

Chapter 6 | MARTIN POTUČEK

A New Social Contract: The Key to European Integration's Political Legitimacy

Is the European Union pro-social? Or does it merely pretend it in order to hide its real face, that of an institutional mediator of interests of powerful economic and financial actors in the era of globalization? Questions like this are not purely academic in nature because answers to them can suggest a lot about the Union's future fate and a lot about the broader political processes of (dis)integration taking place on our continent.

In this chapter, I am going to outline the history of the social dimension in the European Union generally and in the former countries of the communist bloc that joined the Union in the last decade specifically. I will ponder upon the relevance of the term European Social Model which is frequently used in political discourse, and assess existing proposals on strengthening the social dimension of European integration as a condition of maintaining its political legitimacy and, in turn, as a condition of keeping it in motion.

Let us begin with a little history

Europe provides a textbook example of an immense gap between development opportunities and threats. Former generations endowed it with great cultural achievements but this heritage often burdens and restricts us instead of serving us. Europe is rich, yet many of its inhabitants have to live in degrading conditions. Great ideas developed by Europe's philosophers and materialized by its political leaders have made life easier for millions, but they have as well brought two destructive wars, the holocaust and ethnic cleansing upon Europe (and the entire world). The European integration project represents a unique experiment, but it is starting to eat itself. This is because Europe cannot avoid the most important destabilizing trend of contemporary civilization: the primacy of profit motives over social and environmental concerns. Large supranational corporations have more power than political representations. As the recent case of Bulgaria (as well as other countries) demonstrates, social inequalities are turning into political dynamite and threatening the very construction of European integration.

Among other things, Europe is a cradle of modern social welfare systems. Despite technical differences in the ways these systems operate, they play an

indispensable role in legitimizing the capitalist mode of production and social regime in old and new member states alike.¹

By the end of World War II, two conflicting theories about the future development of capitalism had crystallized – one by Schumpeter and another one by Polanyi: “*These approaches contrast the view that capitalism develops through a chaotic and fitful process of creative destruction, led by entrepreneurial risk-takers, who require minimal interference from government and other social institutions to be able to pursue innovations and invest resources where they can best be used*” (Schumpeter) with another perspective, namely “*that free market systems may create rapid growth, but in doing so destroy the human and social fabric on which they depend, and that economic institutions must be embedded in a social and cultural framework in order to operate in a way that promotes human welfare. The implication is that state welfare is essential to sustain the framework that civilizes the market*”.²

The European Union is, too, faced with a choice between these two concepts and split between two dominant political attitudes. The first attitude understands the European project as a primarily non-regulative one, while the other one regards the common market as a first step in the building of European-level institutions: “*Pressures for both liberalism and for a stronger interventionist role exist, and whether the balance between the two will shift in the future is at present unclear*”.³ However, a quick inspection of the competences and possibilities of member states, on one hand, and European Union bodies, on the other hand, reveals that social security as a source of political legitimacy has been and continues to be supplied primarily by member states, while the European Union's offer is limited and sporadic.

What roles and competences does the European Union have in social affairs?

There are several types of instruments European Union bodies have at their disposal to shape the social welfare of European citizens in member countries:⁴

1. **Regulation through European law:** Among the important areas of application of European law are minimum social standards and fundamental laws. Primary law regulates gender equality at work, antidiscrimination,

¹ Ralf DAHRENDORF, *Law and order*. London 1985.

² Peter TAYLOR-GOUBY, *Open Markets versus Welfare Citizenship: Conflicting Approaches to Policy Convergence in Europe*. Social Policy and Administration Vol. 37, No. 6, 2003, pp. 539–554.

³ Peter TAYLOR-GOUBY (ed.), *New Risks, New Welfare. The Transformation of the European Welfare State*. Oxford 2004.

⁴ Joachim FRITZ-VANNAHME, *Solidarity in the EU*. (= Spotlight Europe 11). Gütersloh 2008.

free movement of workers, workers' right to workplace safety and health, collective negotiation. It coordinates social security benefits (e.g., calculation of pensions from employment in different member states) or the provision of emergency health care to citizens of other member states.

