

EU Enlargement, the Clash of Capitalisms, and the European Social Dimension

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List of abbreviations

ALDE	Alliance of Liberals and Democrats for Europe
BEPG	Broad Economic Policy Guidelines
CAP	Common Agricultural Policy
CEE	Central and Eastern Europe
CME	Coordinated market economy
COREPER	Committee of Permanent Representatives
CSR	Country Specific Recommendation
DG EMPL	Directorate General for Employment, Social Affairs and Inclusion
DG MARKT	Directorate General for Internal Market and Services
DG REGIO	Directorate General Regional Policy
EAPN	European Anti-Poverty Network
EC	European Community
ECB	European Central Bank
ECC	European Economic Community
ECJ	European Court of Justice
ECOFIN	Economic and Financial Affairs Council
EES	European Employment Strategy
EMS	European Monetary System
EMU	European Monetary Union
EPP	European People's Party

EPSCO	Employment, Social Policy, Health and Consumer Affairs Council
ERDF	European Regional Development Funds
ERT	European Round Table of Industrialists
ESD	European social dimension
ESF	European Social Funds
ETUC	European Trade Union Confederation
EU	European Union
GDP	Gross domestic product
HBOS	Halifax and Royal Bank of Scotland
IMCO	Internal Market and Consumer Affairs Committee
IR	International Relations
LI	Liberal intergovernmentalism
LME	Liberal market economy
MEP	Member of the European Parliament
NGO	Non-Governmental Organisation
NRP	National Reform Programme
OMC	Open method of coordination
PES	Party of European Socialists
QMV	Qualified Majority Voting
RBS	Royal Bank of Scotland
SEA	Single European Act
SEM	Single European Market
SGEI	Services of General Economic Interest

SGP	Stability and Growth Pact
TAW	Temporary agency work
TEU	Treaty of the European Union
ToA	Treaty of Amsterdam
WTD	Working Time Directive
UK	United Kingdom
USA	United States of America
VoC	Varieties of capitalism

Acknowledgements

This monograph has taken me a little longer to write than I originally anticipated. Some of the research within the chapters was conducted during my Ph.D., but I decided to continue deepening its theoretical and empirical content during my Hallsworth Fellowship at the University of Manchester. I finished it when I arrived at Queen Mary, University of London, in the autumn of 2013. Needless-to-say, this book represents one of the longest relationships I have had in my life.

There are so many people to thank in what has been a very long journey. I would first of all like to thank Professor Claire Annesley, Professor Simon Bulmer and Professor Peter Humphreys – my troika of Ph.D. supervisors at the University of Manchester. You were a great support and I could not have asked for anything more. I hope that the time and effort you spent with me during those three years has been worth the effort. I also hope that you are as proud of this book as I am as proud to have been one of your students. Thanks also to Manchester University Press.

Numerous other colleagues and friends have also been a great support over the years: Dr. Chris Agius; Elizabeth Alexander; Dr. Katherine Allison; Professor Kenneth Armstrong; Dr. Eli Gateva; Dr. James Pattison; Dr. Scott James; Dr. Veronique Pin-fat; Dr. Jill Lovecy. A special thanks to both Dr. Helen Dexter and Professor Dimitris Papadimitriou for keeping me sane while I was working on my research at the

University of Manchester. Thank you also to Professor Mary Daly – our collaborations really helped me with chapter 6. Also thanks to Dr. Beryl ter Haar, my academic wife and one of my best friends. I have thoroughly enjoyed working with you and I hope that our collaborations and friendship go from strength-to-strength. Elisa Roller has been by my side from the very beginning of this research. From reading drafts of my Ph.D. proposal when I was living in South Korea, to helping me arrange interviews in the EU institutions and just generally being a wonderful friend. My world is a much brighter and happier place with you in it and I look forward to many more of our ‘lunches in Brussels’. Thanks also to Kate Alexander, Carly Bibby, Claire Bell, Rachel Carter, Lisa Collins, Angela Donnelly, Sarah Fletcher-Hogg, Becky Hewson, Adam Prince, Ian Scullion, Niki Taylor and Chris Ward. I can honestly say that I have never regretted any of the hangovers we inflicted on ourselves. My friendships with you, as well as everyone else mentioned on this page, have all made a massive difference to my life and have certainly helped with the completion of this book. Andrew Clark read a draft of this monograph, despite it not really being his field, and provided me with some useful comments. He also encouraged me to continue with it during the dark days. This whole journey would have been very different and less positive had I not have met you. Thank you.

Numerous officials working in the EU institutions gave up their time to be interviewed – although I suspect it felt more like being interrogated. Thank you for seeing me and in most cases, going beyond what I expected. I know that you are all incredibly busy and face numerous requests for interviews, but such research would be impossible without your contributions. I hope that the empirical chapters of the

book correspond to your version of events. I also hope that you all continue to see some value in meeting with researchers.

