the Socialist and Democrat (S&D) Group Members of the European Parliament set out in a guidance document ten key points ‘for a new ambitious social strategy’ aimed at improving daily life for European citizens hit by the crisis and to make the single market more social.

22 September: within the Council, the Netherlands and Finland veto the decision allowing Romania and Bulgaria to join the Schengen area.


29 September: the German Bundestag approves the bill to support the expansion of the European Financial Stability Facility (EFSF) to €440 billion, as well as greater flexibility in its powers.

In September 2011, the unemployment rate was 10.2% in the Eurozone and 9.7% in the EU27, STAT/11/160 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/160&format=HTML&aged=0&language=EN&guiLanguage=fr).

October

3 October: Helle Thorning Schmidt, the new (Social-Democrat) Danish Prime Minister announces that the resumption of regular customs checks at the country’s borders is cancelled.

4 October: all the irregular-migration indicators were up in the second quarter of 2011, according to a Frontex Agency report (http://www.frontex.europa.eu/download/ZzZ4lZyh25oZXgvZW4vZGVmYXVsdF9ha3R1YWxub3NjaS8xMDYvMjYvMQ/fran_q2_2011.pdf).


12 October: in its Opinion on Serbia’s application for EU membership, the European Commission advocates granting Serbia the status of candidate country, COM (2011) 668.

13 October: the UK Government announces that it will not opt in to the directives recast by the Commission on 1 June on the Reception Conditions for asylum seekers and the Procedures for granting and withdrawing international protection.

13 October: Herman van Rompuy and José Manuel Barroso welcome Slovakia’s ratification of the enhanced European Financial Stability Facility (EFSF). This ratification makes the EFSF ‘fully operational’ and gives the 17 countries concerned a ‘stronger and more flexible tool for safeguarding the financial stability of the Eurozone’.
**14 October:** the overall number of asylum seekers rose by 17% in the first half of 2011, the highest figure for eight years, as indicated in a UNHCR report (http://www.unhcr.org/4e9beaa19.html).

**15 October:** worldwide demonstrations by the ‘indignant protesters’. Protests against the ‘world of finance’ are held in 951 towns. Rally of the Occupy Wall Street movement.

**17 October:** the Tripartite Social Summit debates the financial crisis and the European States’ sovereign debt, on the European Council’s agenda for 23 October (initially scheduled for 17 October).

**17-18 October:** so as to achieve the goal of the Europe 2020 Strategy aiming to lift at least 20 million people out of poverty and social exclusion, the EU sets up a European Platform Against Poverty, coinciding with the Convention organised by the Polish presidency and the European Commission in Krakow (Poland).


**23 October:** at the European Council, the Eurozone leaders discuss setting the common retirement age at 67.


**27 October:** Eurozone summit: a last-minute deal is struck on a response to the crisis (EFSF endowed on paper with €1,000 billion, a 50% cut in Greece’s debt commitments, recapitalisation of European banks).
31 October: the Greek Prime Minister announces a referendum on the bailout plan. The likelihood of a default by Greece becomes a major topic of debate.


In October 2011, the unemployment rate was 10.3% in the Eurozone and 9.8% in the EU27, STAT/11/176 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/176&format=HTML&aged=0&language=EN&guiLanguage=fr).

November

1st November: Mario Draghi replaces Jean-Claude Trichet as President of the European Central Bank.

2 November: the topics dominating the G20 Summit (held in Cannes on 3-4 November) should not mask the fact that the unemployment and job insecurity of many workers constitute the most pressing issues to be solved, according to Juan Somavia, Director General of the International Labour Office (ILO) (http://www.g20-g8.com/g8-g20/g20/english/home.9.html).

3 and 4 November: in an urgent meetings on the margins of the G20 summit, Europe’s leaders reassert their determination to ensure the stability of the Eurozone, with or without Greece. Under pressure from German Chancellor Angela Merkel and French President Nicolas Sarkozy, the Greek Prime Minister George Papandreou abandons his plan for a referendum on the second European bailout plan.
3 November: although structural and youth unemployment are of particular concern within the EU, Commissioner László Andor, responsible for employment, social affairs and inclusion, believes that another ‘alarming trend’ must be faced: namely the rise in job insecurity, he asserted at a meeting of EFFAT (European Federation of Food, Agriculture and Tourism Trade Unions) (http://www.effat.eu/public/index.php?lang=2&menu=).