2. **Regulation by the European Court of Justice case law:** Economic liberalization (common European market) tends to be prioritized over workers' rights codified in national laws.⁵
3. **Policy of fiscal redistribution** to weaker member states, regions or individuals. Examples include structural and cohesion policies represented by programs of the European Social Fund, the recently established European Globalisation Adjustment Fund, or the Community Programme for Employment and Social Solidarity. The Common Agricultural Policy, albeit often rightfully criticized, has its effects on social welfare as well (for farmers and the rural population).
4. Member states coordinate on the basis of "soft law", but the EU does not have the power to enforce common actions of this type. These include, above all, programming at the general and departmental levels. At the general level, there is the Lisbon Strategy (applicable from 2000 to 2010) or Europe 2020 (prepared for the 2011–2020 time period). At the departmental level, there is a diversity of particular strategies, policies, action plans, green (discussion) papers and white (strategic) papers. Among the most important are, for instance, the European Employment Strategy, the Social Inclusion Strategy (covering fight against poverty), strategic reform documents in the fields of social security (including pensions), education, youth (with a recent specific focus on youth unemployment), active ageing. A common programme now under preparation will tackle the timely issue of migration. Specific "soft" instruments of European policies also include the so-called open method of coordination (especially popular under the Lisbon Strategy 2000–2010) or comparison of more successful member states (benchmarking) with less successful ones (blaming and shaming).
5. **Through social dialogue:** Discussions, consultations, negotiations and common measures taken and implemented by social partners (workers and employers) in collaboration with other stakeholders of European and national public policies.

⁵ Martin HÖPNER, *Der Europäische Gerichtshof als Motor der Europäischen Integration: Eine Akteursbezogene Erklärung*. Berliner Journal für Soziologie Vol. 21, No. 2, 2011, p. 203–229.

What was and is the situation in new Central and Eastern European member states?

Various authors agree on the fact that pre-accession efforts and subsequent membership in the European Union affected and changed the different countries' welfare systems. At the same time, most authors regard the role of the European Union in the shaping of social policy as marginal. Orenstein-Haas⁶ thinks the EU at least prevented the overall social situation in these countries from worsening. Lendvai⁷ summarizes the findings of several other authors and argues that the social dimension of the accession and enlargement process was weak, compared to the economic one. Sengoku specified the structural reasons as follows:

- "the EU has not required any specific conditions or 'hard laws' as to the social policy of the accession countries",
- "the EU has no 'model' or 'template' concerning the welfare system of the candidate countries" and thus could not apply one, and
- "there are few concrete mechanisms that can be used by the European Commission to enforce the CEE countries to adopt the European standard of social policies".⁸

The history of candidate countries' systematic preparations for accession to the European Union began with the codification of the Copenhagen accession criteria (1993). The criteria were designed as a technical (economic and political), top-to-bottom instrument, rather than a suitable tool for shaping the welfare situation of people living in the candidate countries. Legal, economic and political issues prevailed. The candidate countries were required to reform their national economies in order to converge and become competitive with existing member states' market economies. They were expected to build robust and reliable institutions of political democracy. As one of the necessary conditions for adopting *acquis communautaire*, they had to adapt their national legal and administrative systems in order to not only absorb but also effectively implement the *acquis*. Being among the lowest priorities social welfare goals were limited to respect for individual human rights and to building a loosely-defined frame-

⁶ Mitchell A. ORENSTEIN – Martine R. HAAS, *Globalization and the Development of Welfare States in Postcommunist Europe*. Belfer Center for Science and International Affairs, J. F. Kennedy School of Government, Cambridge, Mass. 2003.

⁷ Noemi LENDVAI, *The weakest link? EU Accession: dialoguing EU and post-communist social policy*, Journal of European Social Policy 14, 2004, No. 3.

⁸ Manabu SENGOKU, *Emerging Eastern European Welfare States: A Variant of the "European" Welfare Model?* In: Sinichiro Tabata – Akihiro Iwashita (eds.), *Slavic Eurasia's Integration into the World Economy and Community*. Sapporo 2004, pp. 229–255.

work for policy making. "Of the 29 thematic chapters that made up the Regular Reports that yearly reviewed the 'progress' made by the-then candidate countries in their preparation for accession, only one chapter dealt with employment and social policy..."⁹ Issues like poverty, income inequality, workers' rights, subsistence minimum and easing the lot of groups on the margins of society – in other words, fight against social exclusion – was not an indispensable part of the Copenhagen reform agenda. The national social policies of most candidate countries in the 1990s actually focused on reducing the role of government and raising efficiency. They wanted to achieve this by privatizing services and transferring them to the market, and by decreasing the coverage and level of all social benefits which were often interpreted as dispensable relics of the communist regime.