Most of all I would like to thank my family for being by my side throughout this whole journey. Gill and Paul have always been the best parents that anyone could wish for. They have always believed in me and have always trusted my instinct. I owe them a massive gratitude for repeatedly turning up on my doorstep with so much food that my father could not carry it all. I often wondered if there was any food left in your house after a trip to Manchester. My sister Natalie has also been a great support over the years. Having a sibling who I can also call a friend is one of the greatest pleasures in life. Barbara Copeland, my grandmother, has telephoned me every Sunday at 6pm since I left home. I am so pleased that during our conversations I can now finally say that this book is complete.

London

August 2013

For Harriet Higgins – a very gracious lady

Introduction

In 2004 the European Union expanded to include the countries of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia – the largest round of enlargement in its history. In 2007, the EU was further joined by Bulgaria and Romania. In the years that preceded the enlargements, much academic attention focused on EU accession preparations. Since then, attention has shifted to analyse the impact of the new Member States upon the EU, particularly with respect to decision making within the Council (Arregui and Thomson, 2009; Mattila, 2008; Naurin and Lindahl, 2008; Plechanovová, 2011; Thomson, 2009). But what has been the impact of the 2004 and 2007 enlargements upon the process of European integration as a political project? At the heart of the European integration process is the political economy debate over whether the EU should be a market-making project, or if it should combine this with integration in employment and social policy. This book analyses the impact of the 2004 and 2007 enlargements upon the politics of European integration in the context of this debate.

The politics surrounding the political economy of European integration has long been viewed as featuring a clash of capitalisms for the normative governance of the European political economy. When national actors step into the European political arena they bring with them the ideological convictions from their respective national arenas (Hooghe and Marks, 1999: 76). Divisions within the EU integration process can be located within a two-dimensional space: the first dimension ranging from

social democracy to market liberalism and the second from nationalism to supranationalism (ibid) with the result that governments and the broader set of EU actors hold allegiance to either the liberal or regulatory coalitions. The two coalitions have their origins within the varieties of capitalism approach (VoC) which roughly divides EU Member States between Hall's and Soskice's (2001) liberal market economy (LME) / coordinated market economy distinction (CME). The two broadly defined coalitions are relatively loose groupings and as a result, no one social bloc is able to dominate and impose its interests across all the relevant regulatory sub-spheres (Callaghan, 2008). The EU's political economy is therefore a patchwork of policies that represents the various struggles between the two coalitions, with the liberal and regulatory capitalism coalitions pitted against each other in a direct tension concerning how the EU ought to be governed (Callaghan and Höpner, 2005; Callaghan, 2008; Clift, 2009; Hooghe and Marks, 1999; Wincott, 2003).

Existing studies of the EU's clash of capitalisms have focused on the tensions within a pre-2004 EU, but since then the Union has enlarged twice to include Member States that have had very different historical developments within their political economies *i.e.* at the height of neoliberal globalisation. Debates concerning the VoC of the former state-socialist countries of Central and Eastern European (CEE) (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia) remain inconclusive: for King (2007), King and Szelényi (2005), King and Sznajder (2006) and Vaughan-Whitehead (2003), the CEE states represent a neoliberal bloc of countries; but for Keune (2006), Bohle and Greskovits (2006; 2007a; 2007b) and Feldmann (2006; 2007) there remain significant differences

between the CEE states and claims of a neoliberal bloc are too simplistic. Any attempt to predict the alignments of the CEE states within the EU's political space would be speculative, and highlights the necessity of greater understanding about the clash of capitalisms within an enlarged EU.

This book aims to contribute to this necessity, analysing the impact of the 2004 and 2007 EU enlargements upon the EU's clash of capitalisms within the European social dimension (ESD). After a decade of modest progress in EU employment and social policy, from 2004 progress in the ESD stalled. In part the blockages that emerged can be attributed to the neoliberal leaning preferences of the first Barroso Commission (ter Haar and Copeland, 2010); yet beyond such factors, the 2004 EU enlargement has had a profound impact upon the clash of capitalisms surrounding the ESD. This research analyses three policy negotiation case studies surrounding the ESD in a post 2004 EU – the Services Directive, the revision of the Working Time Directive and the Europe 2020 poverty target. The case studies reveal that, with few exceptions, the CEE states have consistently joined the liberal coalition during the negotiations. *EU enlargement, the European social dimension, and the clash of capitalisms* argues that the alignment of the CEE states with the liberal coalition has strengthened its position during policy negotiations. The effect has been to make agreements increasing difficult, and, it is argued, makes unlikely more substantive progress and developments within EU employment and social policy.