8 November: after the European Parliament (28 September), the Council adopts all six legislative proposals (the Six Pack) intended to tighten up economic governance within the EU.

8 November: at a time when the national concept of rail is poised to be stripped away by the Commission’s proposed reform to the railway package, railway staff held a day of action throughout Europe.

10 November: Silvio Berlusconi, Italian Prime Minister, now head of a minority in the House of Deputies, has to step down under pressure from the markets.

10 November: the Commission reviews its growth forecasts downwards and calls on France to redouble its efforts.

11 November: the Commission publishes a report arguing for the end of transitional measures against the free movement of Bulgarian and Romanian workers, COM (2011) 729.

14 November: the Council reaches an agreement whereby the food aid programme for the EU’s most deprived persons can be extended by two years, in 2012 and 2013.


15 November: the European social partners inform the European Commission that they wish to embark on negotiations as part of the consultations on recasting the Working Time Directive.
15 November: formation of a government of experts in Italy, under the authority of the new Prime Minister, Mario Monti.

16 November: according to the Frontex Agency, during the first nine months of 2011 the European authorities apprehended almost twice as many irregular migrants as they did in 2010, with sea crossings to Italy and Malta once again being the main access route as a result of the Arab spring and the Libyan conflict.

17 and 18 November: the Polish Council presidency and Eurofound (European Foundation for the Improvement of Living and Working Conditions) organise a conference on the social repercussions of migration in the host and home countries.


19 November: the 27 and the European Parliament reach a compromise on a minimum budget for the EU for 2012.

20 November: historic defeat of the Spanish Socialist Workers’ Party (PSOE).

21 November: the Danish chair of the Party of European Socialists (PES), Poul Nyrup Rasmussen, announces his resignation.


24 November: the Council approves the directive recasting the conditions that asylum seekers must meet in order to obtain international protection, adopted by the European Parliament on 26 October. Directive 2011/51, OJ L 132 of 19 May.
In **November 2011**, the unemployment rate was 10.3% in the Eurozone and 9.8% in the EU27, STAT/12/5 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/12/5&format=HTML&aged=0&language=EN&guiLanguage=fr).

**December**

**1st and 2 December:** since a qualified majority could not be achieved, the EPSCO Council did not reach a political agreement on the extension of the crisis derogation concerning the European globalisation adjustment fund.

**2 December:** the European Trade Union Confederation (ETUC) sends a letter to EU Heads of State and Government to express serious concerns about the report from the European Commission on ‘Minimizing regulatory burden for SMEs (small and medium-sized enterprises)’ (http://www.etuc.org/a/9367) and COM (2011) 803.

**9 December:** the European Council approves the approaches of the report on ‘Minimizing regulatory burden for SMEs (small and medium-sized enterprises)’, EUCO 139/11.

**9 December:** the Eurozone Heads of State and Government come to an agreement on the content of measures intended to enhance budget discipline in the Eurozone. This agreement is likely to take the form of an international agreement based around Eurozone Member States, open to participation by non-members. The United Kingdom immediately refuses to become involved.

**9 December:** Croatia signs the European Union accession treaty. It will become the 286th EU Member State on 1 July 2013. A referendum in the country is scheduled for 22 January 2012.

**15 December:** first estimate for the third quarter of 2011. Employment is down by 0.1% in Eurozone and EU27. It is +0.2% and -0.1% respectively compared with the third quarter of 2010, STAT/11/190 (http://europa.eu/rapid/pressReleasesAction.do?reference=STAT/11/190&format=HTML&aged=0&language=EN&guiLanguage=fr).
15 December: the Commission publishes the first annual analysis of the trend in employment and in social circumstances in Europe. This replaces the analysis of social developments in Europe and the Europe Employment Report. The recommendations it contains will be taken into account for the European semester and the country-specific recommendations in the context of the Europe 2020 Strategy.


