

FOR A EUROPE WITH A FUTURE

PLEA FOR THE PRIMACY OF SOCIAL EUROPE

WOLFGANG LEMB



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FOREWORD

The EU has been in permanent crisis mode since the economic and financial crisis. Its false remedies for overcoming the crisis have bolstered imbalances within individual countries and among the member states. Unemployment and social decline have become reality for many European men and women as before. They perceive the EU as a problem far more than a solution. On top of this comes the advance of globalization that many workers associate with competitive pressures, wage dumping and untrammelled market forces – all at their expense. The process of transformation under way, what's more, increases their anxieties as it means fundamental changes and insecurities. Europe's nation states on their own cannot master these challenges and go head to head in competition with China or the USA. In the end the European Union, in this context, is as a shared economy with a common set of values alone in a position to protect European industries and their employees effectively and create new prospects for the revival of the EU's promise of prosperity.

For many Europeans, however, this is an abstract prospect as they experience the increasingly chaotic global developments as a genuine threat. This is manna from heaven for right-wing populist movements and parties. Even if the advance of the right-wing populists in the European elections did not match one's worst fears they now dispose of around a quarter of the votes in the European Parliament. Like Brexit proponents, they suggest that lost control over one's own living environment can be won back with segregation and particularism. They play off workers against each other so as to spread fear and loathing. The lack of trust in European institutions makes it easier for these parties to discredit the EU or to make the EU responsible for problems that are down to national governments. As important democratic actors, then, trade unions must always and again make clear that our goal is a fair distribution of corporate profits and prosperity – and that the answer to the problems of our time can never be discord but solidarity.

Europe will, however, only survive and have a future if it is a social, solidarity-based Europe. As a Europe that puts working men and women at the heart of its endeavours. A Europe that opposes the logic of pure competition and views social and ecological balance not as a barrier but as the precondition for the future sustainability of the economy and thereby for generating prosperity. One that aims at social dialogue and the extension of co-determination. Restores collective agreements and protects, stabilizes and strengthens them. After the European elections of 2019 there's a long way to go to reach this kind of Europe. The possible path to be taken, the reform discussions to be had, the likely nature of a social and solidarity-based Europe: it's the aim of this collection of essays to help find these.

This volume will not bring to an end the debate – and, one hopes, the constructive argument – over the right course for a Europe with a future. This cannot come as a surprise to anybody. The problems and challenges are too great, the notions about the EU's future too variegated. I hope this volume will enrich the current debate.

Wolfgang Lemb

PART 1

NECESSARY REFORM DEBATES FOR A SOCIAL EUROPE

EUROPE WILL BE SOCIAL OR THERE WILL BE NO EUROPE!

ULRIKE GUÉROT

For almost a decade the European Union has apparently been in a constant state of crisis. The concept of ‘European crisis’ appears more than just overworked. The lines of conflict that have emerged during this period within the European community of nations have become more and more chaotic. North against south, older versus newer member states, renationalization tendencies against the desire for deeper integration, populists versus progressives, centre against periphery. Looking at France these days reveals the consequences this polarization can exert within individual member states. The occasionally violent Yellow Vest protests that have been going on across the whole of France for months now exemplify in shocking manner the malaise of the European crisis. The originally leaderless, diffuse protest movement sees itself nevertheless united in a feeling of hopelessness in the face of a political system that does not seem to be in any position to mitigate its hardships in any meaningful way. Rage is expressed against the

rising cost of living that a population from mainly rural, economically poor regions can no longer tolerate. The question of social inequality is thereby raised to a central issue for the EU's future.

A EUROPE OF SOCIAL INEQUALITIES

Social classes have today become a *European* phenomenon, or to put it another way: there is a European 'underdog class' of the so-called losers of modernization, a European middle class and a European upper stratum, and these three classes can be found equally in all European countries so that one can no longer say, as one could in the 1960s, that, for example, Germany is overall richer than, say, Italy. Similarly, in all western but also eastern European states we find a growing concentration of wealth that boosts social inequalities. The third element that hugely boosts social inequality in Europe is the migration of labour from east to west Europe, most of all in the lower wage segment. Thomas Faist speaks in his extensive empirical investigation of *de facto* a form of European wage slavery, meaning cheap labour from eastern Europe that works as, say, asparagus harvester, nanny or construction worker. Societal processes and social transformations have long been underway that have the effect that social classes take on European dimensions and can no longer be sorted on national lines.

If we are increasingly dealing today with the question and/or analysis of social inequalities in Europe and how we can, where appropriate, mitigate and/or combat them then – this shall be my hypothesis – this is because we are indirectly asking

whether we will become a European society and whether we can and wish to build *a* European democracy as such. That would *de facto* presuppose that we no longer regard social inequalities in Europe as a national but as a European problem and therefore offset them via transnational mechanisms. And that, after setting up a European market and a European currency, we are now turning to the question of whether we can become an equally integrated European society – and what would be required to do so.

That is indeed the current argument in various debates such as in the loud and salient talk about a so-called ‘transfer union’. The political debate about a ‘transfer union’ is basically an expression for the process of European socialization we are going through now but for which we have so far failed to find the proper political description. Concretely put: there is in Germany right now a debate raging about Italy’s transgression of EU budget deficit rules; at the same time, you read in the German press the growing argument that of course there must be a minimum income in Italy (which does not have one) and one has, on the whole, understanding for the Italian government’s wish to raise public spending. This discussion shows that Europe’s citizens slowly but surely are seeing the connection between a currency union as ‘partnership agreement’ and social inequalities in Europe. Indeed, it demonstrates how important it is to put the national perspective and national statistics to one side since they no longer do justice to this process of European socialization.

Whereas about a decade ago, i.e. before the banking and euro crisis, we debated in Europe along essentially national lines –

pitting mainly a 'rich' Germany against a 'poor' Greece or Portugal; or a 'rich' Germany against a 'poor' Czech Republic – today we can see much more often that the real socio-economic differences in Europe reside between centre and periphery and between urban and rural. In other words, the region around Milan looks economically as good as Frankfurt or Lyon but, on the other hand, Anklam is performing economically as badly as the Ardèche or Andalusia.

For a few years now social scientists have also begun to view social data and differences no longer on a country-by-country but increasingly European aggregate basis. A pioneering work here is Dimitris Ballas, Danny Dorling and Benjamin Henning's 'Social Atlas of Europe' where various social data – on health, education, old-age poverty – are illustrated on European maps without national borders. That's all very good and interesting because one learns that national origin – Finnish, German or Portuguese – is not the decisive factor behind the number of heart attacks in a country or of unwanted pregnancies among 14-year-old girls. *Cum grano salis*, one can say across Europe as a whole that the differences between European countries, i.e. nation states, have become minimal but the class differences *within* individual European countries have become so much the greater. Europe as a '*societas*', as a society or as a 'sociology', is by itself a new trend in European social sciences and that means, of course, that one can no longer simply view Europe institutionally (as political scientists do – which structures dominate/hold sway in the EU?) but increasingly think about its people or citizens as a whole. This trend has, indeed, long been European and not just visible in German-language literature.

Social scientists have performed great preliminary work in basically rethinking and/or collectively thinking about European social policy – as I'd like to set out conceptually below.

Fundamentally, the mobility available in today's Europe is to be welcomed if Europe, the EU, is to be a space for the free movement of people, goods, capital and services. On the other hand, this is putting high demands on EU social policy in the coming years if one is to meet the challenges of this European mobility with regard to educational opportunities, access to the labour market, entitlements to sickness and other social benefits. As long as social policy continues to come mainly under national political and fiscal management the very social inequalities one thereby laments arise throughout Europe. If Polish workers in England for example can be contracted to work for two years as any longer appointment would mean being transferred to the British social security system, if a Romanian nanny may indeed work in Berlin but will get no unemployment benefit if she loses her job, then one should not be surprised at the populist currents in east Europe that are becoming one of the great political problems facing the EU. And if the single market *de facto* encourages processes of concentration then the question arises as to how Europe intends dealing with the social injustices this creates – and what institutional and budgetary room for manoeuvre and/or scope for intervention the EU actually has to tackle, mitigate and overcome the social crisis or social inequalities in Europe. Very few right now!

SOCIAL AND EUROPEAN CRISES

Today's social crisis is tomorrow's European crisis or, more precisely, the crisis of European democracy. This is one more reason for urgently dealing with social injustices in Europe or, put another way: *l'Europe sera social ou ne sera pas*! Europe will be social or it won't exist! Marine Le Pen used the following phrase in her election campaigns on virtually every market square: '*Quand il n'y a plus la nation, qui s'occupera des pauvres?*' When there's no more nation who will bother about the poor? This sentence hits precisely the correlations between social Europe and populism. It says that if Europe does not care for the poor then it has no chance. At the moment, indeed, state welfare benefits such as dole money are paid out at national level. Social injustices in Europe in the end, therefore, so runs a core thesis, are the outcome of a (non-existent) concept of European citizenship that should make European women and men equal before the law and hence social laws.

This is also and perhaps even above all about the political translation of the social crisis in Europe – and this social crisis arises *inter alia* through the social (and legal) unequal treatment of women and men – into European populism. Here Europe actually means, based loosely on Stefan Zweig, '*no discrimination on grounds of nationality*'. Unfortunately, Europe is still far from tackling social injustices by transcending nationality.

What matters here is that the battle for Europe is conducted on a pan-European basis, though the political structures do not yet mirror this: on 7 February 2018 the introduction of so-called transnational lists in the European Parliament failed largely through the votes of the conservative EPP. Where the political

front-line has long been pan-European and transnational, the structures always constrict political arguments at the same time within national, democratic corsets: there are no veritable transnational lists in Europe nor a European party statute; the current European parties are *merely* associations of national parties. Putting it another way, there is political pressure on national party systems throughout Europe to organise in a European manner. One might even say: a political process in Europe is bursting national party systems apart and European democracy is seeking how to break new ground and/or form a new political body at European level.

This European politicization is new. The rather technocratic or functional character of the EU in law has so far never seriously been questioned. But today the legitimacy bases of the EU are the focus of criticism. Today almost every European state, its party systems and societies are split over the question: what do you think of Europe? This question has replaced the left-right political schema: France is split along the dividing line Macron v Marine Le Pen, Italy has collapsed into two parts, Great Britain is split into #Remain and #Brexit/Leave, Poland into PiS-supporters and opponents, Germany into #PulseofEurope and #Pegida etc. The question of Europe has thereby become the structural question of all national democracies in Europe and the question is now posed whether the 27 or 28 national democracies in today's EU can be transferred into a *common* European democracy so that the pan-European political debate can be pursued institutionally as well at European level and no longer pressed into national pathways. And, if so, how?

A QUESTION OF SOVEREIGNTY

'All sovereignty comes from the people' is stated in many constitutions of individual EU member states. As Kurt Tucholsky might put it: '*And where does it go?*' In fact, the sovereignty of the political subjects of the EU, that is the citizens of Europe, is buried as it were in the European Council, hard to fathom, non-transparent and also only indirectly legitimized. So, if you wish to ponder about European sovereignty and/or break through the united front of EU and EU member states with regard to sovereignty – understood as legislative capability – then the core issue is the abolition of the European Council and the re-evaluation of the sovereignty of Europe's women and men as political subjects by making the EU system, including the separation of powers, wholly parliamentary. This would erase the oft-bemoaned democratic deficit.

Resolving the question of sovereignty in favour of Europe's citizens in Europe's political system significantly breaks down, however, because they do not share the same legal equality across Europe as a whole, neither in elections, nor in taxation nor in access to social rights, that is above all in the areas that make up their status as citizens. The basic assumption behind the 1992 Maastricht Treaty, i.e. that the EU is a '*union of states*' and a '*union of citizens*', still awaits the back-up to become the norm. *De facto*, the EU is simply a '*union of states*' and not yet a '*union of citizens*' precisely because the general political principle does not apply equally for all European citizens, women as well as men.

In a European democracy – in so far as one really strives for one – it would be imperative for the citizenry to decide together

within one electoral body, founded on the general political principle of equality. In his famous book *'Le Sacre du Citoyen'* the French sociologist Pierre Rosanvallon writes that what makes citizens into a single polity is no less than the act of 'general, equal, direct and secret voting'. Currently, the European Parliament is generally and directly elected in secret but not *equally* as the principle '*one person one vote*' does not apply – indeed, that is the source of the pertinent criticism of the German constitutional court vis-a-vis the democratic (in)adequacy of the European Parliament. The first concrete step towards building a European democracy would be the creation of a pan-European election register that would list all Europe's citizens who are registered in the (still) 28 member states on an alphabetic (A to Z) basis. Now, would that be so hard?

It often goes unnoticed in public discourse that many commonplace European demands, e.g. for improving eurozone governance, cannot function without legitimacy back-up. The oft-quoted, much-highlighted creation of, say, a 'euro finance minister' or of a 'eurozone budget' – core demands of Emmanuel Macron – could only come to pass if the aforesaid euro finance minister had to fully answer for her/his euro budget before a parliament; and this parliament would have to be based upon electoral equality that currently does not exist in the EP. Not without reason is, since Magna Carta, the right to pass a budget the highest legal right of any parliament, one intrinsically tied to tax-raising capacity (*'the right to tax'*) and, finally, to the very legitimacy of the parliament (*'no taxation without representation'*) and the general principle of political equality (*'one person one vote'*). None of that is a given in the current EU structure. The achievement of these three classic

democratic principles in Europe would, therefore, be key to a European democracy and/or the transformation of the traditional EU legal entity into a European democracy. In this regard, this is less about ‘recreating Europe’ than complementing the EU with a single decisive component, that is, the general political principle of equality for all citizens of Europe.

EUROPE AS SOCIAL UNION

Here I should like to get to grips with two concepts/definitions. The German philosopher Peter Sloterdijk speaks, for example, about ‘welfare patriotism’. Coined using the above-mentioned phrase from Marine Le Pen, this means that Europe must *de facto* develop a form of welfare patriotism if it is literally to feed or indeed *care* for its citizens in line with the old principle ‘*cuius regio, eius religio*’. A European welfare patriotism would be, e.g., a European unemployment insurance scheme or a European minimum wage or indeed a European minimum income. In reality, Europe is miles away from that although an intense debate about it is under way. (A particularly prominent foray here was the demand expressed by SPD finance minister Olaf Scholz last October). Concrete plans for a European unemployment insurance scheme, like those of the German economist Sebastian Dullien, have been lodged, what's more, at the European Commission since 2014 but rejected so far by the European Council. That brings us right back to the core issue of an absent, legally underpinned European citizenship since a European unemployment insurance policy/scheme would have to be based upon equal treatment in law of all EU citizens – but that cannot be implemented transnationally as the law now stands. Had there been a European unemployment insurance

scheme in place youth unemployment in southern Europe during the crisis might well have been much better cushioned. But, then, the EU and/or eurozone did not have what experts call a '*fiscal clip*' as intimated already in the section 'fiscal union' of the 2012 EU report 'Towards a Genuine Economic and Monetary Union'.

Here I come to my central point: There can be no European social union in prospect on the basis of the equal treatment of all EU citizens in social legislation unless, at the same time, the issues of a European fiscal union and, with that, a budgetary and taxation union are addressed. If you want to combat social inequality then this, of course, requires jobs and growth on the one hand and, on the other, tax monies to provide a safety net for social inequalities, ensure equal opportunities, enable access to education and training etc. '*The state can tax*' is the oldest definition of statehood. But the EU is not a state. So, the discussion about a European social policy is as important as it is dangerous by pointing to the heart of a European statehood that would still have to be created – but, in a period of renationalization when European solidarity is in poor shape, one should not talk so loudly about that, of course.

As mentioned at the start, it is now time to 'Europeanise' the concept of social class since it refers to the process of European socialisation. This demand is, *inter alia*, supported through the book published in October 2017, '*Les Classes sociales en Europe*' (*Social Classes in Europe*). Data within it not only point to a cross-border rapprochement in the living standards of the three different social classes but to a transnational 'class shift' within Europe: western Europe has shifted its 'underclass' to eastern Europe. That might make sense from the viewpoint of

economic efficiency but is no way to build a European democracy in the form of a political union since it can hardly come as a surprise that east Europeans, who often feel ‘second-class’ Europeans, go off and vote for populists as a reaction to being downgraded in that way.

An appropriate reaction to these effects of a process of European socialisation that boost cross-border social inequalities in Europe, between east and west, north and south, urban and rural and centre and periphery – and this is the *core thesis* of this paper – would not be to stick to the measures taken at the social summit in Gothenburg even if they're a good start. But the ca. 300 million euros, made available as project funds to be managed nationally, do not amount to a structural transfer of social policy to the EU level precisely on the lines of the aforementioned ‘*cuius regio, eius religio*’. Were that to happen or even be considered, a European social policy to counter social inequalities in Europe on a sustainable basis can only be thought of prospectively within a context of an EU tax, fiscal and budgetary policy or put it another way: there would need to be *fiscal federalism*, a European financial statute, to be up to this task in its true dimension. This structural debate must always be borne in mind if one wants to go beyond *ex-post* social tinkering in Europe.

The issue of European inequalities relates to that of EU social statehood and this again, ultimately, to that of European statehood, including budgetary authority that would have to fall to the European Parliament. We would then be spelling out a European statehood, including EU citizenship, that would have to put into practice the general political principle of equality for all EU citizens. Core problems of current social inequalities in

Europe – e.g. discrimination against east Europeans – would disappear at a stroke.

EUROPE AS NATION?

Marcel Mauss, the French 19th century sociologist, writing in his book 'The nation or the sense of the social', defined the nation as follows: '*A nation is a group of individuals, aware of their mutual economic and social dependence, who decide to translate this mutual dependence into collective control over the state and its economic system*'. Why shouldn't Europe as a whole be at precisely this point? Maybe the social inequalities in Europe are merely a call to think of Europe as a commonwealth with all the consequences that I have enumerated; and Europe, in the Marcel Mauss definition – even though all the talk is of re-nationalization – is actually going through the process of becoming a nation.

If Europe is truly, as often discussed and demanded, to become a democracy then the price must be paid: the general political principle of equality for all its citizens. All the more so because, according to empirical studies, the citizens would have no objections to the principle of general equality under the law applying also in social or fiscal questions, as for example a European unemployment insurance policy.

This would add the legal equality of European citizens as political subjects to the equal treatment of goods in the single market and monetary equality (euro): this would be *the* basis for a European democracy and the leap into a European Republic. After the euro and IBAN numbers must come the immediate prospect of a common European electoral register from A to Z,

for example in time for the European elections of 2024; then a European social security and/or tax number (ESSN) for all Europeans alike. European solidarity would then become institutionalised and no longer random. This could come in the form of a deadline set aside for, say, January 2025 as was the case with the euro and IBAN-number. There could even be the guarantee that the ESSN, for example, would only apply to those born after its date of entry and all other European citizens would remain within their national systems. This would be a quasi-organic transition to a politicized and common EU judicial space and community of citizens equal under the law, a.k.a. a commonwealth of citizens or even a European Republic. Constitutional experts should examine whether this would require treaty change. It would be the great reformation of Europe!

In this new or rather completed Europe – one market, one currency, one democracy – the citizens would be the sovereign authority of a political system, all would be equal before the law, parliament decides and there would be separation of powers. The general political principle of equality is the fundament of all democracies, their necessary if not always sufficient condition. One must only recall the definition of nation given by Theodor Schieder who remarked back in 1963: ‘Nation, that means first and foremost a community of citizens, not language, ethnicity or culture’.

Is that so radical? No, not at all: if you read the 1944 manifesto of the Italian anti-fascists at Ventotene you will find therein this very demand for European citizenship. And Jean Monnet also said: ‘Europe does not mean integrating states but uniting citizens’. But those who embrace the status of legal equality, that is

accept the general political principle of equality whatever one's origins – in Cicero's classic definition – found a republic. After a single market and a single currency the time has now come to make a start on building a common democracy in Europe as a shared goal of completing the European Project in the 21st century.

THE EUROPEAN SOCIAL DIMENSION IN PERSPECTIVE

MARIA JEPSEN UND PHILIPPE POCHET

From the outset, the European project has been characterized by a double imbalance. First, it has been dominated by the logic of economic integration, with the social element essentially constituting a by-product of any associated benefits. Second, social policy has been limited, both in terms of scope and of procedures for adopting legislation requiring unanimity within the Council. Therefore, there have always been two aspects to the debate on creating a social Europe: rebalancing the economic dimension with the social and developing an ambitious social program.

Mobilization of the concept of a social dimension at European level has generally coincided with moments when the European project was going through a difficult period. Here we examine how the development of the social dimension, especially since 2005, has responded to the particular challenges of the time, thus becoming a symbol for restoring faith in the entire project and

showing that it is not just about economic integration but also social progress. What led the European Commission to propose the European Pillar of Social Rights? What impact could such developments have on the European social dimension?

BUILDING THE SOCIAL DIMENSION IN A HISTORICAL PERSPECTIVE

Around every 15 years an ambitious proposal of rebalancing and renewing is adopted. The first attempt was in 1973/74, with the first social program and the use of Treaty of Rome provisions (gender equality article, Article 235 allowing for the unanimous extension of competences). There was then a fertile period in 1988/89, with the Community Charter of the Fundamental Social Rights of Workers, followed by an ambitious action program.

Then, in the early years of the new millennium, a rethinking of the whole European political system took place, with the adoption of a Charter of Fundamental Rights and the negotiation of a Constitutional Treaty. Finally, the presentation in 2015/16 of a pillar of rights and principles and a (very) small-scale social program could represent the fourth attempted relaunch of social Europe.

Each attempt has had its particularities and principal actors.

The first was made in a context of strong social mobilization at the beginning of the then economic crisis. It was the result of an analysis on the part of national governments and the Commission that ignoring the social was no longer possible. Two EU

flagship policies were developed: gender equality and health and safety at work.

The second was a consequence of the project of a 'large internal market' and the pledges of the Commission President, Jacques Delors, simultaneously to develop its social dimension. A non-binding Charter made up of 12 sections was adopted, alongside an action program of almost 50 measures, including more than 20 of a binding nature. This approach was a defensive one in the face of increasing liberalization and deregulation, and designed to counter the effects of globalization. As in the first case, the initial push lasted only six to seven years, finally breaking down due to the necessity of respecting the Maastricht criteria for entry into the Economic and Monetary Union (EMU) and reforms of the labor market and social protection, which often go hand in hand.

The third attempt was more complex and ambitious but also less successful. The logical consequence of monetary integration and the impossibility (at least historically speaking) of having a currency without a state was an attempt to redefine the fundamentals of European integration. This happened principally through the acceleration of political integration via the negotiation of a (quasi) constitution intended to create a shared demos, as well as a Charter of Fundamental Rights expressing common values. Initially, it was not very clear what place there was for the social in the constitutional debate, and great effort was required to get it onto the EU agenda. This was an easier task when it came to the Charter of Fundamental Rights, but the rights included were already established and so brought little or no innovation or progress, even in the 2007 Lisbon Treaty. This also ran out of steam after six to seven years

following the revision of the Lisbon Strategy and the European Employment Strategy (EES) of 1998 in 2004/05.

And so, 15 years later and almost 30 years after the Charter of Fundamental Rights, the EU now says it wants to make a new attempt at rebalancing and developing the social dimension. This project is to be realised in the form of a European Pillar of Social Rights (EPSR) comprising rights and principles distributed between 20 domains that are supposed to safeguard and enhance the *acquis communautaire*.

FROM EARLY BEGINNINGS TO RECENT DEVELOPMENTS

2005 marked a turning point in the European approach to the social dimension: with enlargement, strong economic growth and higher employment, it was eclipsed by issues of how to increase productivity and competitiveness. Basically, competitiveness was not regarded as separate from the social dimension, but rather as a necessary precondition for social progress. Two lines of thinking are illustrative. André Sapir, in a 2005 Bruegel paper on European social models, marked the transition from interpreting the social dimension as a legitimate objective in itself to an approach whereby social policy should evolve in parallel with economic competitiveness. The post-2007 emphasis on flexicurity also confirmed the need to make social policy fit the demands of the economy.

The European Court of Justice (CJEU) seriously undermined the industrial relations system and employment law in several member states in key cases such as *Viking-Laval-Rüffert* and *Commission v Luxembourg*. Its decisions challenged a long-standing assumption that economic integration fell within EU

competence whereas social policy was a matter for the member states and national social rights, such as freedom of association, the right to collective bargaining and the right to strike, could not be challenged at the supranational level. Hence the period preceding the 2008 economic crisis became an ‘impasse’ characterized by expansive rhetoric about the need for a ‘European Social Model’ with, however, few signs of a social strategy at the heart of EU decision-making processes.