Chapter one analyses the political economy of European integration and explains the EU's involvement within employment and social policy. The chapter argues that,

compared to the Single European Market (SEM), the EU's case study *par excellence* for integration, integration within employment and social policy has often been described as an 'add-on' or 'after-thought'. The EU has developed more powers to regulate and coordinate employment and social policy than the redistributive policies found at the Member State level. When attempts to establish a more comprehensive policy have been made, they have predominantly featured legally non-binding agreements rather than harmonisation via the use of directives. It is therefore argued that EU governance within the field falls short of a model and is best understood as a European social dimension ESD). The ESD is comprised of a small hard law component (directives underpinned by the European Court of Justice), a majority soft law component (legally-non binding agreements between the Member States), and underlying norms and values regarding the acceptable level of welfare provision within the EU. Integration within the ESD is very much a work in progress and unlike the SEM, which tends to be a politically and institutionally stable component of the European integration process regardless of the EU's political constellations, the ESD is much more susceptible to political shifts. The chapter concludes by highlighting the potential challenge posed by the 2004 and 2007 EU enlargements upon the development of the ESD.

Chapter two explains the theoretical lens through which the research is conducted. Given that the case studies analyse policy-negotiations, the most obvious theoretical lens would be liberal intergovernmentalism (LI) (Moravcsik, 1998; and Moravcsik and Schimmelfenni, 2009). However, the various assumptions within LI, such as unanimity voting, rarely feature within EU policy negotiations outside of Treaty

changes and the assumption that EU institutions have little or only limited impact on outcomes is disputed. Consequently, the chapter constructs a modified version of Stone Sweet's and Sandholtz's (1997; 1998) supranational governance approach. It argues that EU negotiations are conducted within a transnational political space, and that transnational actors are capable of exerting their influence. Divisions within the transnational political space feature a clash of capitalisms with governments of the Member States and a broader set of EU actors dividing into the regulatory and liberal coalitions during negotiations. The framework is then used to analyse the three subsequent case studies – the Services Directive, the revision of the Working Time Directive, and the Europe 2020 poverty target.

The analysis of the three case studies is based upon the primary working documents of the negotiations produced by the EU institutions and the Permanent Representations of the Member States, as well as interest groups such as the European Trade Union Confederation and BusinessEurope. The analysis is complemented by 44 interviews that were conducted between 2006-2010. Semi-structured interviews enable the analysis to 'explore people's experiences, practices, values and attitudes in depth' (Devine, 2002: 207). They contextualise primary documentation by providing participants with the opportunity to offer reasons and motivations as to why particular courses of action and decisions are taken. The combination of primary documentation and interview material provides a more holistic account of developments than the utilisation of one method alone. Furthermore, the interviews enabled the gathering and analysis of primary documentation that is not within the public domain. Such confidential information

includes the inter-institutional files between the European Commission, the European Council and the European Parliament. Key actors from all of the main institutions and different political backgrounds were identified and targeted for interview. Targeted interviewees were then asked to identify other key actors within the case studies and this generated a snowballing sample of representatives. To further minimise bias, interviews were cross-referenced with each other and any aspect of an interview that was unclear was referred back to the interviewee for clarification.

Chapter three analyses the negotiations of the Services Directive (2004-2006). Although the proposed directive related to the SEM, the ensuing debate focused upon the impact it would have on the potential to undermine the ESD. The negotiations witnessed a clear division along the clash of capitalisms political constellation. The regulatory coalition argued that the proposed directive would undermine the more extensive systems of social protection and labour law found within some EU Member States. In contrast the liberal coalition argued that the negative criticism of the proposal was based on both an exaggeration and a misconception of the directive. All of the CEE states joined the liberal coalition and their position was influenced by two factors: first, concerns regarding the free movement of workers from east to west and the restrictions placed on such by the majority of the EU-15 Member States; and second, sympathy towards the liberal underpinnings of the proposed services directive. On the latter point, the proposed directive was considered to be an opportunity to reform domestic service sectors and to catch-up in terms of growth and development with western neighbours.

Despite the outcome of the negotiations favouring the regulatory coalition, the chapter reveals the political tendencies of the CEE states to integration within the ESD.

Chapter four focuses on the negotiations of the revision of the Working Time Directive. The WTD is often referred to as a cornerstone of the ESD and was agreed in 1993. The directive sets a 48-hour limit to an employee's working week, as well as minimum requirements for rest and annual leave. The 1993 directive contained the opt-out whereby an employee would be allowed to work in excess of the 48-hour week providing that they signed an individual opt-out agreement. The directive contained a review clause whereby the opt-out and the 3 month reference period (i.e. the period in which a 48 hour week could be calculated as an average) were to be reviewed a decade after it had come into force across the EU. The opt-out had been included within the original directive to secure the agreement of the UK and it was hoped that over the following ten years, Britain would move away from its tradition of a long-hours working culture and thereby the opt-out could be removed. Negotiations for a revised directive began in 2004, and governments of the Member States and EU actors divided along the clash of capitalisms political cleavage. After 5 years of negotiations the EU was unable to reach an agreement illustrating the inability of the EU to move forward on a piece of social legislation that is central to the ESD. As a result the original directive remains in force and the use of the opt-out across the Member States continues to spread. The chapter argues that the CEE states have had a significant impact on the failure to reach an agreement, as they all

(with the exception of Hungary) proved to be crucial allies for the UK, who was spearheading the liberal coalition.