21 December: the ECB grants a record €489 billion of loans to Europe’s banks.

Chronology drawn up by Cécile Barbier with the assistance of Sophie Ost.
### List of abbreviations

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<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>ADSE</td>
<td>Direção-Geral de Proteção Social aos Funcionários e Agentes da Administração Pública (General Directorate for the Social Protection of Public Administration Staff) (Portugal)</td>
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<tr>
<td>AER</td>
<td>Assembly of European Regions</td>
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<td>AGS</td>
<td>Annual Growth Survey</td>
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<td>ALDE</td>
<td>Alliance of Liberals and Democrats for Europe</td>
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<tr>
<td>ASZSF</td>
<td>Autonomous Trade Union Confederation (Hungary)</td>
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<tr>
<td>BEPGs</td>
<td>Broad Economic Policy Guidelines</td>
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<tr>
<td>BRICS</td>
<td>Brazil, Russia, India, China and South Africa (leading emerging economies)</td>
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<tr>
<td>BusinessEurope</td>
<td>Confederation of European Business</td>
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<td>CAP</td>
<td>Common Agricultural Policy</td>
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<td>CoR</td>
<td>Committee of the Regions</td>
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<tr>
<td>CDU/SPD</td>
<td>Christian Democratic Union/Social Democratic Party of Germany</td>
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<tr>
<td>CEC</td>
<td>Commission of the European Communities</td>
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<tr>
<td>CEEP</td>
<td>European Centre of Employers and Enterprises providing Public Services</td>
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<td>CEMR</td>
<td>Council of European Municipalities and Regions</td>
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<tr>
<td>CEO</td>
<td>Chief Executive Officer</td>
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<td>CEPS</td>
<td>Centre for European Policy Studies</td>
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<tr>
<td>CJEU</td>
<td>Court of Justice of the EU</td>
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<td>CPMR</td>
<td>Conference of Peripheral Maritime Regions of Europe</td>
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<td>CSF</td>
<td>Common Strategic Framework</td>
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<td>CSU</td>
<td>Christian Social Union</td>
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<td>DG</td>
<td>Directorate General</td>
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<td>EAFRD</td>
<td>European Agricultural Fund for Rural Development</td>
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<td>EAPN</td>
<td>European Anti-Poverty Network</td>
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<td>EC</td>
<td>European Community</td>
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<td>ECB</td>
<td>European Central Bank</td>
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<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<td>ECJ</td>
<td>European Court of Justice</td>
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<td>ECOFIN</td>
<td>Economic and Financial Affairs Council</td>
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<td>EDP</td>
<td>Excessive deficit procedure</td>
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<td>EEA</td>
<td>European Economic Area</td>
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<td>EESC</td>
<td>European Economic and Social Committee</td>
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<td>EFC</td>
<td>Economic and Financial Committee</td>
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<tr>
<td>EFFAT</td>
<td>European Federation of Food, Agriculture and Tourism Trade Unions</td>
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<tr>
<td>EFSF</td>
<td>European Financial Stability Facility</td>
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<td>EFSM</td>
<td>European Financial Stabilisation Mechanism</td>
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<td>EFTA</td>
<td>European Free Trade Association</td>
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<td>EGF</td>
<td>European Globalisation Adjustment Fund</td>
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<td>Abbreviation</td>
<td>Description</td>
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<tr>
<td>EMCO</td>
<td>Employment Committee</td>
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<td>EIB</td>
<td>European Investment Bank</td>
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<td>EMFF</td>
<td>European Maritime and Fisheries Fund</td>
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<td>EMS</td>
<td>European Monetary System</td>
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<td>EMU</td>
<td>Economic and Monetary Union</td>
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<td>EP</td>
<td>European Parliament</td>
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<td>EPC</td>
<td>Economic Policy Committee</td>
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<td>EPP</td>
<td>European People's Party</td>
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<td>EPSCO</td>
<td>Employment, Social Policy, Health and Consumer Affairs Council</td>
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<td>EPSU</td>
<td>European Federation of Public Service Unions</td>
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<td>ERDF</td>
<td>European Regional Development Fund</td>
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<td>ERM</td>
<td>Exchange Rate Mechanism</td>
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<td>ESD</td>
<td>European social dialogue</td>
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<td>ESF</td>
<td>European Social Fund</td>
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<td>ESL</td>
<td>Early school leaving</td>
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<td>ESM</td>
<td>European Stability Mechanism</td>
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<td>ESM</td>
<td>European Social Model</td>
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<td>ESZT</td>
<td>Értelmiségi Szakszervezeti Tömörülés (Confederation of Unions of Professionals) (Hungary)</td>
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<tr>