The crisis sparked a new impetus. Several member states effectively strengthened their social protection systems and extended measures allowing employers to retain staff rather than issue redundancies in an early response – unlike the EU per se. This impulse, however, came to an end in 2010: first, the Lisbon Strategy was replaced by the Europe 2020 strategy, which highlighted employment, training and the fight against poverty; furthermore, the majority of EU member states started to adopt austerity programs and, finally, the Greek crisis highlighted the weakness of the governance system behind the euro. Together, these three elements pointed to a new era in the way the social dimension was to be defined and handled at EU level.

The main change resulted from strengthening economic governance. The financial and economic crisis which plunged numerous EU member states into a fiscal crisis led to financial market pressure not only on the countries in question but also on the euro and hence Europe in the broader sense. The European Commission produced a set of regulations and directives on the coordination of budgetary policies, macroeconomic imbalances and structural policies, bringing indirectly a uniform definition of social policy guidelines. National fiscal frameworks were required to align themselves as far as possible

with the new economic governance structure and to follow the new set of rules on budget deficits, debt ratios and the like or face fines. These very binding mechanisms gave the Commission and Council more power to determine how the member states drew up their budgets and hence how they could define and finance their social policies.

Between 2008 and 2014, the European social agenda came to a halt both in terms of soft law and binding legal provisions. The only initiatives that got off the ground were the European youth guarantee and the social investment agenda in 2013. Certain ideas were put forward but swiftly buried, such as a European unemployment benefit system. This does not mean that social policy as such was no longer on the agenda: rather the reverse in fact. The economic governance system described above brought country-specific recommendations (CSRs), and half of these related to employment and social policies. The recommendations advocated decentralising collective bargaining, raising the retirement age, tying wage developments to productivity and so on. Very few dealt with improving access to social protection or guaranteeing that the most vulnerable people enjoyed the benefits of the welfare state system. By establishing a supranational governance based on the Stability and Growth Pact, the EU created a system which guided the way in which national governments were meant to reform their welfare state, industrial relations system and labor market. The social dimension was seen as merely an adjustment factor in relation to restructuring and economic difficulties.

After 2005, then, Europe not only lacked a central social policy agenda – it also undermined some of the fundamental principles on which social policies had been based, notably the

principle of equality between workers on the same territory and the ability of the member states to use social security as an automatic stabilising factor. Before, there had been an implicit division of tasks: market effectiveness at European level and legitimate redistribution at national level, a split summed up by David Natali in 2015 as: 'Adam Smith at European level and Keynes at national level'. Now Europe seems to be geared more towards Adam Smith, or even Friedrich Hayek, with the market as sole compass at European and national level.

2015 – A NEW DEPARTURE?

The next period was marked by the Brexit debate. Brexit was partly a vote to reject a non-social Europe and rules on freedom of movement that were regarded as too lenient. In this sense, the potential contraction is certainly linked to poor handling of enlargements.

The UK vote to reject the EU and migrants was not an isolated event. In central Europe, Viktor Orbán in Hungary and the Law and Justice Party (PiS) of Jarosław Kaczyński in Poland were both anti-European and anti-migrant, without respect for liberal democracy but with a pro-social agenda for their citizens. This became the new reality: the rise of populist and far-right, pro-social movements.

Under Jean-Claude Juncker the Commission had only eight social democratic members out of 28. And at the 2014 European Parliament elections anti-European parties gained ground. Doubts emerged and fears multiplied about the future of the European project. This led Juncker to launch the idea of a

‘Triple A’ social Europe to show that his predecessor's era and blind austerity were over.

In social matters, this led to the adoption, in November 2017, of a European Social Pillar (EPSR) incorporating a set of rights and principles in 20 areas that were supposed to guarantee and improve the *acquis communautaire*: ‘the European Pillar of Social Rights is about delivering new and more effective rights for citizens’. It embodies 20 principles which are structured around three categories: equal opportunities and access to the labour market, fair working conditions and social protection and inclusion. With 15 documents in total, the result is neither very organised nor very clear. Several proposals (regarding work-life balance, employment contracts, access to social protection, etc.) make up the draft of a work program. The latter two principles aimed to ensure a minimum of rights for all workers, whatever their status, including in the platform economy which often uses bogus self-employed people. In any case, it marked the beginning of a reflection on work and employment contracts in a digitized economy.

The other angle of action was intended to ‘socialize’ the European Semester with a Social Scoreboard (statistical indicators) aimed at giving a more social ‘coloring’ to the EMU. The Commission and Council maintained that they wanted to revive European social dialog. However, BusinessEurope, the main business lobby, disagreed with all the proposals linked to the Social Pillar, giving little cause for optimism.

In terms of a federative concept, the notion of social investment was partially taken up by the Commission in a 2013 package. It was promoted and developed by a series of intellectuals close to

left-wing think tanks, such as Anton Hemerijck, Bruno Palier, Frank Vandenbroucke and Gøsta Esping-Andersen. A key idea is that the social dimension represents an investment, particularly if Europe pursues preventive rather than remedial policies. This is best illustrated by childhood where massive investment could increase human capital and reduce inequality and even violence.

A change of tone has come in a political environment which had hardly altered and even deteriorated in view of Brexit and the divisive refugee issue. The proclamation of the EPSR and the adoption of a new directive on posted workers in May 2018 appeared to indicate that the period of massive deregulation was over and there was a return, if not to a an agenda for a social Europe, then at least to one in which competition based on wages in the same territory was to be avoided. Even more interestingly, a more fundamental change was taking place as a result of changing preferences in many Central and Eastern European Countries (CEECs).

The initiatives seemed to signal that finally, after 20 years of to-ing and fro-ing, Europe is returning to the fundamental principles that had governed the EU from the outset. In the absence of European social harmonization, the member states were empowered to develop the protection that they felt necessary at national level and not be faced with unfair competition at home between workers with differing rights, and measures protecting businesses who were trying their hardest not to respect fair competition. It remains to be seen how big the room for maneuver the member states have regained with regard to spending and policy making.

WHAT OF THE FUTURE?

If we wish to maintain and enhance the European social model, we need to act now on three complementary fronts: we need to put social matters back on top of the European political agenda; we need to complete the EMU and endow it with stabilization mechanisms; and we need to change the orientation of economic policies.

The last point is obviously key. A new form of European governance must be made to serve not the financial markets but the transition from a society which is over-consuming energy and raw materials and undervaluing labor to one based on better jobs, increased energy efficiency, renewable energy, durability of products, systematic recycling of materials, transformation of production chains: the transition to a low-carbon society. We need to devise a European roadmap to achieve this between now and 2050.

This can happen only if we create institutions which promote solidarity and limit the power of the marketplace. Such institutions need to support a process of convergence in a new, complex globalization phase and the urgent need for ecological transition. Above all, the social stalemate can be broken through open, democratic dialog and new stakeholder groupings. The EPSR forms a good basis for this approach but is far from sufficient.

More specifically, we think it is necessary to:

PLACE SOCIAL MATTERS AT THE HEART OF EUROPEAN POLICY

The aim is to ensure that action is effectively focused on the economic and social convergence program for which the EU is mandated by the Treaties (Article 151 TFEU). We need to reassert the fact that EU institutions are strictly bound by fundamental rights. For economic ‘freedoms’ not to restrict fundamental social rights, a Social Protocol should be added to the European Treaties.

In that context, the EU and the member states must take action in the following fields in particular:

- Fixing wages is a national competence. It must therefore be implemented in line with national labor relations systems and practices, duly respecting the autonomy of the social partners and collective bargaining. However, it is also necessary to promote national coordination so that, in the medium term, wages can comply with EMU constraints instead of forcing a radical decentralization (*strengthening of the institutions*).
- A minimum social income should be established in each member state, based on common European principles and allowing people to live in dignity (*market limitation*).
- A tripartite European platform should be created in order to assess in general terms how social dialog and collective bargaining are supported in the member states and evaluate how European social dialog

agreements are transposed and implemented at national level (*strengthening of the institutions*).

- It is necessary to reaffirm the principle of 'equal pay, equal rights', the guarantor of fair competition, respect for workers' rights and labor law and European industrial relations systems (*convergence*).
- Social protection systems must be afforded the means of playing their redistribution role to the full through benefits and universal access to quality social and health services, irrespective of income. Performance indicators should be established for social protection systems in order to measure progress (access to healthcare, working poor, etc.) and fix common targets (*market limitation*).

The EU must step up the improvement of working conditions and health and safety and propose a new health and safety at work program together with minimum quantitative targets for the labor inspectorate (*strengthening of institutions, role of the state*).

Corporate governance must be changed at European level, in particular:

- European rules are necessary to improve transparency and make subcontracting chains truly genuine. In particular, a European instrument regulating the joint and several liability of user undertakings ('chain liability') and of intermediaries in the case of temporary work should be proposed/established (*convergence*).

- Workers' representatives should be installed in businesses, with genuine powers to foster the green transition (*new institution*).
- Management methods based on untenable workloads and schedules should be reviewed so as to combat illness linked to stress, burn-out, suicide (*democracy*).
- To that end, a common pillar of rights and obligations to assist companies in the handling of their restructuring operations is required (*role of the state*).
- Binding social and environmental clauses must be included in public works contracts (*market limitation*).

COMPLETE THE EMU

The aim of the new European governance must be to stabilise the eurozone by expanding the role of the ECB as lender of last resort and allowing the issue of eurobonds as well as by implementing country growth programs. However, in the medium term, a detailed assessment of social stability mechanisms in the eurozone is required. There needs to be an in-depth analysis of the different aspects of introducing an unemployment reinsurance scheme at eurozone (or EU) level for workers who are victims of asymmetric shock (*institution*). It is also necessary to encourage the gradual emergence of forms of European social protection, in particular by strengthening the European Globalisation Adjustment Fund in order to counter new risks (*institution*).

We need to return to a pluralist approach. This is why it would be useful to initiate a debate on these challenges, respecting diversity of approaches, for example by creating a European

economic analysis council, on the lines of the French model, or major reference centres, as in Germany. The European institutions must return to providing an open forum for discussion of possible future scenarios, instead of being a machine which imposes a biased and unilateral view of the world (*democracy*).

Finally, progressive and redistributive fiscal regimes which contribute to the financing of social protection schemes and the green transition are essential:

- harmonizing the corporate tax base and minimum tax rates for businesses (for example by introducing a minimum rate of 25% – the current average in Europe);
- introducing a financial transaction tax (FTT) covering not only equities but also bonds and derivatives;
- resolutely combating tax competition and tax evasion; common principles should be laid down for the taxation of income and wealth (including digital economy).

The EU must promote and coordinate investment in research, applied research and innovation; it must contribute towards implementing coordinated, regulated industrial policies and open-source patent systems (*market limitation*).

The EPSR has introduced and laid the foundations for pushing forward many of the above-mentioned proposals and can as such give new life to the social dimension. However, future developments will very much depend on the prevailing cyclical and structural situation.

A first possibility is that the economic outlook improves, the

troubles caused by Trump and May subside, and the retreat of the populist waves or even the EU restored to public favor lead to a return to 'business as usual'; in other words, the social dimension falls by the wayside.

Alternatively, this confusing period could lead to several advances on social issues but still no real rebalancing between the social and the economic.

A third possibility is that awareness of the risk of a new global financial crisis, the continuous distrust in any real positive effects from the EU, persistent unemployment in a number of member states and a worrying international climate will lead to a regrouping of strategic actors. These actors would then succeed in structuring long-term change with the aim of rebalancing the social and the economic.

The dominant reading of the prevailing situation will determine the real potential of the Social Pillar: damp squib, yet another series of incomplete results, or first step towards sustainably strengthening the social dimension.

Note: This article is based on Jepsen, M. and Pochet, P. (2018) Le socle social en perspective historique, OFCE Revu, 158(2018)

GUARANTEED MINIMUM INCOME FOR ALL

MARTIN HÖPNER

Readers of this book are more than likely to share disappointment about the social deficits of European integration as much as the hope that the EU will not stay as it is. The overwhelming bulk of them will probably then spontaneously back a proposal to make available cross-border aid for building up a system of guaranteed minimum income in the poorest member states.

But here I want to talk about something more specific. That a measure is desirable does not mean by a long chalk making it a top political priority. Does not everything coming under the heading 'social Europe' already figure in the trade union or other progressive lexicon of demands? An additional element on creating a fund for building up minimum income guarantees would go unnoticed. No, I want to look at something else. There are plenty of demands, very few concrete plans. My proposal is to make the provision of cross-border aids for building poverty-proof guaranteed minimum incomes a core project for the

coming years. My concern in what follows is to differentiate this initiative from other potential projects that revolve around the social dimension of European integration. But first, let's turn to the substance of the proposal.

A SOCIAL PROJECT FOR THE EU

A guaranteed minimum income is the bottom layer of social security systems. It comes into play when not only no income can be earned but no other welfare benefit takes effect. Its goal is the avoidance of extreme poverty. EU member states differ hugely in the way they adopt this target. Research literature but also the European Commission's 'social scoreboard' provides good insights. What emerges is that countries where guaranteed minimum incomes quite clearly fail to provide poverty-proof levels of benefit almost always fall within the group of poorer member states in southern and eastern Europe. N.B. here we always have in mind *relative* avoidance of poverty, i.e. poverty thresholds linked to local standards of living.

The project would consist of supplementing the structural funds (under Article 175 of the Treaty on the Functioning of the EU, TFEU) with a program to help the poorer countries close the most glaring poverty gaps. This could take the form of a new, sixth structural fund or a new program within the European Social Fund that in the 2014-2020 funding period amounts to roughly €83 billion. If a country falls below a certain standard of living and defines it as an existential minimum that it wishes to guarantee in future then it should be able to call upon financial support from the fund. Any funding should be limited to a defined basic level of poverty avoidance, say – in a

first stage – guaranteeing 40% of the country's median income (a moderate target). The targeted allocation of resources must be ensured and controlled. Beyond that there is, however, no need for conditions, above all no extraneous conditions such as implementing structural reforms in other areas than minimum income guarantee.

Perfect plans for the project are not lying hidden in a drawer. But planning and discussion should not start from scratch. A useful starting point could be the work of the team around the economist and former Belgian labour minister Frank Vandembroucke and the German-language expert report of the lawyer Thorsten Kingreen as well as that of the political scientist Benjamin Benz (Kingreen's dates from 2017, Benz's from 2019).

WITHIN THE EUROPEAN STRUCTURE OF REMITS

Many ideas and demands in the European policy programs of progressive parties and union bodies address guaranteed minimum incomes. Usually, the issue at stake is the definition of minimum standards that all should meet. The project put forward here differs in that it sidelines provision underpinned by sanctions in favor of a fair offer that can be called upon by the poorer countries and, hopefully, will be so but not compulsorily. The aim is to support, not punish. If one were merely to aim at obligations one might then, in any successful outcome, take countries failing to make the necessary provisions to the European Court of Justice. But that would mean taking no cognizance of the difficulties poorer countries face in financing the closing of poverty gaps. The absence of a generous welfare state, and this is a clear finding of comparative welfare state

research, is *at the very least* as much the outcome of economic backwardness as the result of lack of political will.

Putting aside a binding one-size-fits-all legal framework does, however, have another advantage: the power of European bodies to agree upon provisions for guaranteed minimum incomes rests on uncertain foundations. The reason for this is that Article 153 TFEU does indeed allow in principle for directives in the social area. Thorsten Kingreen argues that it depends on the concept of worker laid down whether this includes basic incomes for the elderly and those with reduced earning capacity. But probably not included in applying the concept of worker as set out in welfare law rather than labour law are the basic benefits for subsistence living which in Germany are regulated under paragraphs 27ff of the social security statute book XII. If one wants to approve a European competence for minimum standards in social benefits one would have to interpret these as measures to promote vocational integration (under Art 153 Para 1h TFEU). Benjamin Benz suggests proceeding on these lines. But, in EU law, that is at the very least an uncertain plan.

Is it not inappropriately 'legalistic' to be guided in identifying feasible routes to a more social Europe by the EU's internal competence structure. Should one not proceed more courageously, i.e. mobilize politically first of all and then look to see what works legally? I'd like to resist this idea. That's because this brings the risk of a purely symbolic policy that pulls the wool over people's eyes. A good example of this is the debate about an EU directive on minimum wages. The demand for it is spelled out in speeches and election manifestos. But the EU's internal competence structure does not allow for concluding

such a directive. Article 153 Para 5 TFEU explicitly rules that out. This treatment of 'social Europe' is cynical as is the treatment of potential voters.

BUT WE DO HAVE THE 'PILLAR'?

But has not the situation changed since the solemn proclamation of the European Pillar of Social Rights in November 2017? This seems to state clearly a European right to and competence for guaranteed minimum incomes in declaring under Principle 14: 'Everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring a life in dignity at all stages of life, and effective access to enabling goods and services.' No, not at all. For the goals described in the 'Pillar' have nothing to do with the transfer of new competences to the EU. The competences of the EU law-maker have not changed one iota with the 'Pillar.'

Unfortunately, there is no evidence either that EU bodies would, in the light of the 'Pillar', now construe the existing regulations, viz budgetary provisions or basic freedoms, in a heightened manner. Please remember that the Italian government has recently put into law precisely what the 'Pillar' prescribes under Principle 14: it introduced for the first time a universal minimum income and, indeed, at a level of €780 from 1 April 2019. Just under 1.5 million families are due to enjoy the new benefits. That was a big step and, undoubtedly, fiscally challenging with annual costs estimated at €7-8 billion. Should not the EU authorities in threatening sanctions for breaches of the budgetary rules have taken into account that the Italians are giving practical effect to a social right defined in the 'Pillar'?

There was no evidence of that. The proclamation of the 'Pillar' made no difference – to anything. The social democratic and trade union sermons could have done with a bit less sanctimonious talk about this smokescreen.

Back to the powers to conclude EU directives. Demands for a 'social Europe' that, upon closer examination, fail to meet competence norms can easily accumulate. They cost nothing and hurt nobody because they do fill a rhetorical space but with no guarantee they can or will be implemented. That way, they guarantee disappointments that, whenever they're triggered, are projected against the European Project as a whole. If fighting poverty in Europe is to be more than pure rhetoric then it must pursue paths that are truly navigable.

REDISTRIBUTION IN THE RIGHT DIRECTION

The plan goes together with redistribution among countries. It's easy to proclaim one's readiness for cross-border solidarity but hard to put it into practice. Now and then, such as with calls for EU fiscal transfers on the lines of the German federal states' financial equalisation scheme, ordinary Europeans' readiness to endorse redistribution is painted in far too optimistic colors.

The required funds for financial aids in creating guaranteed minimum income schemes are certainly more manageable than those that would have to be deployed across the entire continent in any European financial equalisation scheme. One would be free, first and foremost, to choose its volume. It could be started with the precise amount upon which EU member states, the net contributors in front rank of course, can agree initially. The hope would of course be that this amount would

be big enough to make the poorer countries an offer that is so attractive that they cannot simply dismiss it frivolously. A starting point might be to examine scrupulously what funds would be required to remove the risk of poverty below the 40% threshold in the poorer EU member states and then assume a 50-50 division of monies between the EU structural funds and the target countries. Calculations by the Vandenbroucke team suggest that the necessary transfers would be manageable.

But, most of all, it would be guaranteed that these would indeed be transfers from richer to poorer countries. The counter-model to the required cross-border redistribution based on the principle of solidarity set out here is redistribution on the insurance principle. This is the basis for the idea of a European Unemployment Reinsurance Scheme. In the current debate this is given a good chance just because it promises neutral redistributive effects: this group of member states benefits and pays this time, that group the next but, over the long run, there are no givers and takers.

In the short- to medium-term, however, this neutrality cannot be set in stone. Just imagine that the German export model so prone to arousing external irritation were to become played out, squeezed to death for example by a Chinese economic collapse that hopefully never happens. Nowhere in the EU would unemployment leap so quickly and so powerfully as in Germany. Under the insurance principle Germany would become from now on the main taker from the jointly built-up reinsurance fund in a way that would mean redistribution from countries such as Greece and Romania to Germany. Whether that would be acceptable on those terms is a big question-mark.

Cross-border redistribution between EU countries with very different standards of living must for the foreseeable future, in my view, be compatible with the solidarity principle, the solidarity of the richer with the poorer. Certainly, the readiness for such redistribution can be over-played. But opinion polls suggest that we should at least assume a certain willingness to entertain such redistribution. The project would put it to a new test in practice. What matters here is that the test would probably not be passed when it comes to redistributions in the 'wrong' direction. So, the project for cross-border aids for fighting poverty in weaker economies is not only superior to the idea of a European minimum wage but also to the plan for an EU Unemployment Reinsurance Scheme – given its target accuracy, feasibility in EU law and exemplary capacity for stability.

THE FUTURE OF EU STRUCTURAL POLICIES

The project for funding guaranteed minimum incomes comes within the current debate on the future of EU cohesion policy. The balance-sheet of this policy has always been mixed but right now caution is very much the order of the day. Structural policy is at risk of going astray.

At the time of writing (April 2019) things remain in flux but some new points of direction can be perceived. First, general spending cuts seem to be on the cards. On 2 May 2018 the Commission set out its draft for the multi-annual financial framework for 2021-2027. The financial plans foresee spending cuts within cohesion policy of the order of 10%, within the social fund of around 7%. Second, the structural funds should be tied much more closely to the macro-economic conditionali-

ties of the European Semester. In concrete terms that means: if you don't implement recommended structural reforms or fail to meet budget targets you'll suffer reductions in the monies you requested.

Things become even more confusing, third, if we think through the debate on the eurozone budget. On 21 February 2019 France and Germany published a joint proposal for creating a new 'budgetary instrument of the eurozone'. The proposal left far more in the dark than in the light. But it was obvious: this was not about a tool of macro-economic policy. Rather, efforts in carrying out structural reforms are to be 'rewarded'. This is not a million miles from the Commission's conceptions about the future shape of cohesion policy. We are obviously going through a rededication of the purposes of the structural policy arm of the EU. The task in future will be much more about leveraging the EU's sanctions-underpinned requirements within the European Semester. Among the pursued structural reforms therein lies frequently, as is well known, greater labour market flexibility.

Structural policy should not degenerate into a further Trojan Horse for liberalization in the name of competitiveness. If you want to block this route then it's not enough to advocate a return to the *status quo ante*. A unique, progressive vision about the future of EU structural policy is the order of the day. Welfare systems are 'structures' in the best sense of the word and structural policy has always directly pursued social goals (even if now and then somewhat prematurely added to EU social policy). Support for member states' policy programs for fighting poverty could form one such vision.

CHALLENGES OF EU FREEDOM OF MOVEMENT

But why should this project be communicable in the more prosperous north of the EU? No question that aids for building up guaranteed minimum incomes schemes would be, as we have seen, an expression of intra-EU solidarity. But not only that. In a Europe that's growing together any failure to fight poverty in the poorer countries always has knock-on effects in the richer ones. Above all, these can be seen in intra-EU poverty migration.

Let's be clear that with the western Balkan states new accession candidates are waiting at the door that are once again significantly poorer than the current poorest EU member states, Bulgaria and Romania. Their entry is just a question of time and new waves of poverty migration are already scheduled. Germany will be one of the preferred target countries because it comes with a special combination of pull-factors: It has a comparatively high standard of living, a comparatively generous welfare state that *inter alia* guarantees wage subsidies and, at the same time, a labor market with what is by now a very large low-paid sector in which poorly-qualified emigrants get a better reception than on the Danish labour market, say.

Today, and for the foreseeable future, the EU can be characterized by a substantial gap in living standards, a welfare state organised and financed on decentralised lines and, via EU legislation, highly effectively protected free movement of people. All these parameters will remain pretty well unaltered for the medium term. The richer countries will therefore have to reckon with more poverty-driven economic migration. The only issue can be to keep this economic migration within manageable limits for the target countries. If one wants to do this then

one will have to help prevent the poorest in poor countries from facing the abyss – there is no other way. These connections can be brought home to people in countries such as Germany.

These deliberations also suggest a time-frame within which the first reform stages should ideally be completed: before the next round of accessions. The time for reaching an understanding on the initial targets, on the other hand, is now, before the conclusion of the negotiations on the next multi-annual financial framework that otherwise – against all precedents – would still have to be settled after its term of validity had started.