This change coincided with the application of the "Washington Consensus", a form of neoliberal orthodoxy pursued, above all, by the World Bank and the International Monetary Fund. As demonstrated by Deacon,¹⁰ Ferge,¹¹ Orenstein-Haas¹² and other authors, these international actors took advantage of their strong negotiation positions vis-à-vis some indebted national governments and inefficient national economies to push through their neoliberal plans for reforming social policies in Central and Eastern Europe. They focused primarily on privatizing national public social insurance schemes, transforming social welfare into a residue of itself and privatizing formerly public health care and education institutions. Deacon and Orenstein consider the World Bank as the main author of that time's economic and social policy agenda in the entire region.

Emphasis on the social aspects of European Union policy was strengthened as early as in 2000. The European Council adopted the Lisbon Strategy as a strategic outlook for the entire decade, and the social dimension of the European integration process became an important part of the Lisbon Strategy at the Nice Summit. This was probably also caused by growing power of The Party of Euro-

⁹ Maarten KEUNE, *The European Social Model and Enlargement*. In: Maria Jepsen – Amparo Serrano Pascual (eds.), *Unwrapping the European social model*. Bristol 2006.

¹⁰ Bob DEACON, *International Organizations and the Making of Post-Communist Social Policy*. In: Bob Deacon – Michelle Hulse – Paul Stubbs (eds.), *Global Social Policy: International organizations and the future of welfare*. London 1997, pp. 91–153.

Bob DEACON, *Eastern European Welfare States: The Impact of the Politics of Globalization*, *Journal of European Social Policy* 10, 2000, No. 2, pp. 146–161.

¹¹ Zsuzsa FERGE, *Welfare and 'ill-fare' systems in Central-Eastern Europe*. In: Robert M. Sykes – Bruno Palier – Pauline M. Prior (eds.), *Globalization and European Welfare States: Challenges and Change*. New York 2001, pp. 127–152.

¹² Mitchell A. ORENSTEIN – Martine R. HAAS, *Globalization and the Development of Welfare States in Postcommunist Europe*. Mass, Cambridge 2003.

pean Socialist in the newly-elected European Parliament. The environmental dimension followed shortly thereafter, at the Gothenburg Summit in June 2001. This was a stream of new policy initiatives emphasizing the importance of human resources, quality of life and social cohesion, i.e. the social fabric of European societies. However, by the Barcelona Summit of 2002 when the candidate countries were finally invited to Lisbon-related negotiations, their preparations for accession organized in line with the Copenhagen criteria were practically concluded. Full participation on the Lisbon Strategy began after their accession in May 2004. Thus, social policy assumed a more important role in the European Union's policy agenda ten years after the Copenhagen accession criteria were defined when all accession negotiations were concluded.¹³

European Social Model: A real political concept or a chimera?

The term European Social Model (ESM) is used frequently in scholarly and political discourses about the social dimension of European integration. Jepsen & Serrano Pascual identify two ways of understanding the term: first, as a historical *acquis* characterized by specific common institutions, values and results, and second, as a common political project for solving common problems which aims at a strong supranational model with common goals, rules, norms and a certain level of supranational cohesion.¹⁴ Goetschy notes that the EU's social welfare measures do not imply even a minimalist version of the ESM.¹⁵ Keune¹⁶ concludes as follows: "From neither perspective does the ESM emerge as a particularly well-defined concept or model. From the historical *acquis* perspective, it can quite easily incorporate a group of [new member] countries with a rather different history because the diversity covered by the ESM is already very wide. From the political project perspective, it does not place any particularly great demands on new members".

¹³ Martin POTŮČEK, *Metamorphoses of welfare states in Central and Eastern Europe*. In: Martin Seeleib-Kaiser (ed.), *Welfare State Transformations: Comparative Perspectives*. Basingstoke 2008, pp. 79–95.

¹⁴ Maria JEPSEN – Amparo Serrano PASCUAL, *The concept of the ESM and supranational legitimacy – building*. In: Maria Jepsen – Amparo Serrano Pascual (eds.), *Unwrapping the European Social Model*. Bristol 2006, pp. 25–46.

¹⁵ Janine GOETSCHY, *Taking Stock of Social Europe: is there such a thing as a community social model?* In: *Ibid.*, pp. 47–72.

¹⁶ Maarten KEUNE, *The European Social Model and Enlargement*. In: *Ibid.*, pp. 167–188.