Chapter five concerns the negotiations surrounding the poverty and social exclusion target as part of the Europe 2020 strategy – the successor to the EU’s Lisbon Strategy which aimed to make the EU: ‘the most competitive and dynamic knowledge-based economy in the world’ by 2010 (Council of the European Union, 2000). In its first draft of Europe 2020 the European Commission proposed the headline target to reduce poverty and social exclusion within the EU by 25% by 2020. Poverty was to be calculated via one single measurement of ‘at risk of poverty’ (i.e. people living on less than 60% of the national median equivalised income). Initially, the EU was unable to reach an agreement on the target and this, along with disagreement on the education target, delayed the launching of Europe 2020. Governments of the UK, Ireland, Sweden and the majority of the CEE states (with the exception of Hungary and Slovenia) formed the core of the liberal coalition and strongly opposed the Commission’s proposal. The coalition argued against having one unifying measurement of poverty, and particularly one which only focused on a relative poverty definition. Meanwhile, the regulatory coalition formed by Austria, Belgium, Cyprus, France, Italy, Portugal and Spain along with EU social actors (interest groups and NGOs) and the newly elected President of the European Council Herman Van Rompuy, defended the proposed target. This chapter argues that while a poverty target was agreed, it was very different to the initial proposal put forward by the European Commission as the liberal coalition proved successful in ensuring that the target remained as flexible as possible. As the chapter explains, it represents

an uncertain compromise and it is questionable how seriously it will be taken forward. The CEE states were instrumental in this outcome.

Chapter six brings together the findings of the research to argue that that the 2004 and 2007 enlargements have had a profound impact upon the ESD. During policy negotiations within the ESD the majority of the CEE states joined the liberal coalition during making agreements over employment and social policy increasingly difficult. This is causing a political stalemate in EU negotiations and is gradually changing attitudes at the European level as to the desirability of further integration within the ESD. The chapter analyses the reasons behind the position taken by the CEE states, with high levels of dependency on foreign direct investment for growth, the general difficulties posed in constructing more CME institutions, and EU accession preparations all being identified as key factors. The chapter concludes by outlining the future of the ESD in the context of EU enlargement and the Eurozone crisis.

In short, this book assesses the impact of the CEE states on the European social dimension by applying a modified version of the supranational governance approach to EU policy-making. It draws on original empirical research, including interviews with key actors, to analyse three EU policy negotiations relating to the three different components of the ESD (hard law, soft law, and norms and values). It demonstrates how as a result of enlargement, the liberal coalition has been strengthened at the EU level, particularly in the European Council, and this has undermined agreements on employment and social policy. Further substantive

integration in the ESD remains a regulatory ideal rather than reality, given the current dominance of the liberal coalition at the EU level.

1: The Political Economy of European Integration and the Challenge of the 2004 and 2007 EU Enlargements

In the fields of political economy and EU politics the process of European integration is widely acknowledged to be a predominantly market-making process. According to Scharpf (2002: 645) the EU suffers from a 'constitutional asymmetry between policies promoting market efficiencies [which dominate] and policies promoting social protection and equality'. The EU has often been criticised for developing a relatively weak competence in social policy that is an 'add-on' or 'after-thought' to market integration. There is no transnational European welfare state that either complements or supersedes the social policies of its members. The EU has developed more powers to regulate and coordinate social policy than the redistributive policies found at the national level (Annesley, 2003; Leibfried, 2010; Leibfried and Pierson, 1995). Of the handful of directives that concern EU social policy, the majority have resulted from concerns to prevent a distortion of competition within the Single European Market (SEM) and relate to the protection of workers and not the broader social concerns of all EU citizens. When attempts to establish a more comprehensive EU social policy have been made, they have primarily featured legally non-binding agreements that have a limited impact in terms of Member State convergence and harmonization (Copeland, 2013).

Whether such developments within EU employment and social policy represent an emerging European social model, that is the existence of an EU social policy which Member States converged upon with delegation of authority/responsibility at the regional level, remains disputed (Hantrais, 2007; Jepsen and Serrano Pasual, 2005; Leibfried, 2010; ter Haar and Copeland, 2010; Wincott, 2003). A number of scholars have pointed to the variety of governance instruments utilized within the EU to promote integration within social policy, and combined with a comparison of the USA, it is argued that the EU promotes a unique quantitative and qualitative type of welfare state both in terms of its scope and content (e.g. Annesley, 2003; Hantrais, 2007; Vaughan-Whitehead, 2003). However, the existence of a European social model is somewhat overstated. Comparing EU social policy to the Single European Market, the EU's case study *par excellence* in terms of integration, it becomes obvious that a 'model' on a par with the Single Market does not exist. EU accession preparations for the 2004 and 2007 serve to illustrate this point further: of the 31 chapters or areas of policy that the accession countries were required to transpose and implement prior to full EU membership, only one concerned employment and social policy. In short, while the concept of a European social model is something which social actors, particularly within institutions and organisations such as the Directorate-General for Employment and Social Affairs and the European Trade Union Confederation, can aspire to, in its current form EU governance surrounding employment and social policy falls short of a model.