OUTLOOK

The devil is in the detail. Numerous questions would need to be cleared up before one can even begin to create an aid program for building guaranteed minimum income schemes in poorer EU member states. A few of them might be mentioned as examples. What if a small number of countries – or just one – refused to join the funding? Should one let the project fail or might a structure outwith the EU budget be imaginable? How exactly should the required co-financing from the target countries fit into the debt/deficit rules of the EU and eurozone? Might, for example, there be a joint guarantee for corresponding shares of fresh indebtedness of countries so as to avoid any punishment by the financial markets? And what if poorer countries simply cannot afford their own contribution – is there then nothing to be had for them from the new structural pot?

Moreover, where exactly should one place the country-specific prosperity threshold below which aids should be granted and should it be a fixed or sliding threshold? How precise can and

should the requirements for allocating funds be? A particularly pronounced devil in the detail seems to me to lurk in the following questions. Should aids really only be granted for *extra* efforts? What about the poorer countries that already do a lot comparatively in terms of fighting poverty (take Hungary for example) – should previous effort go unrewarded? If no, that would substantially inflate the necessary transfers. If yes, – would that outcome not then amount to a reward for previous failures in fighting poverty?

These are all challenging questions. But they can be solved given the political will. It would be erroneous to expect big and rapid steps forward. The problems of fighting poverty are too complex for that, the affected countries too heterogeneous and distributive questions too explosive. Be that as it may: developing a European framework for basic income made it as a target into the coalition agreement of 2018 reached by the German government. The latter should use its EU council presidency scheduled for the second half of 2020 to sound out the options and undertake the first steps. It is surely worthwhile supporting it emphatically in this regard.

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NO FUTURE FOR EUROPE WITHOUT A SOCIAL PROGRESS PROTOCOL

REINER HOFFMANN AND SUSANNE WIXFORTH

The European Union stood out until the end of the 1970s through its ambitious social agenda which became a global role model. Europe's economies were sustained by a broad middle class; income distribution was more or less balanced. Until the late 1970s a *de facto* process took place of giving a federal or *communaautaire* dimension to policy areas that, under the then treaties, lay in the hands of the member states. Directives on social policy – such as, among others, those related to equal pay for men and women, equal treatment of men and women at the workplace, employee protection from collective dismissal and/or corporate insolvency – were unanimously agreed without reference to any specific treaty basis.

Europe and its member state governments stood for solidarity and upwards convergence based upon democratic legitimacy, the availability of publicly-owned infrastructure and services of general interest as well as decent work which ensured a commensurate and dignified standard of living. With the Single

European Act, the social protocol in the Maastricht Treaty and, finally, the Lisbon Treaty, the EU was empowered to set minimum standards in all areas apart from those affecting paid work, the right of association, the right to strike and the right to impose lock-outs. The common currency and a Europe without internal borders were trademarks for freedom of movement, not provincialism. These achievements are what the European Union has signified for more than 60 years.

However: 'the incomparably high standard of social security and welfare systems' set out in the 1957 Rome Treaties appears increasingly threatened by competition within these very systems. The essential part of the idea of an internal market has been forgotten: the foundation of a social market economy that aims at full employment and social progress. Instead, the most important European priorities have been competitiveness and price stability to which all other objectives have been subordinated. For years the Union has neglected or rejected the need for social policies.

Instead of reflecting upon joint integration and correcting the design flaws in the currency union, the emphasis is on workers being forced into precarious working conditions in the name of competitiveness. The system of euro crisis management practised since 2008 has subjected member states in difficulty to a harsh course of austerity; it promotes the dismantling of the welfare state and workers' rights and threatens the eurozone's economic stability. Positive European achievements such as promoting protective employment laws, gender equality and co-determination *inter alia* pale into insignificance given the consequences of austerity politics.

The new form of EU economic governance is, what's more, increasingly undemocratic as it is largely based upon intergovernmental cooperation to the exclusion of the European Parliament. The EU offers its citizens a democracy in line with market requirements instead of a market subject to democratic control. And the citizens can see this: election and referendum results appear to be more and more giving legitimacy to leaving the Union or renationalization as viable alternative options.

DIVERGENCE, NOT CONVERGENCE

Until the start of the euro crisis EU member states had been converging economically, supported by European structural and investment funds as well as by cohesion funds. This process was abruptly curtailed by the financial and economic crisis of 2008.

For Europe's employed persons this had grave effects. Until 2009 real wages continued to rise, most of all in accession countries with Romania at the head (105.7%), followed by the Baltic states, the Czech Republic, Bulgaria, Slovakia, Slovenia and Hungary. Only Germany displayed a minus (of 5.6%).

This development, ended by the financial and economic crisis – a condition which continues today. Between 2010 and 2015 Greece, Cyprus, Portugal, Romania, Spain, Ireland, Great Britain, Slovenia, Hungary and Austria saw declines of between 19% (Greece) and 0.8% (Austria).

The drifting apart of member states is exemplified by ever-greater wages discrepancy: in 2018 the minimum wage at purchasing power parities reached €3.28 an hour in Bulgaria at

the lower end of the scale and €9.37 in Luxembourg at the upper end.

This negative development in wages and divergence in incomes can also be ascribed to the increasing loss of government powers of intervention. Bank rescues cost the member states dear. In Germany the costs amounted to €68 billion, in Great Britain £76bn. Deutsche Bank Research calculated the reduction in global GDP caused by the crisis as 4 trillion US dollars.

As a result, government debt in the EU rose markedly. After declining in the period 1996-2007, the level of government debt rose between 2010 and 2014 from 78.9 to 86.5% of GDP. In 2018 it remains at 84% on average in the eurozone. Bigger economies such as Italy, France and Spain show levels of debt between 98% and 133%, well over the objective of at most 60% set by the Stability & Growth Pact.

EU labor markets were also dragged down by the global financial and economic crisis. Between 2004 and 2008 the unemployment rate of the EU-28 dropped four times in a row from 9.3% to 7.0%. The crisis brought this shuddering to a halt. The countries being bailed out above all and thereby subjected to the Troika's measures showed a drastic rise from below 10% pre-crisis to over 20% in Greece and Spain. Even big member states like France and Italy experienced a jump to over 10%. The picture is even more dramatic when it comes to youth unemployment: Greece, Spain and Italy showed values of over 30% – indeed in Greece it is stuck at just under 40% and that's nine years after the financial crisis and with the economic crisis supposedly overcome.

Rising unemployment and divergence in wages development

have brought about deepening divides in member state societies. A small percentage of billionaires face an army of precarious workers; in Europe 40% of working relations can be so described.

But, instead of rebooting the concepts of joint progress and convergence, the member states seem trapped still in the dilemma dictated by the EU Stability & Growth Pact: more of the same fake medicine or the retreat from investment and public spending, removal of social security and raising 'state competitiveness' through tax competition along with social and wages dumping. Even the International Monetary Fund (IMF) has declared that growing inequality in incomes and wealth is not only a social problem but a genuine obstacle to Europe's economic progress.

MONETARY POLICY UNITES NO CONTINENT

The euro was created without being put under the oversight of European law-makers. Monetary and fiscal policy is managed as it were anonymously in the interplay between European Central Bank (ECB), European Commission and European Council. The state as a risk factor – that was the basis for this construct. Anxiety about excessive inflation rates and interventionist economic policy led to the establishment of an independent ECB whose mission is price stability and only secondarily support for growth and employment.

Consequently, the European Economic and Monetary Union (EMU) is under the thumb of the ECB's monetary policy which acts as one size fits all while economic conditions within the member states develop unevenly and are unequally secured

against asymmetric shocks. The financial crisis of 2008 fully exposed the euro's flawed construction. The lack of any safety net at European level for mitigating an unexpected economic crisis was provisionally compensated for by the ad hoc construction of the 'rescue parachute'. The Troika, a body of experts from the European Commission, IMF and ECB, became the symbol of undemocratic European economic governance: it imposed cuts in negotiated and minimum wages, the dismantling of collective bargaining, the flexibilization of protection against redundancy and much more in return for financial support for member states in severe difficulties. Designated as 'structural reforms', this one-sided focus on withering away the state in favor of the invisible hand of the market thereby took on a new dimension: a policy of welfare cutbacks.

The mantra of austerity policy and the focus on government debts as set out in the Maastricht Treaty and EU fiscal pact have turned out to be catalysts for centrifugal forces in Europe. Each member state that does not adhere to the convergence criteria of maximum government debt at 60% or budget deficit at 3% of GDP is threatened with an excessive deficit procedure, in the worst case with a fine up to a maximum 0.1% of GDP.

Treating government debt as a useful indicator for the economic power and prosperity of a country is a fallacy. Much more important is, rather, the question of debt sustainability and the nature of the country's creditors. The more foreign currency and external debts a country has the more it has to depend upon the confidence of international investors. Debts are therefore not all the same.

The second fallacy is that it is only a monetary policy with the

objective of price stability that can set financial markets on the right course and enable the necessary investments for the economy. For around four years the ECB has been pursuing a zero-interest rate policy. Even so, the expected boost to the economy has been inadequate. Banks would rather place their money at negative returns at the ECB. On the other hand, the eurozone has no available budget to spur investment and strengthen domestic demand. It therefore lacks an investment tool to promote economic stability. At the same time, an EU unemployment (re)insurance scheme would be another necessary automatic stabiliser that, in the event of an unexpected economic shock, would enable mitigation of the impacts of the crisis upon EU citizens when they lose their jobs.

So long as the common currency is defined as the recipe for boosting export opportunities the euro will cause division. By turning it into no more than a purely competitive instrument, linked to the hope that financial markets may make the right decisions, it serves to boost capital accumulation rather than redistribution.

THE INTERNAL MARKET AND THE PATCHWORK 'SOCIAL DIMENSION'

The increasing inequality in incomes and assets has two sides to it. On the one hand, employees are more and more being played off against each other. On the other hand, the longing for a safe space in which private sector, commercial and market interests do not dominate but there is a balance between market and state gets stronger (see Björn Hacker's *Less Market, More Politics, Rehabilitate Europe*). Art 3 Para 3 of the EU Treaty (TEU) holds

out that promise: an internal market for the sustainable development of Europe, an extremely competitive social market economy that aims at full employment and social progress.

But there's no sign of this promise being met.

That's because the European Court of Justice (CJEU) raised the economic freedoms, i.e. of goods, services and capital, to constitutional status. They are endowed with the effective sword of competition law. It intervenes swiftly and efficiently wherever cross-border abuse of a market-dominant position, anti-competitive cartels or state aids as limitations upon trade between countries can be determined. European commercial law is thereby a cohesive set of rules linked to harsh sanctions against any breaches. The penalties can run to up to 1% of annual turnover.

It looks very different when it comes to EU legislation on minimum social standards: this has remained unsystematic and fragmentary. Attempts to ease the tense relationship between freedom of services and/or establishment and social aspects have proven thin on the ground. One of the most important principles for cross-border working, i.e. 'equal pay for equal work at the same place', was set down by EU legislators in the posted workers' directive but subsequently via CJEU rulings so watered down that *de facto* it has been reduced to the same legal minimum wage in all countries in which there are no comprehensive collective agreements. The reform of the posted workers' directive has been undertaken through the efforts of the legislative arm to get rid of this deplorable state of affairs so now remuneration of posted workers has to conform to all remunerative elements under national law AND collective bargains of

the recipient country. Yet the CJEU has already opened a new front: in the Čepelnik case it concluded that the Austrian law on combating black market working restricts freedom of services – it viewed the obligation to deposit €5000 in advance of any sentence as excessive punishment.

The European Commission signalled in the immediate wake of this judgment that it would examine member states' national regulations on putting the principle of 'equal pay for equal work at the same place' into effect as to their proportionality and, in the case of 'excessive penalties', commence treaty violation proceedings against the member states concerned.

The guiding principle as before is that protective measures for workers restrict freedom of establishment and/or services and therefore must be reduced to their very minimum. That spurs new business models such as letterbox firms, bogus self-employment and bogus posting of workers to fob off employees with the lowest possible wages. Despite all the fine treaty talk about various EU measures taking into account social aspects, EU internal market policy is as focussed as ever on deregulation, flexibilization, removal of effective controls and dismantling of preventive measures. In this entire complex trade union and collective agreements are still viewed as 'administrative barriers' and 'protectionist instruments'.

EUROPEAN PILLAR OF SOCIAL RIGHTS

EU policy was carried out from the start of the new millennium on the 'TINA' principle – 'There Is No Alternative' –, marked by inadequate acknowledgment of central socio-economic problem positions and human insecurities. Wages and social

dumping in this narrative are defined as sensible allocation of work factors. ‘What’s social is what creates jobs’.

The weakness of positive integration, i.e. deficient European employment- and social policy legislation, is one reason why neither fiscal competition nor social and wages dumping can be regulated effectively. The power of negative integration caused by CJEU rulings, Troika measures and the EU fiscal pact produces, on the contrary, a strong push for liberalization and inter-state competition. At the same time, it limits member state room for maneuver in enacting social and economic policy. Nation states may have lost their ability to shape policy domestically but this has not been compensated for at European level.

The Commission President, Jean-Claude Juncker, took office in 2014 with the promise of implementing social rights in Europe. The EU member states should now strive for a ‘Social Triple A’. The Commission has set in train its model of a social pact in the form of the European Pillar of Social Rights (EPSR). By explicitly embedding social objectives it should ensure that national welfare state achievements are not completely written off in favor of market-based competition requirements.

The proclamation of this Social Pillar in 2017 can be interpreted as an urgently necessary U-turn. It may, with member states’ political will, become the basis for binding rights at EU level. It is a binding declaration in international law on the part of the European Commission, European Parliament and European Council (along with member state governments) that the 20 basic principles set out in the Pillar will be enacted, embraced within three chapters, namely equality of opportunity and

labour market access, fair working conditions and social protection and inclusion.

These basic principles embrace important elements for creating harmonized European labor and social law. The Pillar's second important function is its potential protective role: in future member states may, vis-à-vis the CJEU, call upon the protective rights embedded therein whenever national labor and social law is being balanced against freedom of services and establishment. As an accompaniment, the Commission has set up a Social Scoreboard to operate in the European Semester with a set of 14 indicators regularly updating the state of play as regards labor market access, poverty risks and income inequalities. And target values rather than, as now, average values shall be enshrined.

Finally, the third impact is the political signal that the EU's social dimension should not just remain a patchwork of secondary law. The EPSR can be interpreted as the first step away from a purely competition-based union to one based on solidarity. Its success thereby depends upon how far the Commission itself acts bindingly according to the Pillar's principles.

This is all the more urgent because the Commission alone has the right to initiate EU legislation and is the core player within the new EU economic governance (fiscal pact, Two- and Six Pack). It thereby bears a great part of the responsibility for the success or failure of the EPSR and must be held to account for that. Right now, the problem is the breach of social rights through EU policy itself.

Therefore, the European Pillar of Social Rights may serve as the

basis for a more social approach but is not enough in itself to constitute a remedy for the threats to the foundations of the social model posed by internal market freedoms, competition law, EU debt brake, Troika and deficit procedures. The latter rest, unlike the EPSR, on statutory requirements that can be implemented by law or via sanctions.

SOCIAL PROGRESS PROTOCOL

The European Pillar of Social Rights must therefore be strengthened by an EU social progress protocol. The objectives of social progress and of equally balanced upwards convergence in economic and social outcomes must be set down within the framework of the EU Treaty. The ETUC and DGB in 2008 proposed a social progress protocol that would ban any deregulation of social and labor law via internal market freedoms. It came in the wake of several CJEU decisions on the relationship between the economic regulations in EU primary and secondary legislation on the one hand and basic social rights (especially the right to strike as protected by freedom of assembly and free collective bargaining) on the other.

This was prompted by 2007 CJEU judgments (Viking/Laval) that ruled that entrepreneurial freedom in the internal market, in case of doubt, is ranked higher than trade union rights.

In trade union eyes these and subsequent rulings award an unjustifiable priority to commercial internal market freedoms against the social rights of workers. The DGB and ETUC subsequently proposed the protocol. An appendix to the Lisbon Treaty should ensure that protective and worker rights should enjoy in EU law at least the same weight as internal market

freedoms. In case of doubt, basic social rights take priority. The form of a protocol was deliberately chosen because it can be appended to the EU Treaty more easily. All it needs is the ‘yes’ of EU heads of state and government. On the other hand, a treaty change would have to be approved in some EU countries by a referendum.

The DGB and ETUC proposal sets out in concrete terms what is understood by ‘social progress’ and formulates very tough, enforceable rights that may be introduced and at any time extended. That means *inter alia* the guarantee of the right to negotiate, agree and implement collective agreements and to take collective action. The protocol contains a non-regression clause in current EU secondary law and confirms the principle that problem positions and human insecurities ‘gold-plating’ is permissible.

It suggests that no treaty definition, especially economic freedoms and competition rules, should have priority over fundamental social rights and erodes the ‘three step test’ developed by the CJEU. This subjects every national measure to examination to see whether it is appropriate, proportionate and expedient in a way that justifies interference with one of the basic economic freedoms. Here the CJEU enjoys unlimited discretionary power which it exploits to the full. Practically, it is setting judges’ law in this area for as long as the EU lawmaker does not make good with offsetting protective rights.

Some legal experts reject such priority for employee rights by appealing to the law of considering co-equal, abstract constitutional rights according to the principle of proportionality. A counter-proposal brings into play a ‘de-constitutionalization’ or

a downgrading of internal market freedoms in secondary law and/or the exemption of workers' rights.

In trade union eyes an exemption is too meagre. CJEU legal rulings always engender a huge imbalance whenever they are about basic economic freedoms. In truth, the court's examination is bogus as even the constitutional rights within the European Charter of Fundamental Rights rarely figure. Workers' rights – like the right to information and consultation within a firm, to collective bargaining and collective action, to protection from unfair dismissal, to fair and decent working conditions – are in the DGB's view rights that derive from the European Charter of Fundamental Rights. With this human right an unconditional priority is constitutionally *de rigueur* without any consideration of other basic rights.

PROSPECTS

The painful Brexit process of the UK has brought the EU-27 closer together. The negotiations on it have exposed the seriously damaging effects going it alone can have on the economy and society of a member state. The low-point of the European Union – the exit of a member state – can yet become a positive impulse for agreement on a social progress protocol.

PLEA FOR THE DEFENCE OF THE EUROPEAN SOCIAL MODEL

BJÖRN HACKER

The EU has done a lot in the economic crises of recent years to save banks, promote competitive structural reforms and insist upon budget overhauls in member states. But it has done little to protect its social dimension, let alone sustain and extend it. Anyone wishing to support a social Europe is confronted with two challenges simultaneously: on the one hand, correct the economic bias of the EU that has existed since the start of the integration process, on the other, provide a convincing answer as to how to correct the injustices arising out of the deep social divisions of Europe in the wake of managing the crises.

WELFARE STATES IN COMPETITION

In 2017 the European Pillar of Social Rights (EPSR) was proclaimed after a prolonged withdrawal of anything ‘social’ from the European agenda over the years. This was a striking

effort to respond to the – quite properly – ever-louder questions from ordinary Europeans as to whether the EU is simply the catalyst for more pro-competition globalization or is capable of protecting them from it. With the Pillar of Social Rights, the member states were forced to concede a set of 20 principles for promoting equality of opportunities and access to the labor market (chapter I), fair working conditions (chapter II) and social protection and inclusion (chapter III). But these principles do not constitute mandatory, enforceable rights if these had not already been enshrined within the Lisbon Treaty – as is the case for gender equality and anti-discrimination. Because it is not set in primary law and given the sluggish development of secondary law in the social domain, the European Commission recently tried to inject the Pillar of Social Rights into the European Semester. But this initiative has to battle against the predominance of budget surveillance, now even more firmly anchored since the structural reforms of the euro crisis, within the Stability and Growth Pact and the Fiscal Compact. The ‘constitutional asymmetry’ (Fritz W. Scharpf) between a strongly developed, market-creating economic integration and a relatively lagging, market-shaping social integration still holds true.

The EPSR will, therefore, not suffice, as a temporary bridge of political coordination in the shadow of economic integration plans, to restore sight to the blind social eye of the EU. That would require an end to the second-order treatment of social policies at Community level. A multitude of social policy actors have been busiest in recent decades in protecting the social gains of their respective national welfare states from the changes wrought by market liberalism. They thereby failed to extend their defensive strategy with a pro-active element at EU

level. This meant that the big integration projects of the Single Market and Economic and Monetary Union (EMU), with their primarily market-creating structure, led to ever-greater pressure on national employment and social policies. By the time of the euro crisis at the latest it was obvious that a pro-active strategy for defining and implementing social targets at European level was/is required. For the alternative is the further undermining of national welfare states via the demands of an economic integration framework that is set on market expansion, political non-intervention and competition. There should be no more rivalry among welfare states as to which model is best adapted to the market. No more treating the integration process uncritically as the catalyst for a globalization driven by financial markets.

Social Europe cannot come about through a competitive race to harmonize welfare states according to the principles of deregulation, privatization and greater flexibility as the apologists of the Third Way tried in their push for modernization in the 1990s and 2000s. They were sure then of being applauded by all those who wanted to further reduce decommmodification ('degree to which individual, or families, can uphold a socially acceptable standard of living independently of market participation') to the objective 'social amounts to job-creating' (as one could still read in the CDU election manifesto of 2017). The solution does not lie in holding fast to national rules while simultaneously hoping for less pressure through market-creating structures. A twin strategy alone points the way forward: protection of extant national employment and social protection standards comes through establishing a European social policy framework. This framework must, however, be

endowed with sharper teeth than what passes for employment and social policy coordination today. Of course, in 2000 the original version of the Lisbon Strategy embraced the goal of a twin obligation to foster economic growth and competitiveness as well as social security and cohesion. But the established coordination mechanisms have proven too weak to resist the shift to a market-liberal *Zeitgeist*. At EU level social policy has increasingly been treated as a burdensome appendage and obstacle to increased competitiveness. At most it was seen as playing a part in creating a level playing field in the area of anti-discrimination, cross-border portability of social benefits and aftercare for those at risk of poverty. In the euro crisis, even this aspect collapsed – the increase in being at risk of poverty was simply taken on board in austerity policies.

CHERISHING THE EUROPEAN SOCIAL MODEL

The good news about constructing social Europe is that there is a common basis, a type of ‘elective affinity’ (Colin Crouch) among the often very different welfare states. They make up the characteristics of the European social model. They include – whatever the welfare model but quite distinct from many other parts of the world – a pro-active regulatory state; protection under labour and social legislation for employees and collective bargaining; social protection from the important risks of life associated with old age, unemployment and sickness; avoidance of poverty; a social security system built on taxes and contributions; the use of financial redistribution to retain social cohesion. These particulars mark the European social model as such. Its core characteristic is the long historical struggle for social security, for regulating and limiting market forces as well

as guaranteeing and institutionalizing 'welfare rights' (Thomas H. Marshall). Absent this historic pathway that has been closely linked with the workers' movement since the age of industrialisation, there are strict limits to setting up comprehensive welfare systems. This is not only the case in developing and emerging countries but also in developed economies – just think of the long, apparently unending row in the US about introducing obligatory health insurance for all Americans ('Obamacare').

For non-European countries the European social model is a success story. But in the EU it's little appreciated. Since the ground-breaking work of the sociologist Gøsta Esping-Andersen on the three worlds of welfare capitalism came out in 1990 experts have stressed the differences among European welfare states. At the same time and under pressure from advisers steeped in financial markets, media campaigns and the search for cost-cutting modernization, politicians have set about running down the institutional variety and shared characteristics of this success story and, step by step but radically overall, amending it. There was no single procedure and dismantling the welfare state, its apparently unavoidable re-commodification, was not equally successful in all EU member states. Of course, countries started out on their reform plans from differing levels of social protection: while Great Britain had long been geared to a high level of market reliance, the Scandinavian states retained their universalism through moderate adaptations. Central and east European countries picked and chose from the toolbox of the welfare state those elements that best suited them – albeit by and large moving towards the liberal model since comprehensive social security had too many

connotations with the socialism which they had just left behind. Corporatist welfare states with their Bismarckian social insurance systems proved stubbornly resistant: in Germany the social democrats finally took the lead and, in the 2000s, introduced greater flexibility to the labor market and partially privatized the pension system and services of general interest. In Austria, on the other hand, the same attempt, undertaken by the ÖVP-FPÖ (centre-right/far right) coalition under Wolfgang Schüssel, was beaten off by opposition from the trade unions and social democrats. In France, a few minor reforms took place under conservative and socialist aegis, but it was only under Emmanuel Macron's presidency that one could observe a distinct shift to the Third Way of Schröder/Blair-ite social democracy – dead and buried elsewhere. Countries in southern Europe, long since classified as rudimentary welfare systems with their strong role for both family and church, after a promising promotion to the league of corporatist welfare states, with strong social partners and social insurance, eventually went into reverse because of the austerity policies brought on by the euro crisis. Today, for many jobless and socially excluded in Spain, Portugal and Greece it's once more the family that has to step into the breach with support where the Troika has cut social security to the bone and shredded protection against unfair dismissal and collective wage contracts.