<td>ETS</td>
<td>Emission Trading System</td>
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<td>ETUC</td>
<td>European Trade Union Confederation</td>
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<td>ETUI</td>
<td>European Trade Union Institute</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>EUROFOUND</td>
<td>European Foundation for the Improvement of Living and Working Conditions</td>
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<td>EWG</td>
<td>Eurogroup Working Group</td>
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<tr>
<td>FDP</td>
<td>Free Democratic Party</td>
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<tr>
<td>FGTB</td>
<td>Fédération Générale du Travail de Belgique</td>
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<td>FRA</td>
<td>European Union Agency for Fundamental Rights</td>
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<tr>
<td>FT</td>
<td>Financial Times</td>
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<td>FTT</td>
<td>Financial Transaction Tax</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GNI</td>
<td>Gross National Income</td>
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<td>GP</td>
<td>General Practitioner</td>
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<tr>
<td>Greens/EFA</td>
<td>Group of the Greens/European Free Alliance</td>
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<td>GSP</td>
<td>Generalised system of preferences</td>
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<tr>
<td>HSBC</td>
<td>Hongkong and Shanghai Banking Corporation</td>
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<tr>
<td>ICT</td>
<td>Information and communication technology</td>
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<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IPCC</td>
<td>Intergovernmental Panel on Climate Change</td>
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<td>JHA</td>
<td>Justice and Home Affairs</td>
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<tr>
<td>LIGA</td>
<td>Democratic League of Independent Trade Unions (Hungary)</td>
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<td>MDP</td>
<td>Most Deprived Persons</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>MEP</td>
<td>Member of the European Parliament</td>
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<td>MOSz</td>
<td>National Federation of Workers' Councils (Hungary)</td>
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<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>MszOSz</td>
<td>National Confederation of Hungarian Trade Unions</td>
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<tr>
<td>NAP/INCL</td>
<td>National Action Plan on Social Inclusion</td>
</tr>
<tr>
<td>NESSE</td>
<td>Network of Experts in Social Sciences of Education and Training</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<tr>
<td>NRP</td>
<td>National Reform Programme</td>
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<td>NHS</td>
<td>National Health Service</td>
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<td>NSR</td>
<td>National Strategy Report</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>OFCE</td>
<td>Observatoire français des conjonctures économiques</td>
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<tr>
<td>OJ</td>
<td>Official Journal</td>
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<tr>
<td>OMC</td>
<td>Open Method of Coordination</td>
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<td>OSE</td>
<td>European Social Observatory</td>
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<td>PASOK</td>
<td>Panhellenic Socialist Movement</td>
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<tr>
<td>PES</td>
<td>Party of European Socialists</td>
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<td>PP</td>
<td>Partido Popular (People's Party) (Portugal)</td>
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<tr>
<td>PSOE</td>
<td>Partido Socialista Obrero Español (Spanish Socialist Workers' Party)</td>
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<tr>
<td>QMV</td>
<td>Qualified majority voting</td>
</tr>
<tr>
<td>S&amp;D</td>
<td>Progressive Alliance of Socialists and Democrats</td>
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<tr>
<td>SCP</td>
<td>Stability and Convergence Programme</td>
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<tr>
<td>SDP</td>
<td>Social-Democrat Party</td>
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<tr>
<td>SDS</td>
<td>Sustainable Development Strategy</td>
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<tr>
<td>SEA</td>
<td>Single European Act</td>
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<td>SGEI</td>
<td>Services of General Economic Interest</td>
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<td>SGP</td>
<td>Stability and Growth Pact</td>
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<td>SME</td>
<td>Small and medium-sized enterprise</td>
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<td>SMP</td>
<td>Securities Market Programme</td>
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<tr>
<td>SPC</td>
<td>Social Protection Committee</td>
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<tr>
<td>SPE</td>
<td>European Private Company (Statute)</td>
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<td>SRPP</td>
<td>Socially Responsible Public Procurement</td>
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<td>SZEFE</td>
<td>Szakszervezetek Egyuttmukodesi Forumája (Forum for the Co-operation of Trade Unions) (Hungary)</td>
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<tr>
<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<tr>
<td>UEAPME</td>
<td>European Association of Craft, Small and Medium-sized Enterprises</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations Organization</td>
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<tr>
<td>UNFCCC</td>
<td>United Nations Framework Convention on Climate Change</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<tr>
<td>UNICE</td>
<td>Union of Industrial and Employers' Confederations of Europe</td>
</tr>
<tr>
<td>US</td>
<td>United States of America</td>
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<tr>
<td>WHO</td>
<td>World Health Organization</td>
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<td>WTD</td>
<td>Working Time Directive</td>
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<td>WWF</td>
<td>World Wide Fund for Nature</td>
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</table>
List of contributors