The purpose of this chapter is to analyse the political economy of European integration and to examine the EU's competence within employment and social

policy. It argues that the EU's involvement in social policy and labour can best be understood as a European social dimension (ESD) – that is, although there is considerable political activity at EU level in terms of employment and social policy, unlike the SEM or Monetary Union, integration within the field is a work in progress. Its current and future developments are therefore very much dependent upon the EU's political constellations. The first part of the chapter provides a historical overview of the political economy of European integration to highlight the EU's competence in employment and social policy. Second, the chapter analyses the difficulty in referring to such a competence as a European social model and argues that EU has a social dimension, rather than a model. The final section of the chapter highlights the potential challenges posed by the 2004 and 2007 EU enlargements upon the future development of the ESD.

I: The political economy of European integration in context

The 1970s witnessed turmoil in both the international and European political economies. Following the collapse of the Bretton Woods system of stable exchange rates, the post war boom that had followed the ending of the Second World War came to an end. The Bretton Woods system of pegging major currencies to the US dollar and the enforcement of capital controls, gave rise to an international system of stable exchange rates. In turn this created a stable trading order, relatively closed economies and had enabled the 'Keynesian compromise' between capitalist production and the socialist state (Strange, 1998: 188). From 1971 onwards, Western states proceeded to lift capital controls and promote financial market

liberalisation/deregulation - effectively undermining the macroeconomic tools of Keynesian demand management (Helleiner, 2000: 165). Keynesian demand management, *i.e.* generating employment and economic growth through domestic inflationary policies (such as increasing the money supply or reducing taxation), presupposes a relatively closed economy. Reflation in an open economy can simply boost the demand for imports, rather than increasing domestic production (Mishra, 1999).

The demise of Keynesian corresponded with a turbulent decade for the international political economy in which stagflation, *i.e.* low growth and high inflation, became the key characteristic of the day, although the USA and Japan appeared to weather the 1970s more successfully than the major European economies (Sandholtz and Zysman, 1989: 109-110). The abandonment of Keynesianism was, however, an uneven process in which the consequences of the collapse of Bretton Woods took over a decade to be realised by national governments of different political persuasions. Nowhere was this more pronounced than in France. France had blamed international conditions for the domestic economic crisis of the 1970s and in 1981 François Mitterrand was elected President on a platform to revitalise the French economy via Keynesian policies. The policies of the socialist government (nationalisation, increases in public spending and increases in the higher rates of taxation) resulted in capital flight, speculative attacks on the Franc, inflation and a worsening of the economic situation. As a result, in 1983 Mitterrand announced the famous French socialist u-turn calling an end to socialism in one country, the prioritisation of controlling inflation and the subsequent introduction of monetarist

policies (Helliener, 1995; Schmidt, 1996). Against this backdrop the process of European integration stalled, as governments attempted to grapple with the international economic conditions at the domestic level. Furthermore, decision-making gridlock in the European Council and an ineffectual coordinated response to the 1973 oil crisis all seeming combined to undermine the purpose of European integration (Keohane and Hoffman, 1991: 8). As Armstrong and Bulmer (1998: 15-16) put it, 'the ensuing "dark ages" period was characterised by only limited progress in the deepening of European integration' and 'of muddling through'. Europe was often viewed as politically and economically stagnant with the term 'Eurosclerosis' used to describe its then current state (Keohane and Hoffman, 1991: 6).

By the early 1980s progress towards European Community (EC) market integration had not only lost momentum, but in some respects was reversing. The turn of the decade scarcely gave much indication that Eurosclerosis would give way to a qualitative shift in the character and momentum of integration that appeared in the latter half of the decade. The customs union, established in 1968, had removed tariffs and quotas on intra EC trade and created a Common External Tariff, but there had been limited progress in other areas, such as the harmonisation of standards. For instance, attempts to harmonise product standards were limited because behind apparent technical discussions were major entrenched national interests. Furthermore, as technology and production had advanced in the 1970s, national governments set legal requirements and technological standards in isolation of each other - the result was that the common market had becoming increasingly fragmented (Armstrong and Bulmer, 1998: 16).