AGREEING ON A EUROPEAN SOCIAL PROTOCOL

Social Europe can only transpire when the evolved systems of regulated market activity and social insurance are recognized as European unique selling points (USPs), as the distinctive expression of pro-active policies. Allowing the member states to

set their own priorities in line with their diversified welfare systems, to protect these and, at the same time, set the strategic guidelines for a Community-wide social model – that would be a seminal task at supranational level. There will not be a single European social system in the near to middle future – albeit a pooling of earmarked funds via comparable forms of institutional investment is feasible as currently discussed in the case of a European unemployment (re)insurance scheme for the euro-zone. But this would mean less of an institutional communitarization and more a variant of (re)distributive European social policy that would depend on the business cycle and therefore remain temporary and would thereby be clearly differentiated from the pursuit of strategic goals through the European social and globalization funds.

With regard to regulatory and co-ordinated social policy, political decision-making means an active effort to mitigate the asymmetry between market-creating and market-shaping dynamics in integration. As soon as possible the EPSR should be assimilated in its entirety within the Treaties. If this fails because of resistance from individual member states, the model – successfully applied in the Maastricht Treaty – of a European social protocol for a small group of states should be set in train. Drafts of such a social protocol are available: as early as 2008 the European Trade Union Confederation (ETUC) published a draft ‘social progress protocol’. This is about a protocol-like declaration added to the EU Treaties. It has the characteristics of primary law and lays down that in all member states social and worker rights have at least the same status as the four freedoms of the single market for goods, workers, services and capital. Incorporating the EPSR within EU primary law would, first,

lend support to secondary law initiatives in the social field begun by the European Commission since the proclamation of the Pillar of Social Rights, such as the establishment of a European Labour Authority (ELA), working for more transparent and reliable working conditions or access to social protection for employees and the self-employed. Second, that would at a stroke, within the coordination framework of the European Semester, put it on a par with the economic policy procedures of the Stability Pact and Macroeconomic Surveillance. Beyond that, there would be a push towards greater democracy since the European Parliament could be involved through the normal legislative process more intensively in the expansion of the social dimension.

SETTING MINIMUM SOCIAL STANDARDS IN THE EU

Policies to preserve and extend the European social model should take their place directly within EU coordination cycles. Treaty changes would certainly be the most comprehensive and clearest solution. Yet it is also right in the operational business of annual policy coordination to make good the missing balance between economic and social objectives. The EPSR basic principles are now monitored via a Social Scoreboard marking the development of income inequality, risk-of-poverty, employment rates and social benefits among many others. But the benchmark is simply set by the relevant EU average score. This can mean that a bad performance of all member states can award an outstanding mark to an objectively problematic but relatively well-positioned member state. But that makes little sense if one, as the Commission emphasises, wishes to breathe new life into the old promise of upward social convergence and

make genuine social progress. What is required therefore is an agreement on quantifiable minimum social standards and targets. And a 'one-size-fits-all' solution as in the days of the open method of coordination ('soft laws') in the Lisbon Strategy can be ruled out: the institutional and socio-economic differences among the member states should be taken into account along with a percentage-based scale based on national variables. These include:

- A framework for a normative minimum wage of 60% of relevant national median earnings;
- a framework for basic income support, with benefits set according to the relevant national poverty rate;
- a framework for the provision of per capita social expenditures that match the long-term development of GDP;
- implementation of the long- and fruitlessly discussed Common Consolidated Corporate Tax Base (CCCTB) with minimum fiscal parameters based on current economic development status.

Such a cluster of social targets and minimum standards could take the place of the soon-to-end Europe 2020 Strategy and prevent types of dumping in wages, social benefits and corporate taxes. The goal is clearly defined: welfare states should no longer be played off against one another in competition for the best market position. Competition should take place among companies offering the most innovative and keenly priced products and not between welfare systems.

Social targets as the defining framework for the European social

model are, indeed, merely one important component in breaching the current predominance of economic, especially budgetary coordination efforts. The tone is set in the European Semester by the council of economic and finance ministers (ECOFIN). They decide quite straightforwardly over topics for coordination in the fields of old-age pensions, health provision or labour market policy. Since finance ministers keep their eye firmly fixed on their national budgets, an economic reading of social policy goals – such as the Europe 2020 Strategy – has become the norm. This was taken to the extreme through the tightening of the Stability Pact and, most of all, in the adjustment programs for countries in crisis. Yet that should not remain the case. The structural discrimination against the council of employment and social affairs ministers (EPSCO) in the governance structure of the EU could readily be removed. Improved coordination on economic and social topics could be reached in joint sittings of both council bodies that could equitably resolve trade-offs between economic and social points of view. The precondition for this, all the same, is that employment and social affairs ministers must take on a much stronger profile as stakeholders, meet more often and take up the cudgels not just on dossiers of EU legislation but on developments in individual member states.

The key issue here is that social policy actors – appropriately organised parties, trade unions and welfare organisations/charities alongside the ministers – behave far too reactively, too modestly, sometimes even too slowly and are uninterested in reaching a European position. The Lisbon and Europe 2020 Strategies beforehand and now, to a greater extent, the Pillar of Social Rights offered and offer information on a silver platter

about the social breaking points on the continent. A more intensive use of the rankings available through the Social Scoreboard of the EPSR on the societal health of the Union and its members should be a core task for social policy actors. This exercise would not just be confined to the Brussels and Strasbourg bubbles: national parliaments above all must regularly broach the issue of progress or otherwise in indicators and the gap to targets specified either at European or national level.

IMPLEMENTING A SOCIAL STABILITY PACT FOR THE EUROZONE

The social cleavage in Europe rose significantly through the euro crisis and a mode of crisis management fixed far too long and one-sidedly on austerity policies. Closing social divides in Europe therefore demands a special focus on economic and monetary union (EMU). The lesson to be drawn from the euro crisis and its mismanagement is to avoid any deflationary policy in future economic downturns and keep in view the social impacts of the crisis and its management. To stem susceptibility to asymmetric shocks, member states should closely agree among themselves not only on spending policies but also on fiscal, social, labor and wages policies in the EMU. Eurozone states should therefore reach an understanding upon a Social Stability Pact. This would link objectives in the European Pillar of Social Rights that are relevant to EMU to a procedure against social imbalances once threshold values (yet to be decided politically) are exceeded or undershot in the Social Scoreboard. Equivalent to the excessive deficit procedure in the Stability and Growth Pact and the Macroeconomic Imbalances Procedure (MIP), a mechanism would be created

for monitoring and penalizing social divergences within the member states.

The ending of the subordination of social goals under budgetary rules should not result once more in a return to the long-standing practice of treating different coordination cycles as parallel to each other without any mutual points of contact. To achieve a new balance between budgetary and macro-economic coordination on the one hand as well as social and employment policy coordination on the other, the Stability and Growth Pact should be amplified by a golden rule on the exclusion of social investments from deficit procedures. In the discussion about EMU reform, planned instruments – such as the ‘reform delivery tool’ and the ‘investment stabilization function’ – should from the start, when it comes to their functionality and design, be tailored to EPSR targets set out specifically within the Social Stability Pact.

The core of this macrosocial governance must be the same as that for macroeconomic coordination within a renewed macro-economic dialog in the eurozone. Employment and social affairs ministers, sitting alongside social partners and the European Commission, will join on equal footing with eurozone economic and finance ministers. Decision-making powers will remain of course with parliaments.

CONCLUSION: GIVE EUROPE THE POWERS TO SHAPE POLICY

In the interplay of creative policy-making in the economic and social area, it would clearly not be enough to extend the EU or even just the eurozone socially. At the same time, there must be

change in the market-liberal character of large-scale integration projects – following the motto: ‘there is no right life in the wrong one’ (Theodor W. Adorno). Loading the governance framework with social phrases is only of limited use so long as the market-liberal design of the grand economic integration projects remains uncorrected. Therefore, all actors involved in the expansion of the European social model should be more strongly aware of the links between economic and social integration. The European Pillar of Social Rights does create possibilities as to how Europe could become more social but the decisive argument as to whether the European social model adopts a market-liberal or more solidarity-based guiding principle is taking place in highly controversial questions on imposing limits on tax competition and wage-dumping, cross-border insurance for workers and the transformation of the eurozone from a stability union into a fiscal union. Reforming the EMU requires elements of transnational liability in any emergency situation and/or its prevention through a completed banking union, an automatic stabiliser – on the lines of a European unemployment (re)insurance scheme or a eurozone budget – as well as closer economic policy coordination. The focus here must shift from the ‘one-size-fits-all’ fixation about public deficits and debt levels to a comprehensive coordination of macroeconomic decisions and employment and social policies that takes full cognizance of specific developments in the member states.

The expansion of the so far non-binding Pillar of Social Rights to a European Social Protocol endowed with minimum standards and a Social Stability Pact mirroring the economic coordination cycles established within the EMU would be sufficient

answer to the twin challenge of the acute social division of the continent and the basic asymmetry of integration. Along with reforms of economic integration the defense of a European social model based on solidarity would give the opportunity to replace the predominant pro-market ethos with a new initiative for Europe as a creative political power.

PART 2

ACTIVE INDUSTRIAL
AND INVESTMENT
POLICY AS
PRECONDITION FOR
ECONOMIC
DEVELOPMENT, WORK
AND PROSPERITY

THE REDISCOVERY OF GOVERNMENT INDUSTRY AND ACTIVE INVESTMENT POLICY FOR A SUSTAINABLE FUTURE – WHERE DOES EUROPE STAND IN THE GLOBAL POLICY COMPETITION?

KURT HÜBNER

STARTING POINT

Industrial policy was long viewed as anathema. After the concept of ‘industrial policy’ was first politically and then academically discredited during the 1980s it became virtually impossible to make the political case for it. In the torrent of radical pro-market currents of thinking the idea that markets required social underpinning as well as political signals and interventions was branded as out-dated thinking. The argument went: why should political players know more than market actors when we're talking about viable and sustainable structures of production. ‘Picking winners’ became synonymous with state interventions that inevitably produced market disruptions and misallocation of resources.

In the words of the German Council of Economic Experts:

Whenever structural transformation can be seen and

technological changes loom the calls for industrial policy interventions get louder...Often these calls get coupled with pointers to the supposedly successful industrial policy of other states...To be lastingly successful, however, an innovation hub should abandon any directional industry policy that views it as a government task to single out markets and technologies of the future as strategically important...It is unlikely that politicians possess reliable knowledge and expertise about future technological developments.

In economic theory it's hard to justify it but the concept behind industrial policy of market failure is very well-established. From as far back as articles on information theory in the 1970s we know that so-called asymmetric knowledge-possession can lead to erroneous choices with the result that the famous 'markets for lemons' can hold sway: less 'good' products and services leave no place for 'better' offers. This implies that economies may exhibit suboptimal structures of production because not all potential innovations are activated.

It is also rightly and empirically – as well as theoretically – well-established that markets and market actors in capitalist systems generate an enormous dynamism and rapid technical progress. Market-driven sectoral change is unquestionably *the* mark of a capitalist regime. This dynamic is, of course, no guarantee of either a stable and sustainable growth path nor of socially acceptable sectoral change. And this dynamic provides no automatic guarantee that market economies will benefit in the same way from it. In an analytical perspective there is a lot to be said therefore for industrial policy interventions by the state.

One cannot dismiss out of hand all political objections to

government industrial policy. It is well-known that industry policy may hold up as well as foster structural change, especially when it takes the form of maintenance subsidies. A well-known example is shown by the widespread subsidies for fossil fuels that prevent climate-friendly structural change to zero-emissions forms of energy. If you define industrial policy as encompassing all state interventions in sectoral change then there is good reason why industrial policy (i) is used everywhere as an economic policy tool and (ii) is relevant as a political market intervention. This is especially true when it comes to the field of innovation policy where, for example, the Anglo-Italian expert Mazzucato has demonstrated empirically that government activities played a critical role in the formation of innovative products and processes. It's also theoretically valid that specific types of innovation that are of net social benefit are rather sub-optimally market-generated. Government interventions in the cost-benefit analysis of private sector innovative processes may help avoid such under-production. What's more, government innovation policy may set the direction of innovative processes which is becoming ever more important in conditions of global technological competition.

In an earlier essay I argued that industrial policy may well have had a bad reputation but, practically and empirically, it remains the case today that all economies practise one or another type of industry policy. This also holds true in a European context for the European Union (EU) which has been given stand-alone industrial policy competences under the Maastricht Treaty. Explicitly mentioned is 'strengthening the competitiveness of the Community's industry' and, in one of the many communications of the European Commission on industrial policy in

conditions of globalization and technological change, it is stated:

It is essential to increase productivity in manufacturing industry and associated services to underpin the recovery of growth and jobs, restore health and sustainability to the EU economy and help sustain our social model. Industry is therefore at centre stage of the new growth model for the EU economy as outlined in the Europe 2020 Strategy.

Of course, the EU and its member state economies are miles away from a socially and economically sustainable growth model.

INNOVATION RACE

Industry policy may be anathema in market liberal circles but, empirically, it goes without question that this tool is widely used. In one form it is *defensive*, where the question is to stop or at best delay technology-driven sectoral structural change. A current example is the Trump Administration's support policy for coal in the USA and even the pit-closure program in Germany can come under this heading. The prime aim here is to protect established industries and preserve jobs even if the economic fundamentals have actually rendered these sectors obsolete.

In another form there is a type of *offensive industrial policy*. Here it is about seeking out, in a period of risk and uncertainty, new fields of technology, fostering them and generating likely new sectors and employment relations. This type of policy can offset

market failure by supporting technologies whose potential social rate of return is above the private equivalent. What's more, an offensive industry policy can propagate fields of technological application that are rated as too insecure and risky at any given point by the private sector. And, finally, industrial policy also includes the active identification and promotion of basic innovations and related potential product and process innovations.

Especially in a period of far-reaching technological upheaval, markets need specific incentives and settling-in measures to quit the old growth paths and switch to new ones.

That kind of constellation exists today. Borne by so-called General Purpose Technologies (GPTs) and propelled by new business models, processes have been activated that are devaluing established segments and products and introducing new production standards as well as products and services. The huge pressure to adapt and change generated by GPTs places demands on the business sector to show the capacity and willingness to grasp market opportunities and bring the required organisational changes and, above all, creativity to bear in embracing transformative technologies. By definition GPTs have a huge potential for application and exploiting this potential to the full is what counts. Defensive industrial policy cannot promote such change. Offensive industrial policy, on the other hand, must connect much more strongly with the movers of innovation policy and thereby promote intelligent specialisation profiles. Market actors alone, the thesis runs, cannot manage such change either sustainably or in a socially and ecologically acceptable manner. In economic policy praxis it's mostly about ensuring top spots in the global inno-

vation race and not about the transition to sustainable growth paths.

Europe's position in the global innovation race can best be described as mixed. If you consult, say, the *Global Competitiveness Index* of the World Economic Forum (WEF) that gives weightings to different institutional and politico-economic factors that help determine the development of productivity, then you'll find straightaway 11 EU economies among the top 25; then a dozen EU member states in the following rankings (26-50), including as big an economy as Italy's at 31st. In its 2018 report the EU's *Innovation Scoreboard* concludes that the EU as a block occupies 6th place after South Korea, Canada, Australia, Japan and the USA. It is also stated there that the EU is losing its relative advantage in innovativeness vis-à-vis China – starting from a low level. The picture is further mixed in so far as there are big intra-EU differences with regard to innovativeness. Behind a small group of *Innovation Leaders* (Sweden, Denmark, Finland, The Netherlands, Great Britain and Luxembourg) comes a group of *Strong Innovators* (Germany, Belgium, Ireland, Austria and France). Around a half of member states rank as *Moderate Innovators*, with Bulgaria and Romania bringing up the rear. This heterogeneity appears to be a structural feature of the European economic space and points to the exclusive character of its economic model: A small number of economies is institutionally ready to take on innovation opportunities while a bigger number lag behind the innovation train.

This discrepancy reflects the specialization profile of a national economy and, herewith, the way it is integrated into the international/European division of labour. European innovation laggards are mainly enmeshed in *supply chains* that do not serve

to promote autonomous efforts in innovation. Overall it is the case, however, that EU economies operate within the middle technological area and, within that, exhibit in international terms the highest R&D expenditures (as a share of GDP) after Japan. In regards to high-tech sectors, the EU already is behind China as the EU R&D scoreboard from 2017 shows.

This traditional strength is no longer sufficient in an era of rapid technological change to keep up in the international technology race, as the European Commission declared in 2018:

...compared to their non-EU counterparts, EU companies outperform or perform comparably in size (of R&D and sales) and R&D intensity (ratio of R&D to net sales) for Aerospace & Defence, Automobiles and Pharmaceuticals. But in Biotechnology, Software and IT hardware the EU shows persistent weaknesses in most indicators. The EU gap in these three sectors has widened over the last 10 years.

These findings can be somewhat refined if one disaggregates the data further and looks at company level. Here, for a long time, one can see a high degree of concentration of R&D in a small number of firms whose leadership position is admittedly contested and indeed overwhelmingly by newly emergent technology leaders from the USA and China.

It also looks rather poor when it comes to R&D spend within European economies. The EU has, as we know, set itself the target of 3% of GDP but still remains very far from this goal. This is especially worrying given the efforts made by competitors. Japan and the USA out-perform the EU throughout this period and since 2015 China has caught Europe up. Europe is

under innovation pressure. How well-prepared is the European economic space to handle technological revolutions and heightened international competition?

INDUSTRIAL POLICY PROFILES

In a Schumpeterian perspective successful technology-driven structural sectoral change requires private investments **and** disinvestments: creative destruction. The role of government industrial policy is to stimulate and accompany both processes while withdrawing support from no longer competitive sectors and offering it to emergent processes. But, first and foremost, it is market-induced private sector investments that feed capital accumulation and drive forward the modernization of production processes. Investment decisions are always ones whose effects reach into the future and, accordingly, are influenced by today's expectations. In 'normal' periods these expectations are little more than updates of the most recent past. But that is not true in times of technological upheaval and economic uncertainties. It is hardly surprising then that, in the wake of the global financial crisis, investment ratios in terms of gross fixed asset investments against GDP went backwards. For the EU-28 the rate of investment on average during the period 2000-2009 reached 21.9% before falling back between 2010 and 2014 to 19.7% – and by 2018 it had not reached the level of the pre-crisis period (at 20.5%).

Stagnation of the ratio of private investment is, to put it cautiously, unhelpful for accelerated structural sectoral change. Political initiatives such as the European Fund for Strategic Investments ('Juncker Plan') start off at this weak spot without

developing any momentum, not least because of a lack of focus on core sectors. Strengthening European industry's competitiveness did not just start as an economic mission with the Juncker Plan. Back in 2010 the European Commission published the communication 'An Integrated Industrial Policy for the Globalization Era Putting Competitiveness and Sustainability at Centre Stage', which promised no less than the revival of competitiveness that was already viewed as in jeopardy. The linked package of measures was then, given its minute success, renewed in 2017 as *EU Industrial Policy Strategy*:

...in a changing world with increasingly competitive global markets, our industry must adjust and adapt to remain ahead of the curve. This requires modernisation: embracing digitisation and technological change, integrated products and services, the development of less polluting and less energy-intensive technologies, the reduction of waste and investments in a workforce with the right skills.

Such goals are easier to put in words than to realize. In the end, reaching them rests on national sectoral structures, the pace of sectoral change and actual innovation capabilities. *National* economic structures and policy are more relevant here than EU programs, including because government policy has more competence and, above all, can mobilize more budget funding. Nevertheless, the industry policy pursued by the EU is not without significance. Industry policy in Europe can most appropriately be described as a specific form of multi-layered policy in which programmatic initiatives and interventions from the EU, national governments and sub-national bodies such as federal states, territories, provinces and so on can be brought to

bear. If coordinating these various levels proves successful, then EU initiatives can indeed generate the right kind of impetus. But this coordination cannot come about automatically, including because national industrial policies vary a lot. Aiginger & Sieber (in *The Matrix Approach to Industrial Policy*), for example, on the basis of four industrial policy instruments (subsidies, tax incentives, regulations, innovation support), distinguish six *industry policy clusters*. A cluster of small northern countries (Sweden, Finland, Denmark); a cluster of big mainland European countries (Germany, France); a cluster of small mainland European countries (Belgium, Austria, the Netherlands); a cluster of peripheral southern European countries (Spain, Portugal, Greece) and one consisting of Great Britain and Ireland. One might add a seventh cluster of catch-up east European countries. Each of these clusters has its own quite specific toolbox and is connected to EU programs very much in its own way. This makes it correspondingly hard to speak of *one* European industrial policy. And there are variants within each cluster. Thus, French industrial policy for a long time had a unique selling point in its focus on *national champions*. It might be exaggerated to speak of French *dirigisme* and German *ordoliberalism* as Warlouzet proposes (in *Governing Europe in a Globalising World*) but it is right that both countries pursued very different concepts of industry policy in the past. In the German variant for a long period tools such as subsidies and direct/indirect tax incentives like innovation support predominated. In France government industrial policy intervenes directly in market activities, including via nationalization, to build up companies that have less potential to dominate the market in key sectors.

This industry policy panorama becomes even more variegated if you include non-European competitors. The US as global technology leader embodies the ideal type of a *liberal market capitalism* that is essentially governed by the market. Even so, government industrial policy plays a central role, above all through public procurement in the military area as well as targeted support for basic research in selected universities, with the results then taken up by private sector actors thanks to an innovation-friendly financial services environment. Japan and South Korea long pursued a highly active industrial policy in which government ministries directly co-operated with selected firms. In both cases this industrial policy approach has, all the same, retreated in recent years to be replaced by an indirect and increasingly direct support for basic research in which the state takes on a coordinating as well as steering function. China, meanwhile, banks on its centralized state capacities which enable it to set very ambitious goals technocratically and go about them by directly allocating funds. The industrial policy program, 'Made in China 2025', has in mind no less than making China a global technology leader by 2049 and making itself non-dependent on technology imports. 'Made in China 2025' is meant to be the first step and to give the country a leading place in ten key technologies. To reach such targets the Chinese state is opting for a broad palette of technology imports that opens the door for Chinese businesses to cutting-edge technologies.

These various industry policy profiles by and large reflect specific national courses of development that have taken shape over a longer period. Not all of these policy courses prepare one for today's challenges from fundamental technological disruptions and the simultaneous tightening of global technology

competition. This holds especially true for the varieties of European industrial policy which still move in established policy channels and pursue defensive rather than offensive strategies.

OUTLOOK

Industrial policy is not only back on the agenda but also practised politically. In the USA industrial policy proceeds under the banner 'America First'. This project is a combination of radical deregulation, trade policy protectionism and unilateralism as well as selective support for industry sectors such as steel and aluminum and, what's more, upstream activities like coal-mining. This type of industrial policy is predominantly defensive and attempts to protect US interests against foreign competition. In Germany, then again, the Federal Ministry for Economy and Energy has set out a 'National Industrial Strategy 2030' which pulls together strategic guidelines for German and European industry policy. This strategy proposal can most reasonably be interpreted as a *French twist* since it puts forward a break with traditional industrial policy by looking to promote the formation of national and European champions. With explicit reference to the disruptive character of current technological upheavals and increasingly global technology competition, the goal is to build up the (internationally relatively high) share of industry in German value-creation to 25% and raise it in Europe to 20% by 2030. Industrial and technological sovereignty is meant to be assured primarily by supporting basic innovations like Artificial Intelligence that are critical for the future.