**Rita Baeten** has a master’s degree in social sciences and is a Senior Policy Analyst at the European Social Observatory (OSE). Her main specialist field is the impact of European integration on national healthcare systems.

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**Christophe Degryse** is a journalist and author of several volumes on the European Union. After having spent many years working with the European Social Observatory (OSE), he is now employed at the European Trade Union Institute as a senior researcher and assistant to the General Director. His main areas of interest are European social dialogue, both cross-industry and sectoral, as well as political analysis of economic governance and climate change. He runs the course on 'European and international decision-making arrangements' at HELIA (*Haute Ecole Louvain en Hainaut*).
Patrick Diamond is Gwilym Gibbon Fellow at Nuffield College, Oxford, and a Visiting Fellow in the Department of Politics at the University of Oxford. Patrick is also an elected member of Southwark Council. He is the former Head of Policy Planning in 10 Downing Street and Senior Policy Adviser to the Prime Minister. Patrick has spent ten years as a Special Adviser in various roles at the heart of British Government, including at 10 Downing Street, the Cabinet Office, the Northern Ireland Office, and the Equality and Human Rights Commission (EHRC) where he served as Group Director of Strategy. His recent publications include: Beyond New Labour (with Roger Liddle, 2009); Social Justice in the Global Age (with Olaf Cramme, 2009); and Global Europe, Social Europe (with Anthony Giddens and Roger Liddle, 2006).

Dalila Ghailani, a lawyer, is a researcher at the European Social Observatory (OSE). Her main areas of specialisation are employment, social inclusion, equal treatment of men and women, and the case law of the European Court of Justice.

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Roger Liddle is Labour’s front bench spokesperson on Europe in the House of Lords. He chairs Policy Network, the international progressive think tank, and is a Director of the University of Cumbria. He was for seven years from 1997 special adviser on European affairs to the British Prime Minister, Tony Blair. From 2004-2007 he served in the European Commission, first in the Cabinet of the EU Trade Commissioner and then as economic adviser to the European Commission President José Manuel Barroso. Roger has written extensively on European and British affairs, including The Blair Revolution (with Peter Mandelson, 1996), Global Europe, Social Europe (with Anthony Giddens and Patrick Diamond, 2006) and Beyond New Labour (with Patrick Diamond, 2009). He also co-authored two papers for the Bureau of European Policy Advisers, on ‘Europe’s Social Reality’ (February 2007) and the ‘Single Market: Yesterday and Tomorrow’ (July 2006), and has contributed to various edited collections on the Single Market, the social challenges facing Europe, the case for a social investment strategy and Britain’s European policy.
**Yves Mény** was a lecturer at Sciences-Po (Paris) until 1993 and then Director of the Robert Schuman Centre at the European University Institute (EUI) from 1993 until 2001, before becoming President of the EUI from 2002 until 2009. Since 2011 he has been President of the Collegio Carlo Alberto in Turin. His most recent publications have covered populism, European public institutions and policies, and the issue of supranational democracy.

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