A renewed Momentum in European Integration

By 1986 the Single European Act (SEA) had been signed, came into effect from July 1987 and signified the beginning of a new momentum for the European integration project. According to Nugent (1999: 49) the SEA was something of a 'mixed' bag in that it contained tidying-up provisions, provisions designed to give the Community a new impetus, and provisions that altered the Community's decision-making system. Firstly, the completion of the Single European Market (SEM) by 1992 was added to the Treaty. This built upon the Milan agreement reached by governments in 1985 and endorsed the Commission's White Paper which contained some 300 proposals (later reduced to 282) and centred on the removal of physical, technical and fiscal barriers (Armstrong and Bulmer, 1998: 23). The 1992 deadline and its addition to the Treaty ensured that the completion of the SEM legally binding, thereby providing an added incentive for the Member States to adhere to the legislative programme. Secondly, the SEA introduced qualified majority voting (QMV) in the Council of Ministers in several policy areas, effectively speeding up decision-making. The introduction of QMV offered a more rapid legislative route than unanimous voting in the Council which was considered to be one of the root causes of Eurosclerosis (Armstrong and Bulmer, 1998: 23). Thirdly, the role of the European Parliament was strengthened with the introduction of the Cooperation Procedure. This gave the Parliament a voice within the negotiations relating to the Internal Market and working environment. In conjunction, the Commission's mediatory powers were increased enabling disagreements between the Council and the Parliament to be more easily resolved. Finally, linked to the institutional reforms were a series of

substantive changes to specific policy goals in the areas of social policy, environmental policy, research and technology, cohesion policy (see Armstrong and Bulmer, 1998: 27-28).

For Young (2005: 100), the SEA represented 'a strategic policy change and institutional reform [that] were linked symbiotically and symbolically'. In fact, the SEA represents a seismic shift within the process of European integration, as both the EC's institutional structure and policy goals were substantively reoriented to deeper and much faster integration. Although the contents of the SEA were somewhat narrow, according to Armstrong and Bulmer (1998: 2) it 'triggered policy activism in a range of policy areas beyond the SEA itself'. The SEA greatly boosted integration in many EU sectoral policies with transport, telecommunications, energy and services among the policy areas that were essentially a spill-over from the SEA. The Single European Market (SEM), as it became known, was therefore created by the dynamic spill-over effect of the SEA into a number of (predominantly) market-making policy areas (Armstrong and Bulmer, 1998; Schmidt, 2002).

For Majone (1994; 1996) the creation of a pan-European market has transformed the post-war Keynesian state. The liberalisation and de-regulation of national economies has been accompanied by their re-regulation at the European level, which Majone terms the 'regulatory state'. Financial constraints have ensured that the EU has more powers to regulate than to use other forms of public policy (McGowan and Wallace, 1996: 365). As to whether traditional state power has been diminished by the transformation is open to debate. McGowan and Wallace (1996:

563) argue that regulation and intervention (associated with Keynesianism) are not necessarily antithetical; what counts is rather how the government intervenes and for what purpose. In most cases, however, the regulatory state is likely to intervene to underpin rather than replace markets, as it is concerned with making markets work better and thus to compensate or to substitute where markets fail.

A spillover into EU employment and social policy?

From the signing of the Treaty of Rome (1957) until the SEA (1986) there had been little progress in the area of social policy. The Treaty of Rome (1957) set up a 'modest, cautious and narrowly focused social policy' in which only 12 of the 248 articles in the Treaty related to social policy (Hantrias, 2007: 2-3). The Commission was given the responsibility of promoting close cooperation between Member States in matters relating to training, employment, labour law and working conditions, social security and collective bargaining, but without specifying the form such cooperation should take. Directives were also allowed in order to eliminate laws and practices that were considered to be distorting competition and, importantly, to secure the free movement of workers between the Member States. Provision was also made for gender equality in pay, as well as to prevent discrimination on the grounds of nationality. Finally, the Structural Funds were established (one of the few redistributive EU policies) to provide financial assistance to areas affected by deindustrialization and high levels of unemployment.

Despite progress in the areas of health and safety and social security rights for workers, the political momentum of the 1970s amounted to very little progress

within EU employment and social policy. The SEA signified a new momentum within EU social policy. Fearing that the SEM would primarily benefit employers, French President François Mitterrand, put forward the idea of an *espace social* in which workers' rights were enshrined in law and social benefits were provided on a Europe-wide basis. The Commission exploited this opportunity and the proposal was subsequently taken up by the then Commission President Jacques Delors. Delors aimed to develop a social dimension as a means of strengthening economic cohesion and to counter-balance the EU's market-making project. The limited EU budget meant that the only way for the Commission to expand its scope was through the regulation of industry and labour. The Commission's strategy of policy expansion increased the publicity and reputation of the Directorate General for Employment, Social Affairs and Inclusion (then DGV) in an attempt to give the DG a greater role in EU policy. Delors also sought to initiate EU level social dialogue with the 1985 'Val Duchesse' discussions between the social partners. The discussions broke down as the Union of Industries of the European Communities (UNICE – now known as BusinessEurope) failed to agree upon the scale and scope of the resultant agreements. The Commission decided to finance the internal activities of the ETUC, and although they were small in absolute terms, they allowed it to pay for new personnel and to build a larger, more autonomous organisation (Martin and Ross, 1999). The Commission also nourished privileged networks of communication between itself and the ETUC (ibid). The relationship encouraged the internal restructuring of the confederation in that it became an organisation consisting of cross-national sectoral bodies rather than just national confederations. However, by the signing of the SEA, EU level social dialogue had yet to be established.