Both forms of industrial policy are designed to improve the competitiveness of the home economy in their own way. The German variety is forward-looking on the whole whereas the American one is much more geared to conserving existing structures. Of course, the 'mission-oriented' version proposed by German economy minister Peter Altmeister does not come without problems. This type of industrial policy demands, according to experiences assembled by Mazzucato, 'bottom-up experimentation, and learning, so that the innovation process itself is nurtured through dynamic feedback loops and serendipity'. The promotion of national and European champions in this version is not a promising gambit. Sustainability and social inclusion along a new growth-path demand instead a broad-based and deep integration of innovation processes that, so to speak, can be pursued by a wide range of innovative actors. A new economic course devoted to eco-social sustainability may well need an industry policy but also a broad-based policy offensive in areas such as education and further education, fiscal measures, that would support productive and eco-social initiatives and above all, it needs to embrace the voices and encourage the participation of civil society actors.

INDUSTRIAL POLICY NEEDS TO BE AT THE TOP OF THE EUROPEAN AGENDA: A CALL TO THE NEW COMMISSION

LUC TRIANGLE

CHALLENGES AHEAD

Since the Juncker Commission took office on November 1, 2014 we have seen the European economy growing as a result of a general recovery after the ‘Great Recession’ of the years 2007-2013. The upswing has also created 12.6m new jobs, with a positive impact on unemployment: in absolute terms the number of unemployed in the EU dropped from 26m in 2013 to 16m in 2019 while the unemployment rate fell from 12% to 7%. Maintaining the pace of job creation of the previous years would mean that the EU would almost be in a situation of full employment by the end of the mandate of the next Commission.

However, it seems that after seven years of recovery we are approaching the peak in the business cycle. Indeed, European economies have started to slow down. While in 2017 3.5m new jobs were created, this number will drop to only 1m in 2019

Moreover, the financial crisis left deep scars that have yet to be healed: unemployment is still unacceptably high in the south of Europe, income inequality and the number of working poor are on the rise, wage growth has been weak, economic convergence has come to a halt and the divergences between the north and south of Europe as well as between west and east are endangering social and economic cohesion. Manufacturing in particular was hit hard by the financial crisis as it was also only in 2017 that industrial production returned to the pre-crisis level of 2008. Although 1.6m manufacturing jobs have been created since 2013, this is far below the 4m industrial workers that lost their job during the crisis.

But it is not only the short term that matters. For an industrial trade union, it is important to develop long-term visions and strategies so as to find answers for the many structural challenges our industries are facing. Most of the mega-trends we have to confront such as globalization, ageing population, digitalization, a low-carbon economy, the energy transition, climate change mitigation and growing inequality were already there before the beginning of the Juncker Commission. These challenges are still there but we can nevertheless identify a number of new developments:

- The Paris Agreement was signed in 2016 and resulted in more ambitious European climate plans. It was followed by the publication of the Special Report on Global Warming of 1.5°C by the Intergovernmental Panel on Climate Change in October 2018, which was profoundly disturbing. It put the protection of our planet at the top of the political agenda as it stressed

the urgent need for action with its conclusion that we have only 12 years left until 2030 to avoid irreversible consequences of climate change.

- The UN Sustainable Development Goals (SDGs) were approved in 2015 and offer a shared blueprint for sustainable development at a global level. The EU has now to face the challenge of integrating them in its decision-making processes.
- Growing concerns about the digitalization of the economy and its impact on jobs. ‘Industry 4.0’ turned into a new buzz word. Artificial Intelligence (AI), the creation of an ‘Internet of Things’ and the roll-out of 5G have become important new challenges for industrial policy.
- The concept of a circular economy has emerged very rapidly.
- Despite many flaws in the design of the EMU, the EU failed to deliver on the ‘deepening of the economic and monetary union’. Although still required, insufficient progress has been made to make the eurozone more resilient to economic shocks.
- The rise of economic nationalism (Brexit!) and looming trade wars.
- At the same time authoritarian populist parties are thriving and their misleading narrative is proving very convincing for ordinary people.
- A growing divide between left-behind regions and well-developed urban agglomerations.
- An increasing segmentation/polarisation on the labor market and the emergence of a new informal economy/‘the precariat’ in the gig economy.

- The growing impact of China on the global economy.

HOW THE EU REDISCOVERED INDUSTRIAL POLICY

Since the turn of the century the European Commission has rediscovered industrial policy. Throughout a long series of Communications (official policy papers) the European Commission tried to define a contemporary industrial policy for the newly created internal market, while at the same time taking into account new challenges such as climate change, energy transition, digitalization and globalization. This led to a gradual reawakening of the need for industrial policy in Europe and clearly showed the renewed commitment of the Commission – after decades of silence – to protecting and strengthening Europe’s industrial base and tackling the deep structural changes that industry is confronted with. Industry is now recognized as a motor for social, ecological and economic progress. In 2010 industrial policy was a flagship initiative of the Europe 2020 Strategy. In 2012 the then Commissioner for Industry Tajani launched the ambitious objective of increasing the share of manufacturing in GDP from 16 to 20% by 2020. The outgoing Commission further put industrial policy at the top of its agenda as out of ten key priorities it identified six were related to industrial policy.

The Commission focused on key topics such as strengthening the internal market (the capital markets union, the tax avoidance package), preparing industry for the digital age (the Digital Single Market Strategy, the Digitising European Industry initiative), investment (the Juncker Investment Plan), building leadership in the low-carbon and circular economy (the Energy

Union, the Circular Economy package), supporting the transformation of industry (sectoral action plans for steel, space, rail supply, automotive and defense), ensuring a global level playing field (the ‘Trade for All’ communication). These initiatives show that the European Commission no longer shies away from industrial policy. There is clearly a renewed commitment to protect and strengthen the industrial base of Europe and to take into account the specific needs and characteristics of individual sectors. The following paragraphs provide an overview of the most important levers that should put the EU on a sustainable road to full employment by the end of the next Commission’s mandate.

INVEST IN A LONG-LASTING AND JOB-RICH RECOVERY

During the crisis the eurozone came close to breakdown. Emergency measures had to be decided to reinforce its resilience, such as deregulation of labor markets, Banking Union or the European Stability Mechanism. ‘Internal devaluation’ was imposed on workers in the countries hardest hit by the crisis. After almost seven years of harsh financial and economic crisis (2007-13), the EU has been in a more lenient macro-economic environment for the past six years. As current economic growth is sluggish and the risk of a new recession cannot be excluded, the foundations for steady growth and long-term recovery must be strengthened. Moreover, market forces, if left uncorrected, lead to a concentration of economic activities and to income inequality. Reducing economic divergence and ensuring upward social and wage convergence should be part of the DNA of the European project. Achieving full employment will require increasing private and public investment (the latter is

still far below its historical average), promoting internal demand by increasing wages in line with productivity gains, reducing (in-work) poverty and enhancing social protection. It will also require rebalancing the focus of structural reforms by moving away from deregulating labour markets and by boosting areas of social relevance like skills, collective bargaining systems and secure employment contracts. What's more, further deepening of the EMU needs to be supported in order to reinforce its resilience to economic shocks and avoid harsh austerity policies in future (e.g. creation of a macro-economic stabilization function). European economic governance (the European Semester) also needs rebalancing by not only focusing on public deficits and cost competitiveness but integrating the social dimension as well. Finally, full employment should be integrated within the mandate of the European Central Bank (ECB).

SUPPORT GOOD JOBS IN A THRIVING INDUSTRY

The current economic recovery has created a window of opportunity to restore the fabric of Europe's industry and to tackle its multiple and unprecedented challenges. Industrial policy has to take the lead in keeping Europe's industry at the cutting edge of technological progress, providing solutions for societal challenges and defining directions towards new paradigms which do not arise spontaneously from market forces (the Internet, GPS, a decarbonised economy are outcomes of public policy). Developing world-class technological capabilities and promoting an economic growth model based on the SDGs will position industry in areas where Europe is and can be at the forefront globally. All this will require targeted action plans for

all sectors that are of strategic value or confronted with structural change. Industrial policy should systematically enhance Europe's presence in the value chains of the future such as connected, clean and self-driving vehicles, batteries, hydrogen technologies, smart health, low-carbon manufacturing, AI and microelectronics.

Reforming Europe's competition policy will be key for fostering industrial collaboration along the value chains and in support of our climate objectives. At the same time, Europe's competition policy should not lead to the destruction of integrated value chains or impede the creation of European champions. Another important challenge for the next Commission is to make green/innovative public procurement a fully-fledged tool of industrial policy. Furthermore, the creation of a real European capital market should make it possible to provide sufficient scale-up funding for fast-growing innovative companies. Especially at later-stage funding, Europe is lagging behind which explains why many of its successful companies are taken over by foreign competitors (of the 40 biggest global companies, only five are European). Finally, we need to promote the regional dimension of industrial policy. The growing gap facing regions with poor development prospects and an increasing 'no future' feeling has led many of these so-called 'places that do not matter' to revolt against the economic dominance of the 'urban elite'. Special attention will have to be given to industrial transition regions, to interregional cooperation in exchanging best practices, to financial and technical support for regional re-development plans and to smart specialization.

SEIZE THE JOB POTENTIAL OF SUSTAINABLE GROWTH

Tackling the threats of climate change is high on the agenda at all political levels. The commitments laid down in the Paris Agreement are the legal baseline for reducing greenhouse gas emissions in a cost-effective and comprehensive way in all sectors of the economy. Therefore, helping to create an economy that is sustainable, circular and inclusive is the overarching objective for any industrial policy. And long-term climate plans need to be translated into short-term operational plans if one is to provide planning security to all sectors and value chains concerned. Huge financial resources will be needed in order to finance the transition to a low-carbon economy and the development of new breakthrough technologies (supported by grants, loan guarantees and tax breaks for sustainable activities). However, mobilising investors' money will only be possible if viable business models for the transition can be developed (e.g. by covering the price difference between low-carbon and traditional products or by creating separate markets for low-carbon products).

Furthermore, an industrialised circular economy that goes beyond recycling waste and instead focuses on re-use and re-manufacturing must be developed. Concrete targets have to be introduced, new technologies developed. New initiatives in this area such as a circular economy around plastics or the creation of a European supply chain for batteries will undoubtedly strengthen the industrial fabric and contribute to the creation of new jobs. Special attention will have to be paid to increasing resource-efficiency, to accessing crucial raw materials and developing well-functioning markets for secondary raw materials.

The next Commission will also have to set the initial steps to be taken in the profound decarbonization of energy intensive industries. To guarantee a sustainable future for heavy industry high levels of investment and a complementary regulatory framework will be needed in order to develop low-carbon production processes/products, support their up-scaling to commercial viability and put them in place across European production sites. But even if carbon emissions in these sectors can indeed be reduced, they cannot be completely eliminated because of industrial process emissions that are hard to abate (50% of the emissions of energy-intensive industries such as steel and cement). Developing economically viable methods to capture and reuse carbon becomes crucial. This also requires investment in public infrastructure for the transport of CO₂ and hydrogen. Key for the transition to a low-carbon economy will be the availability of sufficient sustainable finance (public issuance of green and social bonds). Finally, the EU must show global leadership in developing and implementing long-term climate policies. Indeed, the EU is not alone and international cooperation to promote the global uptake of carbon-neutral policies is a condition sine qua non. A 'Clean Planet for All' cannot be created by a European 'go-it-alone' strategy.

CREATE AN ENERGY UNION 2.0

The climate emergency creates huge challenges for energy policy. These are manifold and often contradictory: affordable energy prices for industry and households, delivering on our climate objectives, security of supply, maintaining a leading position in energy technologies. The electrification of transport and the decarbonization of energy-intensive industries will

sharply increase demand for electricity and thus require massive investment in power generation and distribution. As energy is a basic public good, public authorities must continue to play an important role in energy production and distribution. Secure, sustainable and affordable energy supplies are key priorities for industry and society. This will require deepening the Energy Union, investing in a substantial rise in the supply of (low-carbon) energy, organising demand response (integrating the energy-intensive industries within electricity grids by using them like a battery to better balance demand and supply of electricity), building a Europe-wide electricity grid to address the intermittent character of wind and solar energy and developing storage systems.

ORGANIZE A 'JUST TRANSITION' TO A LOW-CARBON SOCIETY

To ensure the social acceptance of this radical transition, it is of utmost importance to anticipate and assess the impact of structural change, while guaranteeing adequate support to employees, businesses and regions adversely affected. This requires a strong and coherent social dialogue through the involvement of all stakeholders at all levels: companies (training, internal mobility, anticipating restructuring in order to avoid forced redundancies), labor market agencies (organise a smooth transition from one job to another), authorities (regional reconversion plans) and trade unions ('a solution for each worker affected by restructuring'). Carbon-dependent regions and the challenges they face have to be identified, with a platform created to coordinate re-development efforts. The financial resources of the Emissions Trading System-financed modernization fund as well

as all other available EU funds (ESF, EFRD, Globalization Fund, Cohesion Fund) have to be put to work in a coordinated way in order to finance just transition for workers whose jobs are at risk and for carbon-dependent regions. A 'Just Energy Transition Fund' (as already proposed by the European Parliament for coal-dependent regions) could provide extra funds. As important as their effect on jobs is the distributional impact of climate measures. The transition will profoundly change our way of living and, unless social cohesion is maintained, it will fail. It must be avoided at all costs that low-income households are confronted with an accumulation of extra housing, heating, electricity and transport expenses, all of them being basic needs (according to the European Energy Poverty Observatory 11% of European households are not able to keep their home adequately warm).

SHAPING THE WORLD OF WORK IN A DIGITALIZED INDUSTRY

Digitalization has the potential to significantly improve the comparative advantages of European manufacturing and thereby protect or even re-shore industrial jobs. European industry will be digitalized, or it will cease to exist, overtaken by more efficient and speedier competitors. Therefore, we have to shape digitalization for the benefit of all members of society, and of all workers. On the other hand, implementation of digital technologies will dramatically change the world of work with a huge impact on the quantity and quality of jobs.

Digitalization also has specific effects, beyond the productivity gains that have been common to all technological transforma-

tions of industry in history: it concentrates power and wealth in those companies controlling the platforms, the software or the data, thereby depriving all other companies along the value chain with the capacity to invest, innovate and provide good wages and working conditions. Therefore, the creation of digital monopolies must be prevented. Furthermore, digitalization challenges the foundations of the permanent, full-time employment relationship based on collective agreements, because all functions of this relationship (including the control of the task) can be performed individually, automatically and remotely. Regulating the gig-economy can reduce and/or remove the 'precarious'. Finally, digitalization opens up unprecedented possibilities for unilateral control over workers. European industrial policy should support a digitalization that favors a broad and fair distribution of its benefits. Such future policies should explore the potential of digital technologies for solving our 'grand societal challenges' (energy- and resource-efficiency, climate change, mobility, health), investing in the development of new ICT-sectors like Big Data, cloud computing, AI and advanced manufacturing. Furthermore, huge investment in digital infrastructures (roll-out of 5G) is required in all regions and all member states.

FIGHTING FOR TAX JUSTICE

Internal tax competition between governments in order to entice foreign direct investments (FDI) must be addressed urgently. But several member states have built their economic models on such competition which leads to a race to the bottom regarding effective tax rates and thus fiscal revenues.

The many scandals, starting with LuxLeaks, Swiss Leaks and followed by the Panama Papers, Bahamas Leaks and Offshore Leaks, kicked off the Commission's legislative crusade against tax evasion: country-by-country reporting, automatic exchange of information on tax deals, publication of a blacklist of tax havens and protection of whistle-blowers in the tax field. Undoubtedly, progress has been achieved on the fair taxation agenda. However, much has still to be done to end the steady decline in corporate tax revenues because of tax competition while tax avoidance or profit shifting must be stopped. A society in which the rich have myriad ways of hiding money in secretive offshore tax regimes, while only 'the little people' pay taxes, is unsustainable. Moreover, tax avoidance deprives public coffers of multi-billion resources that are badly needed to ensure well-functioning public services, essential infrastructure and social investments in healthcare and education as well as in social security systems. Fair taxation is also essential for financing the investments required to meet the objectives of the Paris Agreement. Finally, tax fraud is often related to money laundering and criminality.

Doing away with the unanimity rule in tax issues and replacing it by a simple majority rule would advance (tax) justice. The OECD Inclusive Framework on Base Erosion and Profit Sharing (BEPS) needs further implementation at a global level. The adoption of a mandatory Common Consolidated Corporate Tax Base should be a first step towards a common effective corporate tax rate. Country-by-country reporting, which is a key tool in tackling transfer (mis)pricing, should be implemented. Fair models of taxation for the digital economy should be introduced. It is also high time to unblock the EU's Financial Trans-

action Tax (FTT) negotiations. Furthermore, 'economic substance' should become the cornerstone of anti-avoidance policies and legal arrangements that are put in place purely to reduce tax should be discounted by tax authorities. Finally, the creation of an EU Tax Authority to prosecute cross-border fiscal crimes is badly needed, together with an EU-wide ban on dodgy tax schemes (letterbox companies and patent boxes included).

TRADE MUST BE FAIR TO BENEFIT THE MANY

Free and fair trade are vital for European economic and industrial growth. Trade policy has to ensure that the imported goods we consume are made by people who are not exploited, receive fair compensation, work in safe environments and are employed by companies that respect global codes of conduct. While constructing a fairer, inclusive global trading system is not easy, sheltering ourselves from globalization and promoting economic nationalism cannot be an option. Instead, in order to tame the excesses of global capitalism, globalization has to be framed by a multilateral, rules-based economic and political order. Rather than promoting competition, trade policy should promote cooperation. People, not profits, should be the bottom line of trade policy. Trade wars should be avoided at all costs. The WTO, the cornerstone of the multilateral trading system, needs reform to ensure a global level playing field regarding FDI, public procurement, forced technology transfer and state aid. Trade agreements should be complemented with enforceable chapters on sustainable development and labor rights. Good governance on a global scale should be promoted by developing legal frameworks for corporate social responsibility throughout the value chain. Finally, the distortionary impact of

state-backed or state-subsidized companies on Europe's industry needs to be addressed: in public procurement, in the case of FDIs, in international trade, e.g. by effective use of the new European trade defense instruments and the recent framework for screening FDI.

STAND UP FOR QUALITY JOBS

Europe is finally getting back to work and unemployment rates have started to decline. However, the quality and sustainability of the jobs that have been created give cause for concerns. Many of these are temporary (20% of all jobs) and part-time (14%). At the same time, the transition rate towards permanent full-time jobs is low. Under-employment (involuntary part-time and 'discouraged' workers – people no longer available for the labor market), is still much higher than before the crisis. The proportion of 'working poor' (household income below 60% of the median income) has risen to almost 10%. Further, the labor market is becoming increasingly polarized because of the sharp decline in middle-skilled jobs, mainly in industry, and the rise of non-standard labor contracts.

After the long years of austerity and deregulation of labor markets, it is now high time to re-establish our European social model, by reaffirming and reinforcing workers' rights, social dialogue and collective bargaining. The imperative that 'any job is better than no job' has to be replaced by the promise of 'more but better jobs'. Indeed, an innovative, knowledge-based economy cannot be built on a de-skilled, low-paid and precarious workforce. Therefore, the European Pillar of Social Rights should, on condition that it is accompanied by a clear roadmap

for the implementation of its 20 principles, become a catalyst to restore the European social market economy, to promote secure jobs and fair wages and to create a reasonable work-life balance. There should be no trade-off between quantity and quality of jobs. In order to allow workers to enjoy a decent living standard and a good quality job full-time open-ended employment contracts must be accessible to all. Labor legislation, welfare systems, social dialogue and collective bargaining institutions must be re-established after their dismantling during the crisis years, the persistent wage gaps between the center of Europe and the peripheral countries must be addressed urgently and an employment guarantee should be introduced for all low-skilled workers. The EU should also establish minimum wage systems that converge toward the 60% of median/average, enforce the protection of posted workers and take action against letterbox companies and bogus self-employment. Finally, the collaborative economy needs to be regulated in order to protect digital, self-employed and non-standard workers.

EQUIP WORKERS WITH TOMORROW'S SKILLS

Ensuring that everyone is equipped with the skills that are relevant for the labor market is an absolute priority for education and employment policies, but only on condition that high quality training provisions go hand in hand with access to quality jobs. Indeed, a world-class industry heavily relies on a qualified workforce at all levels of skill, knowledge and competence. Building a learning society is therefore a basic condition for building an innovative economy. Globalization forces European industry – which cannot compete with emerging economies on wages – to upgrade. In a fast-changing industry,

skills are key for workers not only to increase their employability but also for job security, social integration and better life chances. Currently 70m Europeans lack adequate training and writing skills. At the same time, we are confronted with striking skills mismatches. There will be 825,000 unfilled vacancies for ICT professionals by 2020. But skills mismatches also exist for other technical staff at all levels of education. These are a bottleneck for economic growth. Furthermore, the digital economy is re-shaping almost all industrial sectors. Software, robotization and AI are replacing repetitive routine jobs, not only on the factory floor or for low-skilled workers but also for higher skilled roles in services (translation, analysis of medical tests). Digital skills will be required for all jobs, from the simplest to the most complex. Investing in the promotion of quality education, training and professional development throughout the working lives of the workforce will require a persistent and continuous policy.

During the next mandate of the European Commission (2019-2024) the pace of ‘creative destruction’ will probably increase. The challenge of creating a digital, low-carbon economy will lead to disruptions. Therefore, a predictable regulatory framework combined with social, environmental and economic impact assessments is required. European industry is indeed at a crossroads, but nobody should be left behind as we navigate the challenges facing both industry and its workers. Any European industrial policy will have to manage structural change in a socially acceptable way and support value creation within the EU in a globalized world. The benefits of progress have to be fairly distributed among all those working on the road towards a new industrial future for the EU. Ownership of

Europe's industrial policy at national and regional level should be enhanced. Workers' involvement from shop floor to strategic decision-making is a key condition for a successful journey towards a sustainable, knowledge-based, resource-efficient and high-performance industry. Industrial renewal and a thriving industry are only possible on the basis of quality jobs, committed workers and a constructive social dialogue at all levels.

INVESTMENT AND CONVERGENCE: THE QUEST FOR BALANCED GROWTH AND THE ROLE OF NEW BUDGETARY TOOLS IN THE EU

LÁSZLÓ ANDOR

INTRODUCTION

In the last five years, raising the banner of investment has been a key development in European economic policy. After years of financial crises and recessions, Europe needed a recovery; new ways to promote investment had to be found. Since, however, boosting investment through direct intervention was a new activity of the European Commission, the recipe for success was not at all obvious. How all this leads to stronger growth, job-creation and, most importantly, upward convergence, is still a question for many. In this paper, we examine what has emerged and what is still lacking in EU investment policy.

EUROPE'S INVESTMENT DROUGHT

While the EU countries (and also the euro area) have been

emerging from a recession in this period, they were supposed to do so without a specific and consistent EU recovery strategy. The European Union had a framework for growth, but it has been a cocktail of loosely connected plans rather than a single integrated program.

First, a long-term strategy for smart, sustainable and inclusive growth (Europe 2020) was adopted in 2010. An annual cycle of economic governance (European Semester) was built around Europe 2020, which also functioned as orientation for the budget (multi-annual financial framework or MFF) negotiations. The latter, unfortunately, ended up by cutting, instead of increasing, the EU budget for investment (thanks to the intransigence of four net contributor countries).

From 2012, the EU also had a long-term vision for the reconstruction of the monetary union (the Four Presidents' report and Commission Blueprint), which, together with ECB interventions, contributed to short-term market confidence. But, in terms of EMU reconstruction, this merely resulted in the creation of a modest version of the Banking Union, with practically no progress made towards a Fiscal Union.

The assumption behind this policy framework was that the rapid establishment of the Banking Union would make it possible to restore the flow of funds to the real economy, while the European Semester would help in delivering crucial reforms for competitiveness. Thus, competitiveness would improve, enterprises would start investing again, and eventually growth and job-creation would return.

In theory, savings are supposed to be channeled and trans-

formed into investment. In the EU, however, private banks were too slow to recover from the Great Recession, and the Banking Union came too late and remained too weak to revive this capacity, especially as concerns cross-border flows. And the newly created excessive imbalances procedure (EIP) turned out to be too timid to push surplus countries, and especially Germany, towards necessary and adequate levels of investment activity at home.

But investment in deficit countries has also been lacking, and perhaps even more. Here the crisis response measures were implemented with a strong bias towards the reduction of public deficits and public spending in general, feeding on neoliberal assumptions regarding the 'crowding out' effect, and ignoring the possibilities of 'crowding-in'. Internal devaluation strategies at the time of the eurozone crisis compounded the problem of falling external demand with shrinking internal demand, which altogether discouraged rather than encouraged, investment.