What are the European Union's successes and failures in social affairs?

The competences and effects of the European Union in the shaping and implementation of the social dimension of member states' policies depend both on the political will of European and national political representations and on the instruments the EU has at its disposal. Even a brief recapitulation of historic development and the European institutional framework demonstrates that the EU can only rely on a rudimentary form of two key instruments in order to pursue robust social policies: regulation through European law and redistribution of resources through fiscal policy. ECJ case law works in the opposite direction, by prioritizing liberalization of the European market at the expense of protection of workers' welfare, typically when employees of businesses from poorer member states work in states with better-developed employment law (cases such as Viking, Laval or Rüffert). Thus, political leaders and officials are mostly left with instruments that are not binding and cannot be enforced, i.e. the so-called "soft law" in the form of recommendations or persuasion through social dialogue. Existing governance structures implemented in the EU framework prefer negative integration (removal of barriers, deregulation), lacking in reliable mechanisms for promoting positive integration (pursuit of social goals)¹⁷ Clearly, the Open Method of Coordination did not fulfil the expectations associated with it.¹⁸ It is necessary to identify more efficient policies and instruments.¹⁹

Of course, the lack of direct EU influence on welfare state transformation should not obscure less visible streams of cultural changes arising from European integration. Such streams changed national discourses, helped introduce new concepts and agendas, and facilitated more open ways of formulating and implementing public and social policies and applying policy instruments. This process had and continues to have a long-term yet rather indiscernible impact on welfare state transformation. It should be neither underestimated nor overestimated.

The global crisis which primarily arose out of the financialization of an under-regulated global economy revealed and deepened many burning social issues in European Union member countries. Social tensions are escalating and the legitimacy of both European and national political representations is decreasing

¹⁷ Fritz W. SCHARPF, *The Double Asymmetry of European Integration. Or: Why the EU Cannot Be a Social Market Economy*. MPiFG Working Paper 09/12. Max Planck Institute for the Study of Societies, Cologne 2009.

¹⁸ Martin POTŮČEK, *Evropské a národní strategie sociálního začleňování – teorie a praxe* [European and National Social Inclusion Strategy – Theory and Practice]. In: Tomáš Sirovátka (ed.), *Sociální vyloučení a sociální politika*. Brno 2006, pp. 75–82.

¹⁹ *A European Social Market Economy? – Index Results*. Policy Brief No. 3. Gütersloh 2013.

as a result of efforts to save the common European currency at the price of draconian cuts in public expenditure on welfare, growing unemployment, illegal employment, uncontrolled migration, poverty and growing risk of poverty. This fully exposed the Janusian character of the European Union. One face continues to promote economic liberalization (e.g., when the European Commission proposed a directive to privatize services of general interest – however, it did not pass through the European Parliament), fiscal discipline, labour market flexibility, pension reforms and a more competitive European economy. The other face talks about social justice, social rights, active ageing, and fight against poverty and social exclusion. It is increasingly clear to European Union citizens that the latter face is losing in the duel against the former and that it might even get knocked out.

Quo vadis?

The two political attitudes derived from Schumpeter and Polanyi's concepts continue to be influential in the EU. The former understands the European project as a primarily non-regulative one, while the latter views market integration as a first step in the building of European-level institutions: from a monetary Union to a fiscal Union to a political Union.²⁰

Nation-welfare states are exposed to growing pressures of economic globalization and their political representations are increasingly powerless vis-à-vis them. And the European Union still has not invented an efficient tool to balance the market with social affairs like they were balanced in the golden age of nation-welfare states in the 1960s and 1970s. As I documented above, social security reforms in postcommunist countries proved how toothless the European Union's existing institutional character was because the Union relinquished initiative to institutions like the World Bank or the International Monetary Fund. The latter undermined the very foundations of what had become known under the vague term European Social Model. The EU opened its doors to the invasion of a foreign element that may further exacerbate the politically explosive social differences between and within its member states.