In 1989 the governments of the Member States, with the exception of Britain, adopted the Community Charter of Fundamental Social Rights of Workers, heralded as the social dimension of the SEA. The objective was to create a level playing field in the area of social policy (in a similar manner to the SEM), but disagreement remained as to whether the leveling should be one of an increase or decrease in standards. As such, the Community Charter did not have the force of law and decisions concerning its implementation were left to the Member States. The rights were set out under 12 headings including freedom of movement, working conditions and social protection.¹ Despite this, the Charter was instrumental in the launching of initiatives in employment and industrial relations policy which produced a number of directives during the 1990s concerning: pregnancy and maternity leave; working time; posting of workers; and the 1994 European Works Council Directive. The efforts of the Commission to strengthen the ETUC proved successful and in 1991 the EU level social partners came to an agreement on the basic principles of social dialogue. From 1993 onwards, EU level social dialogue as incorporated into the Social Chapter (see below) became a significant tool within the development of EU employment and social policy. To date there have been three EU directives based on the framework agreements of the social partners covering parental leave, part-time work and fixed-term work. Four legally non-binding framework agreements have also been concluded covering telework (2002), work related stress (2004), harassment and violence at work (2007), and inclusive labour markets (2010).

The Treaty of Maastricht (1992)

The political momentum during the early 1990s resulted in the signing of the Treaty of the European Union (TEU) or Maastricht as it is better known. The significance of Maastricht for the political economy of European integration is twofold. First, both the Commission and a group of Member States (led by the Mediterranean countries) aimed to give the Community Charter full legal recognition in the Treaty, but continued opposition by the UK relegated such a provision to a 'Chapter' annexed to the Maastricht Treaty. The Chapter declared 30 general principles to guide EU social policy including the promotion of employment, proper social protection, dialogue between management and labour, combating poverty and social exclusion. The 11 Member States that signed the Chapter were permitted to integrate in social policy without it affecting the UK, but these attempts to broaden the EU's remit within social policy never quite matched the vision of an *espace social*: 'there is no European welfare law granting individual entitlements vis-à-vis Brussels; there are no direct taxes or contributions, and no funding of a social budget to back such entitlements; and there is no Brussels welfare bureaucracy to speak of' laments Leibfried (2010: 254). Delors, while unable to construct his vision and to capitalise on the spillover effects of the SEA, he is credited with placing social policy on the EU's agenda and creating a political space in which discussion and some agreements could be made.

Second, Maastricht is significant because it lay down the procedure and timetable for the moving towards and completion of Economic and Monetary Union (EMU). Similar to the SEM, EMU had deep roots within the integration process with the first plan for monetary union originally floated as far back as 1969 (Tsoukalis, 1977). The

Werner Plan, endorsed by the Council in 1971, set the aim of monetary union within a decade, but the backdrop of the 1970s ensured that little progress was made (see – Cameron, 1998: 188-205; McNamara, 2005: 143-147). In 1979 the European Monetary System (EMS) was formed with the aim of stabilising exchange rates within the EU. Despite initial scepticism over the EMS, it proved to be relatively successful during the 1980s. Combined with the success of the SEM in removing barriers to trade and commerce, the creation of a single currency 'seemed to form a logical link' (McNamara, 2005: 145). At the 1988 Hanover Council meeting heads of state/government agreed for the then Commission President, Jacques Delors, to develop a plan for economic and monetary union. The 'Delors Report' was presented in 1989 and formed the basis of the TEU and EMU. A three-stage process was outlined in the Treaty, consisting of a period of convergence in policy, the creation of the European Central Bank and finally, the launching single currency (ibid).

EMU was modelled on the success and independence of the German Bundesbank whose post-war responsibility had been to keep inflation low, the Deutschmark stable and to prevent political interference in monetary policy. The Bundesbank was seen as evidence that central-bank independence could function as an effective device for assuring price stability (Eijffinger and De Haan, 1996: 1). In effect, ideas of 'sound' finances and money had become institutionalised at the European level (Dyson and Featherstone, 1999: 12) and subsequently EMU required all member central banks to be independent. The Maastricht Convergence Criteria required participants to have a budget deficit of no more than 3%, a public debt at or below 60 % of GDP and an inflation rate of no more than 1.5 % above the average of the

lowest three countries (Schmidt 2001: 46). Following the creation of the European Central Bank (ECB) in 1998, the decision to begin the final stage of the EMU was taken in 1999, albeit with Denmark, Sweden and the UK declining to join. All 2004 and 2007 new Member States are required to join the Eurozone. So far, Cyprus, Estonia, Malta, Slovakia and Slovenia have all joined.