Finding a solution to this conundrum is up to individual countries but also the community as a whole. However, the remedy has to be identified in the right form and dose. A key question in stagnating deficit countries is that small- and medium-sized companies find it hard to borrow, develop their business and markets. What is at stake here is not simply to have a few percentage points' higher growth rates. If the EU framework turns out to be insufficient to boost investment, member states start looking towards other sources, such as China. Thus financial fragmentation can also result in the loss of political cohesion.

SWITCHING GEAR: THE JUNCKER PLAN AND THE RECOVERY

In July 2014, investment was declared a priority by newly elected Commission President Jean-Claude Juncker. He identified one of the Vice-Presidents as the EU investment chief, and presented his investment plan to the European Parliament as early as November 2014. Having entered office, the Commission gave a more prominent role to investment also in the European Semester, the annual policy coordination cycle of the EU.

The push for an investment agenda was not without precursors. One year earlier the German trade unions were campaigning with the draft Marshall Plan, albeit without any immediate impact on either EU or German government policy. In 2012, shortly after the French presidential elections, the EU adopted a Growth and Jobs pact, promoting a capital increase for the European Investment Bank (EIB) as well as innovative financial instruments like project bonds. And, in the meantime, interest in financial engineering was energised by fiscal constraints at national and EU levels while the thinking about EU budget reform always pointed towards new ‘financial instruments’.

According to the Juncker Plan, the EU provides €16 billion from its own budget, supplemented by an additional €5 billion from the EIB. With this seed capital, the European Fund for Strategic Investment (EFSI) hopes to attract almost €300 billion in private sector investment. Member states are also encouraged to contribute and, indeed, in early 2015 there were initial signs that this would happen. Potential upgrading of the program has often been mentioned, depending on future developments and needs.

The operational method of the Juncker Plan represented an important innovation and played a role in the economic recovery through mobilising finance but also by proposing to exclude member state contributions from national deficit and debt rules. However, the Juncker Plan also came with the downgrading of transformational goals of the EU budget, in particular by weakening the link between EU funded investment and the Europe 2020 strategy. It was also criticised for lacking a social dimension. It was not launched as a tool to promote cohesion or convergence, but to encourage the EIB to roll out projects that would be too risky otherwise. On the other hand, thanks to the Juncker Plan, the work of the EIB has received a lot more attention than before, and it also helped to develop a more positive general attitude towards ‘national promotional banks’.

To what extent the Plan contributed to the European recovery and the reduction of the ‘investment gap’ requires careful judgment. It is open to question whether more risk taking is really happening or not (in the absence of ECB backing for the EFSI instrument), or whether EFSI is not crowding out other instruments. And, even if the EU cushion does mobilise more finance, the EU capacity to influence the selection of projects remains very limited (can the €16bn tail really wag the €300bn dog?).

INVESTMENT BUDGETS BEYOND 2020

At the end of 2016, the Juncker Plan was extended until 2020, and in 2018 the Commission proposed an upgraded replacement program beyond 2020 called InvestEU. In the proposed

new MFF (2021-2027), InvestEU is aiming at €650 billion in additional investment.

For the InvestEU program to make a qualitative difference, early as well as recent critiques of the Juncker Plan will have to be taken into account. It would be crucial to specify what forms of investment are needed in which parts of the EU, which is far from being a uniform economic space. Eurozone imbalances also need to be acknowledged. In the ‘North’ and in particular in countries with current account surpluses, there is need and space for massive infrastructure investment. On the other hand, in the ‘South’, or in countries experiencing stagnation and fiscal challenges at the same time, the key question is how to boost investment in productive companies. The ability of enterprises with growth potential to access the equity market is critical. In the East, whether inside the eurozone or outside, overcoming the middle-income trap has become a major issue, whereby a strategic investment plan should help in this effort.

The 2018 MFF proposal takes one more step to address current limitations. Having understood the importance of the MIP (macroeconomic imbalance procedure) for analysis but also its limitations in practice, the EMU reform process has had to keep in focus the need for a fiscal capacity for the euro area with a stabilisation function. Juncker took the view that such a capacity should be embedded in the long-term budget of the European Union. In its proposal for the new MFF the Commission has included two new tools connected with the eurozone. These are: a Reform Support Programme (RSP) with €25bn over seven years, and a European Investment Stabilization Function (EISF) with €30bn over the same period.

EISF, the second smallest among the newly proposed eurozone fiscal instruments, is supposed to maintain the continuity of investment projects in times of crises. However, this is not a source of transfers but loans, in order to compensate for interest rates potentially hiking in a turbulent period. This tool would indeed serve a useful purpose, but at this stage it still raises question marks. In case of a major crisis, it is not unnatural to reprogram investment projects but this also takes some time. This may cause delay to the support arriving from the EU level. Besides, the crisis also means that some economic actors may transform or even disappear in the meantime, which causes further complications. Crucially, any support from this facility would be destined for a particular project, which probably means that the effect would be local, or at least territorially concentrated. The EISF could thus provide asymmetric support in times of asymmetric shocks, and may result in a situation where large parts of a country and its population remain uncovered. One way to mitigate this risk would be to modulate the EISF in such a way as to include general budget support that can be used also for co-financing country-wide social investments, e.g. teachers' salaries. And, at the end of the day, there is no substitute for the genuine counter-cyclical stabilisation tool: unemployment insurance or re-insurance.

REFORMED COHESION POLICY NEEDED

Improving investment performance in the EU does not only require new tools but also reforms in existing ones. This applies particularly to Cohesion Policy. While the contribution of Cohesion Policy, including the European Structural and Invest-

ment Funds (or ESIF), to increasing investment volumes has been obvious in regions lagging behind, the effectiveness of these old budgetary tools in a new environment of East-Central Europe and the Balkans has been questioned in both qualitative and quantitative aspects.

It is well understood that Cohesion Policy and EU funds are certainly not 'gifts' for member states, but indispensable parts of a balanced and fair functioning economic governance and single market in Europe. On the other hand, we have also seen that systemic corruption can lead to a situation where EU funds simply do not fulfill their original goal of improving competitiveness, developing infrastructure and investing in human capital or better governance. And, in some countries, the situation is indeed grave: there are examples of state-level fraud being organized by political actors. That results in a scandalous waste of EU resources but, more profoundly, inevitably undermines democracy, the public interest and the rule of law. Because of weaknesses of control, some even accuse the EU of funding a kleptocratic and autocratic regime in Hungary.

Beyond the extant procedures of interruptions to and suspensions of funds, sanctions can play a stronger role in stamping out irregularities, abuse and systemic fraud. However, the triggering of sanctions needs to be objective and transparent and this requires a solid set of indicators and benchmarks as opposed to party political considerations. Besides, any sanction must be well targeted to hit the perpetrator of fund abuse rather than innocent hostages.

One option for the EU is to take funds, or at least some of them,

into its own hands and distribute them in the member states according to the original goals. In other words, the Commission in cases of repeated abuse or systemic fraud should suspend shared management. That would mean the EU's actions cannot be regarded as blackmail while it could avoid the corrupted allocation channels and financing of oligarchs close to governments.

Direct management solutions could be also introduced in a gradual and proportional manner: first, only those payments could come under direct Commission control where it has already rejected payments as a consequence of significant irregularities or detected fraud. As a next step, in case of systemic problems in operative programs or the failure of management systems and democratic control mechanisms (audit) in a member state, direct management could be introduced in a more comprehensive form. Alternatively, a third type of management method – assisted management – could be invented by placing EU experts in national agencies without completely sidelining these. This could be either requested by the member state or, above a certain threshold (frequency of errors, suspensions and OLAF anti-fraud investigations), assisted management could be launched by the Commission.

In other words, the solution should not be to punish the civil societies of the affected member states but to repair the management system in a way that can efficiently prevent systemic misuse of funds by national political or management systems. Choosing the best way forward is by no means easy, especially with such a highly politicised instrument. However, a greater effort in defense of EU values and resources is necessary.

Defending the rights and opportunities of the victims of misbehaving governments (i.e. the citizens of the member state in question) through reforming Cohesion Policy and establishing an EU level public prosecutor is a key task today.

SOCIAL INVESTMENT IMPERATIVE

When it comes to the need for investment, most examples point towards infrastructure, while in most countries this is not exactly the missing link. Excessive focus on infrastructure investment can often be well intentioned, but misguided. For sustaining economic growth in East-Central Europe, but also for reproducing long-run growth potential in that region, a first necessary step would be for governments to rethink their role in the development of human capital and place greater emphasis on investing in it. This is particularly important in countries and regions experiencing population decline, and we find these mainly in the East.

Greater social investment is not only a public sector responsibility but in the best interest of companies. However, survey data confirm that businesses in east-central Europe tend to attribute lower priority to human capital issues than their western European peers. This is especially true for businesses in Romania and Bulgaria.

Poland also stands out as a country with splendid economic performance but questionable social sustainability. On the one hand, Polish business is optimistic when it comes to the availability of skilled, educated, competent and experienced human resources. On the other hand, investments in human capital

formation (apprenticeships, attracting talents, training, workers' motivation) tend to be seen as a lower priority compared with the EU average. Such an attitude may be explained by the strength of the cohorts entering the Polish labour market in recent years but cannot be sustained when the workforce begins to age and shrink as in the rest of Europe.

The great human capital challenge in east-central Europe (CEE) is also well illustrated by data on workers' participation in life-long learning. With the exceptions of Slovenia and Estonia, CEE member states tend to have a far lower percentage of workers or unemployed people who participate in training and education compared to 'older' member states. In Romania, Slovakia and Bulgaria the share is only around 5%.

The necessity to step up investment in human capital should be reflected by the way CEE countries make use of resources available from EU Structural and Investment Funds. The European Social Fund (ESF), for example, could play a much greater role than previously in helping to promote the employment of women, young professionals starting their career (by introducing the Youth Guarantee), Roma integration, labour market integration for people with disabilities and active ageing.

The ESF+, as it is called in the new MFF proposal, can also make a major contribution to improving the quality of education systems. The EU has established a rule for 2014-20 that a certain minimum share of each country's allocation from the Structural Funds has to be dedicated to human capital investment through the ESF. However, more effective financing of these programs depends primarily on the political will in the individual countries.

TOWARDS AN INVESTMENT UNION?

Shifting the focus of European economic policy to investment in the past cycle became necessary for both cyclical and structural reasons. First, EMU reform has not been deep or fast enough, which means that resources and confidence are still insufficient for more dynamic growth and sustainable job-creation in the private sector. The EMU's weakness in dealing with cyclicity and asymmetry has not been addressed.

Second, not enough happened to revamp Europe's broken business model. Financial sector regulation has made good progress in the last five years, but the Banking Union still has to be completed with deposit insurance (EDIS), and more could be done in the area of industrial policy, especially by linking it systematically to greater territorial cohesion and investment in human capital.

However, discussions about the Juncker Plan and its successor, InvestEU, have highlighted several further options and opportunities, as well as issues that remain to be tackled along with these. In principle, combining all these new elements with the existing plan could be developed under the umbrella of an 'Investment Union'.

Back in 2014, in their report to the German and French ministers of economy, advisers Jean Pisani-Ferry and Henrik Enderlein offered a broader concept of investment coordination, in a way more tailored to country-specific situations and policy agendas. Constraints for some member states are more objective and for others more subjective. The EU therefore would

need an agreed methodology to channel investment to countries that have performed below potential.

It is indeed crucial to specify what forms of investment are needed in which parts of the EU, which is far from being a uniform economic space as we have noted. Eurozone imbalances also need to be taken into account. In the 'North' and in particular in countries with current account surpluses, there is need and space for massive infrastructure investment. On the other hand, in the 'South', or in countries experiencing stagnation and fiscal challenges at the same time, the key question is how to boost investment in productive companies. The capacity of enterprises with a growth potential to access the equity market is a key question.

All this could form part of a new EU level industrial policy, the demand for which has spectacularly grown in the 2018-19 period. There is now a genuine opportunity to connect the investment agenda with an ambitious industrial policy, in particular promoting the green transition. A more advanced investment plan, or Investment Union, could reach all the way to corporate governance, and introduce suggestions for reform initiatives. It also needs to have a meaningful social investment chapter. More space and support could be provided for the social enterprise economy.

A robust investment policy needs more detailed vision as well as greater confidence about the availability of resources it aims to mobilise. Its promoters also have to be aware that even if EU-level efforts on behalf of coordinated investment prove successful, they cannot be a substitute either for EMU reform or a

performance-oriented strategy such as Europe 2020. Whether the EU can deliver more solidarity and help in generating convergence with greater confidence is a vital question today for both economists and politicians – and the path we take regarding investment will be key.

PART 3

EUROPE AFTER THE ELECTIONS

EUROPE AT THE CROSSROADS

ALBRECHT VON LUCKE

When it comes to the future of the EU and European integration, we have now reached a decisive stage: We are experiencing the advanced collapse of a union based on multilateral co-operation into individual, highly self-absorbed nation states. When, these days, the greatest defender of thinking European, French President Emmanuel Macron, is demanding a 'renaissance' of the EU then this fails to recognize that this 'reboot' has long been under way: that is, on the part of the central and eastern Europeans, in particular the Visegrad states, towards a Europe of authoritarian/populist nation states – a development that has been gaining more and supporters in western Europe as well for some time now.

The latest EU elections have dramatically confirmed this tendency towards a new division in Europe between liberal democracies and authoritarian populists. The right-wing populists have gained ground massively and, indeed, not just in eastern Europe: both Matteo Salvini's *Lega* and Marine Le Pen's

Rassemblement National emerged as the strongest party in their respective countries. The balance of power in Italy's populist government of Five Stars and *Lega* was thereby upended in favor of Salvini. And in Great Britain, albeit rocked by Brexit, Nigel Farage's new Brexit Party immediately became the biggest party by some margin with almost a third of the votes and 28 of the 73 UK seats. In Poland, on the other hand, the ruling party PiS headed by Jarosław Kaczyński gained further ground through the EU election in a way that should boost its plans to further dismantle democratic institutions, particularly independent courts and a free Press. The same goes for Hungary where Viktor Orbán can carry on governing unchallenged.

Virtually inversely to the right-wing populists, the Greens and Liberals gained ballast albeit to a lesser extent. For the first time since the parliament's direct elections premiere 40 years ago, and this constitutes the historic dimension of this election, the two European founding parties, Christian and social democrats, no longer enjoy a majority together. This means that new alliances will have to be built from now on. And that augurs as much opportunity as risk because these alliances may be progressive or reactionary – that is today's key question for the EU.

The German situation at the same time comes over as an exact mirror of the European one on a small scale. They may well have won 53% of the vote at the last federal elections but this time the CDU/CSU (*'Union'*) and SPD (social democrats) could only muster 43%, with polls indicating further falls in the offing. This means the German 'big tent' parties are at risk of suffering the same fate as their Italian and French sister parties – a continued collapse.

What we are living through these days is the most fundamental erosion yet of the old European system of broad-based party democracy – or, more accurately, its transformation to an as yet unclear shape of things to come.

The conclusion of this transformation in our old popular party system cannot yet be predicted as this process itself is rooted in far-reaching changes merely indicated by the notions of migration, climate change and digitalization. The transformation in our democracy thereby follows a transformation on a grand scale of current capitalism. The latter is coming up against its limits – ecologically, socially but also economically – and thereby unleashing immense conflicts that are impacting upon the whole of Europe.

The entire continent is profoundly divided. Three partly overlapping lines of conflict are opening up: ecological/post-materialistic, principally in the west, versus economic/materialistic, principally in the east, but also in the south; young v old, and indeed on a cross-border scale; and, finally, cosmopolitan/progressive v national(istic)/reactionary, often going together with the contrast between rural and urban.

All these conflicts come accompanied by huge social differentiations, polarizations and enmities.

The strengthened right-wing populists offer a possibly simple but highly suggestive answer to this: 'My country first' is the slogan of all nationalist/segregationist politicians – one that binds together but also, and this is their dilemma, re-divides. They share just one belief in the end: no to any deepening towards an ever closer union/yes to a mere Europe of nations.

The europhobes' victory in the EU elections has engendered new aspirations. The attempt to build a single far right populist supergroup out of the divided but also somewhat mutually hostile right-wing parties may be struggling in its early stages yet the consuming goal of most right-wing populists is the same: as the Brexit chaos acted as far too great a deterrent they are no longer pre-occupied with abolishing the EU – in a word, exiting is no longer attractive enough to do that – but with dividing and hollowing out the EU from within. And this is happening in the strategic knowledge that the EU is unable to react decisively against such attacks because it was created solely to act in a co-operative manner – and any weakening or indeed splitting apart through confrontational behavior was never envisaged.

But now the right-wing populists are dead set precisely on engineering such a split. In the west of Europe the leadership role in this strategy lies with Matteo Salvini, in the east with Viktor Orbán. The latter's anti-European radicalization has been a great model for the European Right and has been obvious for some considerable time.

For years Orbán – active in the ranks of the Christian democrat EPP! – has been on the warpath against Brussels. During the EU election campaign he caricatured Commission President Jean-Claude Juncker and the financial speculator George Soros on posters – the first stupidly, the second demonically with anti-semitic allusions. He accuses Soros of being behind a targeted 'population exchange', a classic far right trope. He described Jean-Claude Juncker as a 'first-line socialist' who 'bears final responsibility for the migrants' invasion' and has exacerbated the growing conflict between central and western Europe.

Juncker is thereby turned into a Soros accomplice – all the while an EPP member and therewith in the same party group as Orbán himself. This shows that the (Bavarian) Christian Social Union (CSU) has acted protectively far too long towards Orbán (so they might act together against the federal Chancellor Angela Merkel). Today this type of cooperation has become wholly intolerable.

Although Orbán had fought 30 years ago as a Liberal against communist dictatorship, he now sees himself as the spokesman for a growing movement for an 'illiberal democracy' and openly flirts at the same time with Vladimir Putin. In the same way he had already gloated triumphantly after his 2018 re-election: 'In 1989 we considered the EU as our future. Today we are Europe's future.'

Behind this lurks no more and no less than a declaration of war against the EU. Orbán's goal is to shift the EPP – and thereby the entire EU – to the right. And he is far from being alone. The same goal is also being pursued by the (still) EPP member Silvio Berlusconi who, like Orbán, is targeting a new coalition with parties from within the 'democratic right-wing', that is, from the Conservatives right up to the right-wing populists and far right radicals.

This has profoundly split today's EPP – into a moderate/centrist and a clearly rightist wing. And this split within the EPP rather epitomises the entire EU.

But this development is also – albeit not first and foremost – the inevitable result of the German Chancellor's policies. With her go-it-alone humanitarian intervention of autumn 2015 – that she didn't clear with her European partners – to take in refugees

coming from Hungary and keep German borders open, Angela Merkel herself considerably boosted the right-wing populists' advance. The multi-million-strong stream of refugees has provided them even today with highly welcome ammunition for their xenophobic campaigning. Far right populist successes are being sold not least as 'acts of resistance' against the so-called 'diktat' of Berlin and Brussels.

Europe's future will now significantly depend upon whether the nationalist/selfish course of far right populists makes further inroads – or whether the nation states in times of economic, social and ecological crisis can still muster the required solidarity and cohesion. There's not a lot going for the latter at the moment. In fact, the European Union is at ever greater risk of changing from a project of de-nationalization into a process of re-nationalization. That, however, puts in grave danger the arguably greatest achievement of the EU – the ending of hostilities between states that faced off each other for centuries as arch-enemies.

After 1945 peace in west Europe was always two-pronged – externally as the absence of war (even though constantly against the military threat backdrop of the Cold War) as well as internally as social trade-off. It was not primarily through the refugee crisis but rather through the preceding financial and economic crisis that a community of free and equal people became an iron-hard relationship of creditors and debtors.

From as early as 2008, with the bankruptcy of Lehman Brothers and the start of the financial crisis, the European Union has been in a state of emergency. The subsequent austerity policies, largely driven by the federal German government, squeezed

parts of Europe into social misery and mass unemployment. Meanwhile, a social as well as cultural gulf has opened up all over Europe between losers and winners.

This radical process of diminishing solidarity has had dreadful consequences for the EU while helping a nationalism that was already on the march globally take hold within the union itself. Today, democracy in Europe is being put to its most severe test since the totalitarian 1930s.

But the fact of the matter remains: without a fundamental alteration in German hegemony and in its policy of spending cuts and austerity there can be no solution to the EU crisis. The reason why is these are largely responsible for the increasing divisions of the past decade.

In fact, large parts of Europe are still experiencing huge levels of unemployment. Germany, on the other hand, is the great exception. And this points to the real problem: Germany's wage cuts policy, along with the euro, led to current imbalances in Europe. Through Hartz IV and Agenda 2010 (labour and welfare reforms) German wages have scarcely risen for more than a decade despite constant productivity gains. And, whilst the south had to prioritize 'reforms', aka dramatic cuts in wages and pensions, Germany has delivered no *quid pro quo* in return by raising its own wages levels to help out neighboring countries and European domestic demand. Europe's strongest economy has in the process hugely infringed the imperative of solidarity.

Policies based upon solidarity should, on the other hand, consist of offering fellow European competitors fair opportunities and a greater chance to breathe. So, Germany must finally be ready and willing to push through higher incomes at home,

especially among low-earners. That kind of pay increase will, needless to say, be inevitably to the detriment of the German export world champion. The federal republic will have to let go part of its export surpluses.

At the same time, Europe will have to bring in minimum wages as a way of acting against wages dumping. This requires a new, completely different concept of Europe. Instead of a German Europe built on competition for the benefit of the owners of capital, we need the alternative of a Europe built on solidarity for the benefit of the working population. To combat the pan-European adoption of Germany's cuts policies we need a solidarity-based solution that is unfazed by the necessity of any great debt-reduction or debt moratorium as the federal republic itself enjoyed after the second world war. In the 1953 London Agreement Germany was excused around half of its debts and this immeasurably boosted the German economic miracle.

The same holds true, and indeed on a far grander scale, in the refugee issue. Here, rather than Germany itself, the onus is rather on the rest of Europe. The by far greatest humanitarian crisis of today, the millionfold flight out of Africa and Asia, requires Europe to prove its moral qualities: do we see ourselves as an open society or as one of brutal isolationism? So far the answer of the EU has simply been to build Fortress Europe as impregnable as possible.

The real causes of the refugee catastrophe remain wholly unaffected by this. Without pan-European – and transnational – solidarity this human problem will never be solved.

That starts with the distribution of refugees in Europe – this, certainly, as recent years have shown, cannot be forced through

against the selfish positioning of the nation states involved (as otherwise it simply brings resentment and boosts the populists) – and it ends with the removal of the real causes of migration. But that also means getting to grips at last with extremely unfair trade relations, especially between Europe and Africa. Finally, however, it also requires the creation of a new, fairer world economic order.

What this all goes to show is that Europe's crisis cannot be resolved nationally but only transnationally. In the crucial question of European solidarity there must come to pass the birth of what Jürgen Habermas has called a new 'European community of destiny'. Without a shared response to poverty and unemployment, flight and disintegration, populations will continue to be played off against each other and we will experience, as we did in the 20th century, what Habermas calls the 'fake conversion of social issues into national ones' with all their dreadful consequences, that is, the return of nationalism and grudges.

Herein lies the real irony of the last virtually 30 years: the catch-up popular/democratic revolution of 1989 signified for the east of Europe a return to national sovereignty. Yet today's global crises – migration, poverty and climate emergency – prove that the old nation state is no longer capable of solving crises. Given new global challenges it is all the more true that we need to break out of narrow nation state borders and think and act against neoliberal globalization in European dimensions.

But if Europe's democratic politicians and citizens do not succeed in creating the vision of another, more solidarity-bound Europe, the right-wing populists or far right parties will grow further – and so will enemy camps within Europe. Then a

democratic Europe could very swiftly become an authoritarian/nationalistic one.

Even so, the right-wingers are also afflicted by this new confusion in Europe. It is still completely unclear who stands for what exactly and who goes with whom. Right-wingers are still acting in a variety of alliances. If the right-wing factions do manage to get their act together after this EU election, possibly under the leadership of Matteo Salvini or Viktor Orbán, then, united and strengthened, they might play a devastating role in the EU. Should they unite around a new nationalist Internationale their one big goal will be: weakening the EU so as to strengthen their individual motherlands or so runs their naïve mantra.