The imbalance in European integration caused by the underdeveloped social pillar was identified by some politicians as well as scholars even before the outbreak of the global crisis in late 2000s. Not only was the European Union unable to prevent the negative social impacts of that crisis but it kept deepening the

²⁰ Maria João RODRIGUES, *For a Genuine Economic and Monetary Union – lessons from the international experience*. Paper. Brussel 2013.

crisis through some of its fiscal measures and recommendations. Today, neither the Union's proponents nor its opponents doubt that its political legitimacy is at stake. People who do not doubt the essential historic role of European integration and its benefits are beating their brains trying to avert this negative trend. Such an exercise cannot be solved without a substantial expansion of the European Union's social competences in order to design a common European social policy and bring it to life – in other words, without a clearly defined and clearly implemented European Social Model. If EU citizens have good reasons to believe that the Union can help them in life's difficulties just like they are helped (sometimes better, sometimes worse) by national welfare systems, then this ambitious political project will lose the necessary minimum of public support and in turn political legitimacy.

The most ambitious, radical but also internally coherent proposal is to introduce a basic (minimum) income for all European Union citizens. It is defined as a benefit for which every citizen is eligible without testing of his/her income and independently of his/her prior or existing employment activity. It is defined as his/her social right. The history of this idea goes back to the distant past. In the institutional framework of the EU, it has been elaborated, above all, by Van Parijs²¹ and Atkinson.²² The level of the benefit would vary between member states, depending on their living standards, and the benefit would be co-financed by the EU and its member states. Its implementation would not preclude other, more traditional forms of public welfare and social assistance at the national level.²³ As an alternative proposal, a similar benefit at the European level would cover dependent children only. Both versions of the benefit are expected to underline the role of the EU as an institutional guarantee of basic income.

The EU might also better convince the public of its political legitimacy by guaranteeing universal provision of public social services because they are perceived as a condition of quality of life. Such a guarantee would certainly start with universal provision of health care and social services and then continue to include education. Its scope might further broaden, but rather in the very long term. Thus, as far as health care and social services are concerned, let us recall the recent battle for services of general interest waged between the European

²¹ Philippe VAN PARIJS, *Basic income: a simple and powerful idea for the 21st century*. Paper, VIIIth International Congress of Basic Income European Network. Berlin 2000.

²² Anthony B. ATKINSON, *Could the open method of co-ordination lead to a basic income for Europe?* In: Bea Cantillon – Jacque Vandamme (eds.), *The open method of coordination and minimum income protection in Europe*. Leuven 2004. Anthony B. ATKINSON, *The EU and social inclusion: facing the challenges*. 2nd edition. Bristol 2009.

²³ Anthony B. ATKINSON – Bea CANTILLON – Eric MARLIER – Brian NOLAN, *Taking Forward the EU Social Inclusion Process: An Independent Report commissioned by the Luxembourg Presidency of the Council of the European Union*. Luxembourg 2005.

Parliament and the European Commission. The battle suggested a trend of strengthening the EU's social legitimacy by adopting sectoral directives for health care and social services to guarantee these sectors are not undermined by market competition. Logically, these measures would be complemented by a coordinated approach to corporate taxation in order to restrict "social dumping" on the basis of labour cost differences between member states.

These and other political ideas can only become reality if the necessary legislative changes are passed (in order to remove the constitutional imbalance between European economic and social policies) and if consistent strategies and policies are designed and implemented by both the European Union and its member states. This, however, will depend on increased redistribution at the European level, as does the welfare state at the national level.²⁴

Today we can only have a very vague idea about the future situation of the European Union. It is going to be shaped both by its advantages and by the burdens of history it has to carry. Whether it will meet the challenges it is facing today will largely depend on the quality of governance. However, the capacities of governance in the entire world (including the EU) stand in sharp disproportion to the requirements of development.²⁵

I share the dream that the European Union will be able to build the capacities for its future development within a decade.²⁶ Of decisive importance will be whether the Union will be led by genuine personalities that are able to lead and inspire... However, the most important condition of realizing this dream is to restrict national egoisms so that the continent can be led on the basis of friendship, cooperation and trust; so that we Europeans continue playing the plus sum game for everybody that was started so splendidly by Marshall, Monnet, Adenauer, Schuman, Delors – and hundreds of other players who may not be as well-known but are comparably competent in the game... All this, though, will remain in the realm of dreams unless a new social contract is concluded between the European Union, national political representations and the people of Europe.

²⁴ Martin POTŮČEK, *Accession and social policy: the case of the Czech Republic*. Journal of European Social Policy 14, 2004, No. 3, pp. 253–266.

²⁵ Yehezkel DROR, *The Capacity to Govern: A Report to the Club of Rome*. London – Portland 2001.

²⁶ Jeremy RIFKIN, *Evropský sen* [The European Dream]. Evropský literární klub, Praha 2005.