Yet, on the other hand, this can work both ways: Europe's states can only be strong when they're united. So, the pro-Europeans will have to give a decisive answer to the frontal attack of the right-wing populists.

This is all the more true as the required 'self-assertion of Europe' (in Helmut Schmidt's words) is today double-headed: on the one hand, it is directed internally, against the declared enemies of liberal democracy in the EU but also externally, against the external enemies of democracy, from Turkey via Russia to China (and even as far as Trump's America). This interplay of internal and external anti-democratic forces makes the EU's current situation so precarious – it is gripped in a vice.

And, what's more, there is one last big global problem: a new movement like Fridays for Future (*school climate crisis strikes*) puts our entire western growth model quite rightly under question.

When it comes to the great lines of conflict in western societies we have, meanwhile, got used to distinguishing between cosmopolitans and nationalists, globalists and nativists. The sociologist David Goodhart talks of 'anywheres' and 'somewheres': while the former benefit from globalization and can move around wherever and whenever they wish, the 'somewheres' are immobile or, on the one hand, firmly rooted but, equally, tied to a particular place that they cannot easily leave. Therefore, they feel especially threatened by the effects of globalization.

Along with this spatial contrast we are also living through another temporal dimension embodying an even more striking contradiction. Whereas one may (or even must) leave a place in an emergency we cannot change the times in which we live. And this produces enormous conflicts.

Fridays for Future bring this conflict to a head as follows: well-heeled elderly people are squandering the life opportunities of us young people. Even if this dramatic expression fails to recognize that the elderly generation often live much more frugal and sustainable lives and consume modestly it does hit the crucial mark in principle: on one side there is the radical supremacy of the present with all its opportunities for consuming in today's capitalist system. On the other, and in fierce contradiction to this, the desire for safeguarding the future (of the planet).

Up till now this conflict appeared a long way off but now it is suddenly close by as the supposed 'after us the deluge' is no longer an afterwards but could happen in our lifetime – certainly for the younger generations. The prevalent obsession with instant consumption and gratification turns out to be a

radical absence of forward-looking vision. That has huge implications for our debates on freedom and justice. The question is whether we wish to further curtail or prolong the future. But then that would mean finally and radically saving our (supposedly) endless resources.

The EU, given it wishes to be a progressive alternative, will have to address this issue in future. This is, in an even more fundamental manner, an issue of democracy. Who may consume how much? And who decides – how we work, what we produce and, not least, what we consume?

Up until now the population – more precisely, a part of it – pays merely vague lip-service to the need for change but most people are wholly unaware of the tough consequences the required social/ecological transformation will engender. And that too will ensure immense new conflicts within the individual nation state but also at EU level.

How all these conflicts will turn out is an utterly open question. But one thing is clear: the big questions of today are radically different from those of yesterday. We have already lost far too much time. So, future confrontations will be much tougher and more substantive. Yet this at least creates an opportunity to at least revitalize our democracy – including at EU level as the significantly greater turnout at the recent polls showed.

Ralf Dahrendorf, one of the first to recognize the dangers of globalization and to warn of an authoritarian 21st century, spoke as early as in 1996 in 'Papers on German and international politics' on squaring the circle as the incumbent task for western democracies in Europe to perform in a globalized world. First, they must retain their competitiveness in the raw winds of the

world economy without, second, sacrificing social cohesion, and do so, finally, in the difficult circumstances of unwieldy democratic institutions in free, discursive societies.

Those days Dahrendorf (who died in the summer of 2009) knew nothing about the coming split within the West and the EU. Similarly, he under-estimated the perhaps greatest global problem, that is the climate crisis that emerged a good 30 years ago and remains unresolved. With its impact upon all areas of human life, from food and poverty via violence and war to migration, this emergency undoubtedly represents the true mission for this century.

Still, a new generation appears firmly determined to take on this task, one that, equally, will decide the EU's future. Whether, by the way, Europe's liberal democracies are up to the challenges of a globalized world or, in the end, the authoritarians will take power in Europe is anybody's guess. It could go either way right now: a fresh start for progressive alliances inside the EU or a relapse into authoritarian nationalisms.

SHAPING EUROPE'S FUTURE WITH CONFIDENCE

HEIKO MAAS

The Capitoline Hill in Rome is a unique historic site. For thousands of years, it was the setting for the rise and fall of empires, for intrigues and the unconditional pursuit for power.

However, 25 March 1957 marked a turning point. On that day, politicians and diplomats from Belgium, France, Germany, Italy, Luxembourg and the Netherlands laid the foundations for a new Europe – a Europe of peace, reconciliation, prosperity and mutual respect. With the Treaties of Rome, they founded the European Economic Community and the European Atomic Energy Community (Euratom), forerunners of the EU as we know it today.

One of the founding fathers, the then Belgian Prime Minister Paul-Henri Spaak, had the following to say about this: ‘This is [...] about the material well-being of our peoples, about the growth of our economy, social progress and about completely new possibilities in industry and trade; but, above all, this is

about defending and protecting a civilization, moral rules and an attitude to life, the understanding of a more fraternal and more just humankind. [...] They [the Europeans] have done a great thing and, remarkably and perhaps uniquely, they have done so while repudiating any use of force, constraint or threats.'

When you read these lines, you can really sense Spaak's awe at the historic importance of this moment. You also sense his pride: pride in the fact that European women and men, exactly 12 years after the end of the most terrible war and worst atrocities in human history, had had the courage and vision to build Europe anew, peacefully and without violence, and to find common solutions for getting to grips with the political challenges of the times.

FACING THE FUTURE

We should take inspiration from this courage and vision when we think about solutions to the political questions of our times. It is in the field of foreign policy that we face enormous challenges in the coming years and decades:

The rules-based international order is being questioned in many quarters or even actively undermined today. After the end of the Cold War, observers interpreted this as the beginning of the 'end of history'; liberal democracies had supposedly won the battle of the systems. Today, we face a new rivalry among the Great Powers that is much more complex than the confrontation between blocks in the Cold War. New actors have gained in strength and are questioning established rules. The law of the strong threatens to replace the strength of the law.

We need global solutions more urgently than ever in environment and climate change policy. The consequences of further global warming could be catastrophic. With the Paris Climate Agreement of 2015 and the Katowice Rulebook of December 2018, the international community has agreed on concrete goals for protecting the climate. But this is just the first step. Achieving these goals is a task that will take generations to complete and requires Europe to take the lead and take others with it.

The world's natural resources are finite. This is even truer in the face of a global population that is still growing. We must also give our children and grandchildren the prospect of a decent life through **sustainable development**. With the 2030 Agenda, we defined 17 concrete targets for sustainable development in 2015 that must be put into practice in a systematic way – in collaboration between developed, emerging and developing countries.

Migration will remain a global phenomenon. The United Nations High Commissioner for Refugees estimates that around 67.7 million people around the world were displaced in 2017. There were 49 armed conflicts worldwide in that year. This bestows a great responsibility on the global community to commit even more strongly to achieving peace in the regions of origin and to stand up for the protection and decent living conditions of refugees everywhere. In 2018, a political framework to this end was established with the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration. Crisis prevention, humanitarian aid and stabilization of conflict zones will, however, continue to be of the greatest importance.

Digitalization is already part of our daily reality. Its scope and the opportunities it offers are nothing less than a fourth industrial revolution. The great challenge will be to use the economic opportunities it offers in a socially sustainable manner, to bring these into line with cyberspace security and safeguard human rights in cyberspace. In a word, we must translate the European model into the digital era.

Free trade as an essential pillar of Europe's prosperity is coming under pressure. In 2017, the member states of the EU exported goods and services to the tune of 2816.9 billion euros into non-EU countries. This success will be in jeopardy if perceptions grow worldwide that trade policy is a zero-sum game with winners on one side and losers on the other. Europe must come up with a positive agenda for global trade to counterbalance unfair competitive practices and new trade barriers.

EUROPE'S ANSWER

All these questions about the future have one thing in common. They are, in the literal sense of the word, boundless. No wall or fence will be sufficient to keep them at bay. We will only be able to master the task ahead of us with courageous and astute policies – and these policies cannot be confined to the national level, simply because we as individual countries are too small. This is reflected by statistics. According to the UN, today's current 28 EU member states accounted for 13.5% of the world's population in 1960; by 2015, this had gone down to 6.9%, and by 2060 it will probably stand at around 5.1%. No single country in Europe will be able to deploy the creative power and clout to develop and apply solutions to global questions by itself. We

can only develop solutions today on a multilateral basis and in close coordination with like-minded partners. The EU enables us to speak with one voice on behalf of around half a billion people and to wield this clout in international forums. When other countries insist on putting their own interests first, then our answer must be 'Europe United'!

A strong and sovereign Europe is therefore in Germany's fundamental interest. A Europe that can act and is ready to bring its weight to bear on global issues and crises constructively, powerfully and credibly. A Europe that is founded upon common values, beliefs and interests.

EUROPE'S FOUNDATIONS

Europe can only be a strong and credible international player if it is built on firm foundations. What is today's Europe based on? Three elements are key in this regard:

1. OUR COMMON VALUES

'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the member states in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.' (Article 2 of the Treaty on European Union)

This clear commitment to our common European values comes right at the beginning of the Treaty on European Union. This is no accident, but a decision with great symbolic power. It under-

lines the importance we attach to these principles – going beyond the borders of member states and our respective histories. This is why we speak of a community of values.

European values are an expression of shared European beliefs. They were shaped by the insights of humanism and the Enlightenment, according to which each human being should be in a position to make use of his or her own reason and therefore develop his or her talents to the full. And these values were profoundly influenced by the democratic movements experienced by the countries of Europe, from the French Revolution to the years of 1848 and 1919 through to the peaceful revolutions of 1989 and 1990.

These values are not just an historical legacy, however. They are basic principles to which we feel committed to this day. And they are at work on a daily basis in our everyday lives – often unnoticed. They ensure the fair participation of all in the democratic process. In legal proceedings, independent judges deliver independent judgments without regard to the person in question. This guarantees legal certainty in a way that enables citizens to be truly able to exercise their rights. Such legal certainty enables entrepreneurs to make sound investments in the world's biggest domestic market and thereby to create jobs. It is European values that ensure that European women and men can live here as they see fit – free and protected from an arbitrary state.

These values are a deeply unifying element with the potential to foster the cohesion of our continent. Even so, we have seen in recent years that they also have the capacity to be divisive. It is not enough to pay lip service to these fundamental values; they

must be put into practice on a daily basis. It is not always possible to find a common understanding of these values. Therefore, it is important that there are independent bodies such as European courts, the European Court of Justice and courts within the member states that examine whether the member states' actions are in line with our European values.

However, it is also a political duty to join with all partners in the member states and to hold open discussions about how we interpret these values. One way is to stage critical debates within the framework of the procedure set out in Article 7 of the Treaty on European Union. Another is to make use of procedures such as the annual thematic dialogue on the rule of law. But we should also think about new instruments. It is for this reason that we have proposed a so-called peer review mechanism that reviews the application of the rule of law in all member states on a regular basis. This will enable open and critical discussions without pillorying any member state.

However, it is decisive that we also put our values into practice in our day-to-day lives. All European women and men must endeavour to do this each day anew – by exemplifying them and by calling time and again for politicians to abide by these values.

2. A SOCIAL EUROPE

Peace and prosperity are the great accomplishments of the European integration project. Europe is the biggest and most successful internal market in the world. The abolition of customs duties, the harmonization of product and production standards and a common currency in 19 member states are

tangible, measurable improvements for all businesses operating in this internal market.

For Europe's citizens, these improvements brought about by a united Europe are not always equally apparent. Achievements such as freedom of movement, a common currency and the opportunity to live and study elsewhere in Europe improve the lives of many European women and men directly, but also almost in passing. However, it is often the moments when Europe failed to meet our high expectations that remain more strongly etched in our minds. From 2007 to 2011, the EU was hit by the worldwide financial crisis, which escalated into a euro-zone crisis. Despite the swift and forceful intervention of the EU, the member states and the European Central Bank, this crisis, according to Eurostat, led throughout the euro area to declining per capita incomes for several years. But not all member states were hit to the same extent. Whereas Germany saw a dip in per capita income for just one year, Italy needed a full eight years to regain the same pre-crisis level; Greece, on the other hand, has still not yet reached the per capita income of 2008 – even today. But these are just figures. The real meaning of unemployment and damaged career prospects for a French steelworker or a Greek woman teacher with a family can only be fully grasped by very few of us. But what we can see is that, in addition to the major economic imbalances within the euro-zone, social imbalances are being exacerbated.

It is therefore our task to make Europe not only more resistant to crises, but also more socially just. This is close to my heart for me as a social democrat – not least because German and European social democracy have stood for more than 150 years for peace, freedom, justice and solidarity.

So what can we do to make Europe more resilient to crises? We must focus upon the area in which, during the last crisis, we were at our most vulnerable, namely the European banking sector. We have raised the requirements as regards equity and risk evaluation. Now the task is to complete a genuine European banking union. That is the only way in which we can reduce existing risks and enable better oversight, sound regulations for managing banks and safeguarded customer deposits throughout Europe. We will make more funds available through a European Monetary Fund to this end. Coping with risks in the best way possible means getting the strong to shoulder a greater burden – in this case the Europeans. In the long term, all Europeans will benefit from this within a common economic area. Incidentally, this also includes getting the financial sector to assume its appropriate share of the burden through a financial transactions tax.

A just Europe for me, however, is a social Europe in which solidarity among Europeans is a facet of everyday living. A Europe that makes good on its promise of prosperity for all. In November 2017, EU member states proclaimed a common European Pillar of Social Rights. This requires further and more astute investments in social and economic progress, investments in education, health care, mobility and support for the younger generation. We also need a stronger role for our social partners. The European social model cannot be boiled down to a race to the bottom. Social justice therefore requires social standards to be aligned within the EU. The basic principle must be equal pay for equal work in the same place. Such minimum standards can be supported by European policies. This could be accomplished with the tools of European policy.

For instance, by introducing a European re-insurance fund for national unemployment insurance schemes, we could make such systems fully resilient to crises.

With an astute package of measures, we can manage to create a social Europe built on solidarity that can meet its citizens' expectations in terms of prosperity and security in perpetuity – especially in times of crisis. It is not least economic pressure that renders some people receptive to the simple promises and half-truths propagated by populists. A social Europe can therefore help us to stand up to populists.

3. TRUST AMONG THE MEMBER STATES

A strong EU requires strong member states. Europe was born of a voluntary union of sovereign states that retain their national identities and their political and constitutional structures within a united Europe, but which gain extra sovereignty through closer collaboration. The member states play a key role in setting and designing European policies via the European Council and the Council of Ministers. That is why trust and loyal cooperation among the member states are indispensable for the EU's future.

The foundation of this trust has been truly put to the test in recent years. In particular, the financial crisis and lack of unity in migration policy have exposed rifts between north and south and east and west within the EU. Slogans and stereotypes that we thought were a thing of the past suddenly became socially acceptable again.

We must therefore work together to build renewed trust among

the member states. On 22 January 2019, with the signing of the Treaty of Aachen between Germany and France, we put our relations with our closest partner in Europe on a new footing. This treaty raised our bilateral collaboration to a new level. Whereas the Elysée Treaty of 1963 sought to achieve reconciliation and a meeting of minds between Germany and France after two world wars, the two countries are now working together to face the European, foreign, security, social and economic policy challenges of our times. With this treaty, Germany and France will lend greater emphasis and support to meetings and exchanges within civil society, strengthen their cooperation in border regions to find shared and sustainable solutions, develop new common strategies in the response to a changing external and security policy environment and, above all, continue to stand up for a strong Europe.

We are also building bridges in the eastern part of the EU. In 2018, I attended the summit of what is known as the Three Seas Initiative for the first time. This joint high-ranking forum of 12 countries of eastern and southern Europe between the Baltic, Adriatic and Black Seas seeks to promote connectivity, convergence and cohesion in this part of the EU. Germany is a natural part of this region, and not only in its capacity as a country bordering the Baltic Sea. We want to use this format as part of our efforts to promote the integration of central Europe.

A VISION FOR EUROPE: A MODERN EUROPEAN PATRIOTISM

Our expectations of the EU are high – and rightly so. The peaceful integration of Europe after the catastrophe of two

world wars is a unique historic achievement. I can well understand the pride that Paul-Henri Spaak took in this achievement.

However, Europe cannot always be the story of astute founding fathers that we recite over the generations. Today's Europe requires new stories of brave European women and men. We can rightly be proud of this Europe that stands for our shared values, that is social and founded on the principle of solidarity and guarantees peace and relations based on a spirit of trust between its member states.

I believe that this pride can be at the heart of a new European patriotism. A patriotism that is quite distinct from the historical forgetfulness of populists and nationalists. A patriotism that gives pride of place to our common values and beliefs and feeds upon the pride that we Europeans, in the words of Paul-Henri Spaak, have repudiated 'any use of force, constraint or threats'.

We can be proud of our European model. The American Dream has traditionally stood for freedom. The Chinese Dream stands today for prosperity. Our European model, on the other hand, combines these elements. Europe stands today, in equal measure, for freedom, democracy and the rule of law, and also for prosperity, security and social justice.

The future of Europe lies in the hands of each and every one of us. We all have the opportunity to play our part as proud European women and men to make our common Europe strong and sovereign so that it is well equipped for the tasks of the future. Let us seize this opportunity with both hands!

THE ROUTE TO A SOCIAL EUROPE: A EUROPEAN RENAISSANCE FOUNDED ON SOLIDARITY

WOLFGANG LEMB

INTRODUCTION

Europe has voted. Whether the next few years see progress towards a solidarity-based Europe depends in the first place substantially upon the political leadership and initiatives of the new European Commission. It alone has the right to initiate legislation at EU level. Of course, that does not mean that it can do whatever it wants in a vacuum. But there can be no doubt about its power to set the agenda. Second, much will depend upon whether and to what extent the Council of Ministers is willing and able to make significant changes to its current policies. And, not least, as regards relations between the institutions, the issue is the role the newly-elected Parliament lays claim to and whether a (new) pro-European coalition can be found to rein in the strengthened right-wing.

EUROPE UNDER FIRE – GREATER DEMOCRACY IS RIGHT RESPONSE

Looking back over the last few years one sees a variety of crises that marked the period of the Juncker Commission. When he took office in 2014 large swaths of the EU were in the midst of the greatest economic and financial crisis for decades. Then came the refugee crisis, Brexit and the trade conflict with the USA. Towards the end of Juncker's Presidency one could at least believe that the fundamental, existential crisis of the EU – the United Kingdom's departure from the EU – had been settled. Yet the orderly completion of Brexit did not happen under Juncker. The spectacle that unfolded around the ratification of the withdrawal agreement in the UK Parliament defies description. All the same, we do now know what it means to have to unravel membership of the EU. Even among proponents and opponents of, say, DEXIT, FREXIT, or ITALEXIT the chaos and/or the negative reaction of large swaths of the European population brought about at least a strategic rethink. The Leave vote prompts several general lessons for the future of the EU and/or the new Commission's tasks. The Brexit decision has exposed mistakes and inadequacies on the part of 'pro-European forces' in recent years. Rather than pursuing a 'positive narrative', opponents of Brexit opted for a negative campaign in favor of Remain. The main argument of Remain protagonists – 'it'll only get worse without the EU' – failed to exert any significant influence on the decision in the sense of changing the minds of Leave supporters or mobilizing greater backing for Remain. It is very clear that a lot more than the benefits of the single market is required to give legitimacy to the

EU – and not just in times of crisis. The former Commission President Delors went before the European Parliament on 17 January 1989 and quoted the historian Fernand Braudel:

We would badly misjudge people if we simply placed before them these sober facts that pale before the enthusiasm, the utterly reasonable passions that the Europe of yesteryear or yesterday has provoked. Can a sense of being European be based simply on facts? Doesn't it rather defy them and go way beyond them quite unpredictably?

The fact that one cannot fall in love with a 'great internal market' as Delors put it then holds all the more true as the European Union today stands as a cypher for the dark side of globalization. In everyday reality the EU equals for too many people competitive pressure, de-localisations, (re)distribution conflicts, wage dumping and untrammled market forces to the detriment of working people. Individual benefits of the single market such as being able to live and work where one wants hardly play any role in the everyday lives of most people or in such a way that they become the decisive argument for actively approving European unification. It should give pause for thought when just about half of European men and women, according to *Eurobarometer*, feel their voice no longer counts for anything 'in Europe'. If Europe is to have a future it must give people a hearing.

Decision-makers have had no answers in troubled times when all across Europe – for the most distinct reasons – there has been a general anxiety among all sectors of society. The

message that should ring out from Brussels not least since these European elections must be: 'We've understood.' What Europe needs is more participation, more transparency and more of a say for all its citizens.

The decision-making processes at EU level must be democratized by strengthening the European Parliament, especially through the right to initiate in the legislative process and the election of Commissioners. But the decision-making processes within Parliament itself must also become more transparent. The way decisions are reached must revert to proper parliamentary scrutiny from being taken in back rooms behind closed doors.

The Commission is not just the protector of the treaties. As it alone has the right to initiate legislation at EU level, it cannot be treated as a neutral player. It alone sets the decisive political signals in core areas with legislative initiatives. As long as this remains the case the Commission must take on the obligation to react more responsively to initiatives from Parliamentarians, that is representatives elected by millions of European women and men. This does not need any treaty change. The only thing missing is political will.

MANAGE CLIMATE CHANGE: SUSTAINABLE ECONOMIES – INDUSTRY'S SCOPE FOR INNOVATION

And we do need political will. If the EU is to serve as a model for the future, that depends quite specifically on whether it can succeed in resolving the urgent issue of sustainable economic development. The most pressing problem of the next few years

and decades, climate change, is not negotiable but manageable. This will release transformative processes that will arouse fears among people. Managing this transformation must, therefore, be done socially, ecologically and democratically. This in turn requires swift investment in new technologies, in pan-European infrastructure and all in combination with a sound industrial policy.

Key here are measures that, using strict sustainability criteria, aim at higher public investments that are urgently required for financing the support programs and infrastructure necessary for the transition in energy, transport and heating. First and foremost, that puts the focus on fiscal regulations at EU level. The fiscal pact fundamentally deserves to be abolished. European rules on budget monitoring should be much more strongly geared towards a golden (or green where relevant) debt regulation, allowing for budget deficits if devoted to investments in sustainable infrastructure and climate change support programs. A further priority in any socio-ecological policy approach must be to ensure and expand decent work in manufacturing given the pending structural changes in industries that will be particularly affected by de-carbonization.

A central task then must be to take workers with us when it comes to managing the on-coming changes. The European Commission estimates that industry accounts for around a quarter of EU gross domestic product (GDP). According to findings from industriAll Europe it employs around 50 million. As many as 15 million jobs depend directly and indirectly on the auto industry, 2.5 million on the steel industry. That is, upon two segments that are particularly affected by EU climate change

and environment policies and the resultant radical changes. Here, all too often in recent years, there were empty claims and ambitious goals and all too rarely discussion about which measures agreed at EU level might best achieve these goals taking into account the different starting points of individual countries. There is an urgent need for action here.

Only a social-ecological conversion of industry opens new growth potential and ensures the long-term sustainability of employment. In line with this, any European industrial strategy must be an ecological modernization strategy directed towards energy efficiency, reduction in resource usage and sustainable mobility. The whole of Europe requires a mobilization of forces in favor of expanding renewable fuels and innovative environmental technologies. In particular, efficient use of resources and eco-sustainability in material and energy contain prospects for productivity growth. This requires the private sector to switch its investments more decisively towards ecological conversion and reconstruction. Other priorities should be education, training, research and development along with infrastructure.

What's urgently required is a financial boost to cohesion programs and structural funds and a re-orientation in the way support grants are bestowed – and these must be much more transparent and directed towards social and ecological sustainability. Financing this means reshaping the EU's financial framework (MFF/Budget) and generating extra own resources, for example via an EU financial transactions tax (FTT) or the Europe-wide taxation of digital groups. Such an industrial strategy must embrace, what's more, the protection of manufacturing jobs from any race-to-the-bottom competition for new

industrial plants that increasingly takes place at the cost of work and environment.

Yet, given the trade conflicts with the USA and the increasingly important role of China in global competition, industrial policy at federal (German) level *has* gained a much sharper focus with Peter Altmaier's so-called 'national industrial strategy' and the follow-up Franco-German manifesto. And the Council of Ministers urged the old and new Commission to draw up an industrial strategy. This is very welcome and corresponds to long-standing IG Metall demands. The Commission should focus its strategic direction on creating a social and ecologically sustainable consistency between industry, competition and trade policies. Ideologically motivated competition policy geared solely towards 'consumer interest' in the lowest possible price should not counteract industrial policy initiatives on retaining strategically important value-added chains.

PRIORITY FOR SOCIAL RIGHTS

Competition and market ideologies have also for too long pushed into the background the 'social' in the social market economy that on paper constitutes the EU since the Lisbon Treaty. The EU already disposes of a considerable *acquis* of fundamental social rights. This, coupled with internationally agreed obligations, including the Charter of Fundamental Rights that entered into mandatory force only on 1 December 2009, is not enough, however, to take proper account of and apply these fundamental rights. The reason for this is, along with the social deficit that was there at the birth of the EU, the

'crisis policy' of the last few years and the linked deregulation of member states' welfare systems as regards EU fundamental rights. The European Court of Justice has always shown itself to be the driver of deregulation in favor of free market forces at the cost of the elementary rights of working men and women and their trade unions. But the Commission has also played an inglorious role.

Be that as it may, a legacy of Jean-Claude Juncker is that after many wasted years social policy is at least back on the European agenda. But to speak of a 'revival of social Europe' would be to go too far. If you examine the social situation in many member states today it's pretty clear that there's still a long stretch to a social Europe. All the more reason to make a start on the stages leading to a social Europe by harnessing all our strengths. If one is to create a social union then one must guarantee fundamental social rights take priority over economic freedoms. And that must first and foremost mean saying goodbye to policies and/or approaches that take the ground from under co-operative systems of social security. In a first step, a procedure against social imbalances might be instituted as the equivalent of the deficit procedure of the Stability & Growth Pact and Macroeconomic Imbalance Procedure. Simply pointing out that social policy is the preserve of the member states is often enough to serve as an alibi for opponents of a social Europe. Wherever cross-border negotiations must take place for the benefit of employees these must indeed actually happen.

The European Pillar of Social Rights (EPSR) does – despite justifiable criticism – offer a starting point for drawing up a pan-EU social policy. The trade unions placed a lot of hopes in the

EPSR. First and foremost, that means giving fundamental social rights legal status. It's true that the EPSR did not remove from the very start the constitutional asymmetry that favors single market freedoms rooted in primary law over social rights. Yet it did send an important political signal against the background of social policy distortions. Anchorage points are now on the one hand initiatives in secondary law and on the other the application of 20 principles within the European Semester. This primarily affects issues of equal opportunity and labor market access, fair working conditions along with social protection and social inclusion. The application and/or implementation of these principles in concrete policies – that's a task for the next Commission.

The EU will only be able to become an inclusive growth and prosperity model if it comes with strong collective bargaining systems. In recent years the trend has been more and more towards a policy of state intervention in wages policy by disregarding free collective bargaining and destabilizing entire bargaining systems. A large share of that approach came from the EU, primarily via the mechanism of economic governance. Making social rights the guiding principle of political activity must mean first and foremost respecting national collective bargaining systems and wage determination mechanisms. The new Commission must agree to abide by this.

CO-DETERMINATION IN EUROPE – EUROPE AS AN ECONOMIC DEMOCRACY

Respecting the collective and individual rights of working men and women can also be demonstrated by democratizing the

economy. It is a living democracy in which workers are willing and able to recognize their rights to contribute and take part whether these are on hand or are yet to be created. The social partners in the EU enjoy huge opportunities to influence the legislative framework and management of working life. By agreement they can help steer the legislative process and/or demand that agreements among social partners can, subject to certain conditions, be legally enshrined in regulations. In the past several important directives came to pass in this manner. This right should not be tampered with and the Commission should not take it upon itself the right to adopt substantive inspection rights (the so-called hairdressers' agreement on occupational health & safety).

When we talk about a comprehensive Europeanization of co-determination as the interest group for working women and men at all levels, in all places of work and on issues that are of cross-border relevance then we must be guaranteed that national and European rights to information, consultation and co-determination are secure and strengthened.

The Commission must refrain from taking any initiatives, for example in the area of company law, that weaken the position of working women and men legally or practically within their company and unilaterally advantage the employers. On the contrary, what is really required is initiatives to create space and scope for co-determination rights. Legally binding improvements, for example, should be made to the EWC (European Works Council) directive by the prevention of any ban on circumvention. Concrete plans thereto are on the table. What's more, a European framework directive is required setting high standards for information and consultation as well as ambitious

minimum standards for company-level co-determination. The Commission must deliver here.

FAIR TRADE GLOBALLY – PEOPLE AT THE HEART OF THE MATTER

The new Commission must also deliver when it comes to trade policy which is being determined globally by a new dynamic. The trade war between the USA and China and the trade conflict between the EU and USA are immensely relevant for many employees around the world. Many sectors live on international trade and global value-added chains ensure in many a place decent jobs and prosperity. But these are now primarily threatened by protectionism and (social) dumping. Untrammelled free trade is not, however, the answer. Trade must serve human well-being and is not an end in itself. Trade requires rules that protect worker interests and set social and ecological frameworks. Demands for the retention of global employment and social standards clash with concepts of work as a commodity and of employees as factors of production.

In recent years people have been far too unaware that trade policy and industry policy are intertwined and/or that trade policy must be part of a sustained industry policy.

The multinational forum for regulating trade relations (WTO) has been stymied for years and is losing evermore significance. As a result the EU has been pursuing free trade agreements, as recently with Mercosur. Whether one regrets this or not, the key thing above all is that the EU must create mechanisms for respecting collective and individual labor rights. Model chap-

ters on employee rights are available for the Commission to fall back upon in negotiations.

Multinational businesses bear a particular responsibility. Many of them with HQs in the EU account meanwhile for three quarters of entire world trade through their value-added chains. In recent years IG Metall, together with industriALL Global Union, has concluded so-called 'global framework agreements' with over 20 multinationals. They see to minimum levels of employee rights and participation around the world in multinational firms. But sticking to human rights remains primarily a regulatory task. So, a legal regulation is here of central importance for the so-called human rights duty of care in multinationals. It would oblige firms to comply with human rights in their supply chains and/or monitor and secure their compliance. With its regulation on the duty of care regarding 'conflict minerals', the EU has made an important first step but this can and should only be a first step. The issue now is to spread it to further sectors. For the textiles sector, preparatory work on a comparable regulation is already far advanced. The European Parliament above all has performed well here and earned praise for its substantive proposals. The new Commission must build upon this work and set out a draft version of a robust regulation on protecting employees in the sector at global level. If the Commission seriously wishes to (in its own words) 'harness globalization' and create 'trade for all', then it must make the worldwide well-being of human beings the guiding principle of its trade policy.

EMU REFORM

As with trade policy the outgoing Commission is bequeathing work-in-progress when it comes to reforming the economic and monetary union (EMU). Past years have shown that ad hoc crisis management is highly dangerous for the stability of national economies and the political community. There should be no debate as to whether one should act purely reactively as up to now or the enactment of sustained reforms should be envisaged. The ECB's policy for saving the euro 'whatever it costs' has demonstrated how to remove critical pressures from the eurozone. Even so, it remains the case that the advanced interplay of goods and financial markets requires more regulation within a political union.

The Stability & Growth Pact must, like monetary policy, be geared towards the target of sustainable growth and a high rate of employment. The issue here is that fiscal and monetary policies should promote demand in such a way that the conditions are created for higher growth and rising employment. In this context monitoring macroeconomic imbalances must be ascribed the same status as the Stability Pact and the latter, moreover, must be applied more flexibly so as to avoid procyclical policies.

Draft reforms of EMU that envisage elements of cross-border liability in the event of crises are very welcome. For this to happen, the European Stability Mechanism (ESM) must be taken under community law and be changed into a European Monetary Fund (EMF). Here, too, completing banking union is imperative. In addition, a eurozone budget is sensible, one that evolves from a fiscal capability into a fund for financing

infrastructure projects and that acts as an automatic stabilizer. This would bring about a distributional component with a comprehensive investment agenda alongside a stabilization component.

A eurozone Parliament must have sovereignty over a eurozone budget as, in the end, a central problem of Troika policy was the deliberate switch to direct international agreements without obeisance to any democratic decision-making and, in particular, control mechanisms. European economic governance must put an end to the one-sided fixation with public deficits and accumulated debts and be given the political mandate to co-ordinate macroeconomic decisions as well as employment and social policies. That way the eurozone could become the centerpiece of a more deeply integrated EU.

Here EU taxation policy takes on greater meaning. A fiscal capacity and/or a likely eurozone budget should be allocated with own resources, coming either from a financial transactions tax (FTT) or a proportion of the yield from harmonized corporation tax. In these specific tax questions, individual groups of member states ready for greater integration could set the pace. Harmonized corporation tax would, beyond that, be absolutely imperative when it comes to tax convergence.

Competition in cutting corporation tax must finally be brought to a halt. A uniform EU minimum level of taxation based on a uniform assessment basis and one that, via certain defined channels, allows for differing starting points in individual countries, can achieve this.

CONCLUSION

A radical change of course is now even more urgent than ever but does not necessarily require treaty change. At the supposedly lower level, that is in secondary law, policies can be put together that pursue a solidarity-based renaissance of the EU. The European Commission here plays the key role. In the next few years the issue will be persuading the 'protector of the treaties' not just to keep a watchful eye on the basic freedoms of the internal market but, rather, take on the task of forging a social Europe and, thereby, a 'Europe with a future'.

PART 4

BREXCURSION

THE EFFECT OF BREXIT ON UK LABOUR LAW

CATHERINE BARNARD

As we repeal the European Communities Act, we will convert the 'acquis' ... into British law. When the Great Repeal Bill is given Royal Assent [now the European Union (Withdrawal) Act 2018], Parliament will be free – subject to international agreements and treaties with other countries and the EU on matters such as trade – to amend, repeal and improve any law it chooses. But by converting the acquis into British law, we will give businesses and workers maximum certainty as we leave the European Union. The same rules and laws will apply to them after Brexit as they did before. Any changes in the law will have to be subject to full scrutiny and proper Parliamentary debate. And let me be absolutely clear: existing workers' legal rights will continue to be guaranteed in law – and they will be guaranteed as long as I am Prime Minister.

British Prime Minister, Theresa May, party conference speech, 1 October 2016

INTRODUCTION

In the run up to the referendum in June 2016, Priti Patel MP, one of the leading proponents of leaving the EU, said to the Institute of Directors that '[i]f we could just halve the burdens of the EU social and employment legislation we could deliver a £4.3 billion boost to our economy and 60,000 new jobs'. Liam Fox MP, another leading Brexiter who became Secretary of State for International Trade, had expressed similar sentiments prior to the referendum campaign: '[T]o restore international competitiveness we must begin by deregulating the labour market. Political objections must be overridden.' His remarks re-emerged during the campaign itself.

The Remain campaign, galvanised by these and other observations, responded. The StrongerIN website said:

EU laws protect your rights in the workplace, meaning no government can scrap them.

Being in the EU protects your right to paid holiday leave, maximum working hours, equal treatment for men and women, rights for part-time workers, health and safety standards, parental leave, and protection from discrimination on the grounds of sex, race, religion, age disability and sexual orientation.

If we left the EU, your workers' rights would be up for debate and vulnerable to being scrapped. There could be years of uncertainty for you and your employers.

The vote to leave on 23 June 2016 therefore suggested a victory

for those calling for a smaller state and less (employment) regulation. But the Prime Minister, Theresa May, who came into office in July 2016, did not appear to share those views. This was made clear, first in her party conference speech cited in the opening lines of this chapter, and again in her Lancaster House speech on 17 January 2017, where she said:

Indeed, under my leadership, not only will the government protect the rights of workers set out in European legislation, we will build on them. Because under this government, we will make sure legal protection for workers keeps pace with the changing labor market – and that the voices of workers are heard by the boards of publicly-listed companies for the first time.

She repeated those views in the House of Commons on 29 March 2017, the day Article 50 TEU was triggered. The White Paper on the Great Repeal Bill said much the same.

Taking the Prime Minister's speech at face value, she committed to maintaining all of the EU-derived employment *acquis* so long as she was Prime Minister. So, the Working Time, Fixed Term and Agency Work Regulations – widely regarded as doomed following Brexit – seemed to enjoy a stay of execution. However, it is by no means clear that these commitments will bind any new Prime Minister.

However, all is not quite as it seems. Let's start with looking at the EU(W)A 2018, the important piece of legislation passed by the Westminster Parliament in anticipation of (a no deal) Brexit.

THE EU(W)A 2018

What it does: Repeal, Convert, Correct

The EU(W)A 2018 has three strands: ‘repeal, convert and correct’. The ‘Repeal’ strand involves ‘repeal[ing] the European Communities Act [ECA] 1972, and in so doing, return[ing] power to UK politicians and institutions’. This was the inevitable consequence of a vote to leave the EU.

Of more relevance for this chapter are the ‘Convert’ and ‘Correct’ strands. As far as *Convert* is concerned, this is a reminder that the Act is in fact far more about continuity than revocation. Specifically, s.2(1) of the EU(W)A provides that ‘EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day’. Section 2(2) then explains what is meant by ‘EU-derived domestic legislation’ and includes any enactment ‘(a) made under section 2(2) of the European Communities Act 1972’. In other words, it ensures that, for example, Directives which have been implemented into UK law by secondary legislation (SIs), as permitted by s.2(2) ECA 1972, continue to have effect in UK law. Therefore, the Working Time Regulations implementing the Working Time Directive under s.2(2) ECA will continue to apply (unless and until repealed by a future UK government in the event of a no deal Brexit).

Some Directives, as with the Equality Directives 2000/43, 2000/78 and 2004/54, have been implemented by an Act of Parliament (primary law), now the Equality Act 2010. The Equality Act will continue to stand: as a separate Act of Parliament, it should not be affected by the repeal of the s.2(2) powers

in the European Communities Act 1972. However, to avoid arguments by lawyers that employment legislation, particularly that found in Acts of Parliament, is nonetheless impliedly repealed following Brexit, s. 2(2)(d) EU(W)A 2018 preserves as EU-derived domestic legislation ‘any enactment so far as-... (d) relating otherwise to the EU or EEA’.

As far as the third, ‘*Correct*’, strand of the EU(W)A 2018 is concerned, s.8 gives so-called Henry VIII powers (i.e. wide powers given to the executive thus circumventing much parliamentary control, as King Henry VIII himself wanted) to the Minister of the Crown to make regulations as the Minister considers appropriate to ‘prevent, remedy or mitigate – (a) any failure of retained EU law to operate effectively, or (b) any other deficiency in retained EU law’. There was considerable concern that these powers would be used to make significant policy choices/changes and attempts were made to introduce an amendment to ring-fence the Equality Act from s.8 but these were unsuccessful.

An example of the application of the statute: the case of EWCs

So, the effect of the convert strand of the EU(W)A is to preserve all re-existing EU employment law into UK law. However, despite the language of continuity, there is one area for a major potential policy change in the employment field: European Works Councils (EWC). At first sight the UK implementing legislation is preserved. The 1999 Regulations, implementing Directive 94/45, and the 2010 Amendment Regulations, implementing the EWC Directive 2009/38, were adopted under the powers laid down by s.2(2) ECA and so should be retained

under s.2(2)(a) EU(W)A 2018. However, the Regulations embed just the sort of problem that s.8 ('correct' powers) of the EU(W)A was intended to deal with. For example, Regulation 4(1) applies to the situation where the central management of the Community-scale undertaking or group of undertakings is based in the UK. Regulation 5 says the central management is responsible for creating the conditions necessary to set up an EWC or Information and Consultation Procedure (ICP). An EWC or ICP needs to be set up only where the thresholds are met which includes 1000 employees in the member states and at least 150 employees in each of at least two member states. The problem is that the UK will no longer be a member state.

The Commission had already flagged up this problem in its 'Notice to Stakeholders' of 28 March 2018). It said that in the event of a no-deal Brexit the EWC Directive will 'no longer apply to the UK' to the effect that: (i) some businesses may fall outside of its scope once UK employees are excluded from its headcount test; and (ii) another representative agent in a remaining member state will need to 'take over the responsibilities' for EWC matters if central management or its representative agent is currently located in the UK.

In recognition of these problems, and using the s.8 powers, the UK has passed The Employment Rights (Amendment) (EU Exit) Regulations 2019 which apply in the event of a no deal. The law firm Lewis Silkin provided a helpful summary of these complex regulations. They say: 'In summary, and contrary to the Government's commitments to preserve all UK employees' rights, the Regulations will:

- end the right of employees to request information on

whether their employer falls within the scope of the EWC Directive and, if so, request the establishment of a EWC; and

- end the application of the UK's EWC legislation to UK-based businesses or non-EU-based businesses that had designated a representative agent in the UK before Brexit. (The Regulations nonetheless preserve protections from detriment and unfair dismissal for UK representatives participating in bodies operating under other member states' laws.)'

They also note that the Regulations preserve the application of the UK's EWC legislation only to businesses that:

- are non-UK-based;
- are non-EU-based;
- have a UK undertaking that, at the date of Brexit, happened to employ more employees than any other group undertaking in the EU; and
- that undertaking was already responsible for operating their EWC other than as a result of it being designated to do so.

They conclude: 'We are unaware of any business meeting the above criteria, notwithstanding our extensive experience advising on EWCs. In effect, therefore, the Regulations end the UK's legal framework for operating EWCs.'

The Commission has subsequently published a further revised note on EWCs post-Brexit covering a range of issues for current EWCs to address including thresholds, locations

for central management, applicable law and Article 6 agreements.

THE ROLE OF THE EUROPEAN COURT OF JUSTICE

The idea of continuity seen in the EU(W)A 2018 extends to the case law of the Court of Justice (CJEU). The CJEU has played a major role, expanding rights and remedies in the social field. Most of this 'retained EU case law' will continue to be binding on UK courts and tribunals. Section 6(7) of the EU(W) Act provides that 'retained EU case law' means any principles laid down by, and any decisions of, the European Court, as they have effect in EU law immediately before exit day'. They will have the same binding effect on UK courts or tribunals as decisions of the Supreme Court and can be reversed in the same (relatively rare) circumstances as decisions of the Supreme Court. Future, post-Brexit, decisions of the CJEU will continue to have a persuasive effect on the British courts. According to s.6(1) EU(W)A, a court or tribunal (a) is not bound by any principles laid down, or any decisions made, on or after exit day by the European Court, and (b) cannot refer any matter to the European Court on or after exit day. However, s.6(2) provides that a court or tribunal may nevertheless have 'regard to anything done on or after exit day by the European Court, another EU entity or the EU so far as it is relevant to any matter before the court or tribunal'.

THE PRINCIPLE OF SUPREMACY

Under the EU(W)A's first principle, 'repeal', the ECA 1972 and thus the principle of supremacy of EU law will be overturned.

However, the principle of supremacy has not, in fact, quite died a death. Under s.5(2) EU(W) Act 2018, EU-derived law has supremacy post-exit day and can be used to disapply UK legislation enacted prior to exit day. So, for example, if a provision of the Equality Act 2010, a pre-Brexit piece of legislation, contravenes Article 157 TFEU, now incorporated into UK law by virtue of s.2(2)(d) of the EU(W) Act, Article 157 will prevail (see by analogy *Walker v Innospec* [2017] UKSC 17), albeit that, post-Brexit, any decision of the British courts to that effect can be reversed by Parliament.

WHAT IS LOST TO UK EMPLOYMENT LAW?

Despite the language of continuity, there are in fact some major changes that have been introduced which will have considerable effect on UK employment law. First, the Charter of Fundamental Rights (CFR) has been removed by section 5(4) of the EU (Withdrawal) Act 2018. This provides simply that ‘The Charter of Fundamental Rights is not part of domestic law on or after exit day’. That said any reference to the Charter will be transformed into a reference to general principles. Section 5(5) EU(W)A 2018 provides:

Subsection (4) does not affect the retention in domestic law on or after exit day in accordance with this Act of any fundamental rights or principles which exist irrespective of the Charter (and references to the Charter in any case law are, so far as necessary for this purpose, to be read as if they were references to any corresponding retained fundamental rights or principles).

Post-Brexit, it is only those general principles which have been recognised as general principles of EU law by the CJEU ‘in a case decided before exit day (whether or not as an essential part of the decision in the case)’ which can be invoked in British courts after exit day. That presumably would include the right to strike as recognised by the Court of Justice as a general principle of EU law in Case C-438/05, *Viking Line ABP v The International transport Workers’ Federation, the Finnish Seaman’s Union* EU:C:2007:772 [44].

However, post-Brexit, general principles cannot be used to strike down the validity of UK law (Schedule 1, paragraph 3(2) EU(W)A), nor can they apply in a horizontal, *Mangold*-style situation (Sched 1, para. 3(1)). Furthermore, the possibility of *Franco*-style damages claims has also been removed (Sched 1, para. 4).

WHAT ABOUT POST-BREXIT EU EMPLOYMENT LEGISLATION?

Let’s assume the Withdrawal Agreement eventually is adopted into UK law (a big assumption as things currently stand): will new EU employment law continue to apply to the UK? The answer is: ‘it depends’. If the backstop provisions of the Withdrawal Agreement (WA) apply in the UK, because no future EU/UK trade agreement has come into force at the end of the transition period laid down in the WA, then the non-regression clause of the backstop applies. Article 4(1) of Annex 4 provides:

With the aim of ensuring the proper functioning of the single customs territory, the Union and the United Kingdom shall

ensure that the level of protection provided for by law, regulations and practices is not reduced below the level provided by the common standards applicable within the Union and the United Kingdom at the end of the transition period in the area of UK is committed to maintain its obligations to comply with in the area of labour and social protection and as regards fundamental rights at work, occupational health and safety, fair working conditions and employment standards, information and consultation rights at company level, and restructuring.

Article 6 adds that the UK shall ensure effective enforcement of Article 4 and of its laws, regulations and practices reflecting those common standards in its whole territory and, to the wry amusement of UK labour lawyers, it also commits the UK to maintaining ‘an effective system of labour inspections’ (there is no general labour inspectorate in the UK), ensuring that ‘administrative and judicial proceedings are available in order to permit effective action against violations of its laws, regulations and practices, and provide for effective remedies, ensuring that any sanctions are effective, proportionate and dissuasive and have a real and deterrent effect’.

However, in a bid to get the Withdrawal Agreement through Parliament on its fourth outing the Prime Minister committed not just to non-regression in the event of the backstop coming into force but more general dynamic alignment of UK labour standards. She said on 21 May 2019:

We will introduce a new Workers’ Rights Bill to ensure UK workers enjoy rights that are every bit as good as, or better

than, those provided for by EU rules. And we will discuss further amendments with trade unions and business.

However, three days later the Prime Minister announced her resignation.

If the WA does eventually become part of UK law it will mean that the UK will go into a transition period during which time all EU employment law, including new Directives adopted in that period, will apply to the UK as they do at present. During the transition period the UK and the EU will start to negotiate the future trade deal and this may result in a continued obligation to respect EU employment law. Donald Tusk, President of the European Council, made clear in the draft Presidential Guidelines on negotiations over the UK's departure that any future free trade agreement between the EU and the UK should be 'balanced, ambitious and wide-ranging'. Further, such a deal must ensure 'a level playing field in terms of competition and state aid, and must encompass safeguards against unfair competitive advantages through, inter alia, fiscal, social and environmental dumping'. The language was modified somewhat in the final version: any free trade deal with the UK must 'encompass safeguards against unfair competitive advantages through, inter alia, tax, social, environmental and regulatory measures and practices'. But the intention is clear: the UK will have to respect workers' rights, although at what level is not spelled out.

CONCLUSION

All of this is highly speculative. The politics in the UK are so troubled at the moment that there is a very good chance that the UK will leave with no deal at all either at the end of October 2019 or sometime after that. There is every chance that by then the UK has a new Prime Minister who may be much less wedded to the commitment to maintain or even improve employment rights and will use the opportunity to strip away the protection preserved by the EU(W)A 2018. Philip Hammond, currently Chancellor of the Exchequer, recognised as much. In an interview with *Die Welt*, he said that '[w]e are now objectively a European-style economy ... with a social model that is recognizably the European social model that is recognizably in the mainstream of European norms, not US norms'. He concluded: 'I personally hope we will be able to remain in the mainstream of European economic and social thinking. But if we are forced to be something different, then we will have to become something different.' Workers' rights may be less secure than first appears.

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