The pooling of sovereignty and the establishing of a supranational authority within monetary policy necessitated a simultaneous level of integration in the area of fiscal policy. Supranational integration within fiscal policy proved itself to be fraught with obstacles. In comparison, integration within monetary policy has been a more straightforward process. In the Post War period the majority of Central Banks within the Member States had featured, if not complete independence, then some level of autonomy and protection from political interference. The result was that monetary policy had been somewhat de-politicised and arguments for supranational integration within the policy area were relatively easy for governments to convey to their electorates. Fiscal policy however, is a more sensitive policy area with Member States having diverse levels of taxation and public spending, underpinned by different sets of priorities and institutions.

It was decided at Maastricht that economic policy (including fiscal policy) would be coordinated with Member States 'retain[ing] ultimate responsibility for their economic policies' (Article 103). Under Article 103 Member States are required to regard their economic policies as a matter of common concern and are obliged to coordinate them with the Council. A crucial role was attributed to the formation of

the Broad Economic Policy Guidelines (BEPG) which constitute a reference frame for conduct, and regular monitoring and assessment by the Commission and the Council (Commission, 1995: 7). Such guidelines were to represent 'a distillation of, and a consensus on, the most appropriate macro and microeconomic policy framework' (ibid 8). Article 103(4) empowers the Council to issue recommendations to individual Member States addressing specific concerns, but it was hoped that 'normal peer group pressure at the Community level will be sufficient to elicit the necessary policy adjustments'. The EU's economic pillar was therefore strongly intergovernmental and the Commission's competences much weaker than in the Single Market, competition, external trade and monetary policy (Dyson, 2000; Verdun, 1996).

The Treaty of Amsterdam (1997)

The Convergence Criteria were later transformed into the Stability and Growth Pact (SGP) under the 1997 Treaty of Amsterdam (ToA). The SGP was intended to guarantee fiscal prudence by levying fines on any Member State that had an annual budget deficit greater than 3% of GDP and a government debt level of more than 60% of total GDP. In reality, the governance procedure proved itself to be ineffective as Member States exceeded the requirements of the SGP with few consequences. By 2002 Portugal had exceeded the 3% deficit rule. The next year, 2003, Greece Italy, France and Germany had all exceeded this level. And by this time, Austria, Belgium, France, Germany, and Italy all had public debt over 60 per cent of GDP. While punitive proceedings were begun against some of these states (Portugal 2002, Greece 2005) the larger Member States largely escaped sanction, despite persistently breaching the SGP (Hay and Wincott, 2012: 158).

But while the Member States were pursuing a deepening of integration within economic policy during the early 1990s, developments within social policy continued to be modest and fraught with obstacles. The Commission's 1994 White Paper on European Social Policy '*A way to follow for the European Union*' outlined the EU's agenda until the end of the decade. The paper stressed the importance of combining economic growth with social cohesion and furthermore future policy, while placing employment as a top priority, was to encompass people who were not in work and hence address the issue of social inclusion/exclusion (Hantrais, 2007: 13). Throughout the 1990s EU Member States were having mixed results in solving a common set of social problems, mainly related to the growth of unemployment and increasing social exclusion. The Commission quickly took advantage of the situation by launching a medium-term social action programme for 1995-1997 in which social policy was argued to be a productive factor rather than a burden of growth (ibid: 14). By 1997 the political climate within the EU was changing. The newly elected Labour Government in the UK opted into the Social Chapter allowing it to be incorporated into the Treaty changes agreed at Amsterdam. Furthermore, the 1995 enlargement had expanded the EU to include Austria, Finland and Sweden – Member States with generous and extensive welfare states who were seeking to influence the EU social policy debate (Hantrais, 2007; Johnson, 2005; Velluti, 2010). One result was that the EU became explicitly engaged in the 'promotion of the coordination of the employment policies of the Member States with the view to the enforcement of their effectiveness through the development of a coordinated employment strategy' (Tidow, 2003: 86).

The European Employment Strategy (EES), launched at the Luxembourg Jobs Summit in November 1997 gave priority to three objectives: raising overall employment rates; extending lifelong learning and strengthening social partnership. The EES was to be achieved via a similar governance mechanism to the BEPG, with commonly agreed targets and benchmarks in the form of the Employment Guidelines. Progress within the Member States was to be reported in an annual national reform programme (NRP) with country specific recommendations (CSR) issued by the Council upon a proposal of the Commission, although it was hoped that peer pressure would be sufficient to encourage Member States to act (Ashiagbor 2004; Copeland and ter Haar, 2013; Trubek and Mosher, 2003; Velluti, 2010). For Rhodes (2005a: 290) what emerged from the EES was a broad, multifaceted job creation strategy, based on non-binding, soft law instruments of peer review, benchmarking and persuasion.

From the Lisbon Strategy to Eurozone crisis

Following the launch of the EES (the Luxembourg Process) in 1997, in 1998 the UK Presidency introduced a light reporting procedure to stimulate structural reforms in the product and capital markets (the Cardiff Process), and in 1999 the German Presidency introduced stronger macro-economic dialogue between the EU social partners (the Cologne Process) (see Linseemann *et al*, 2007). What connected these three initiatives was a preference for new soft modes of governance, designed to facilitate coordination and reform (James, 2012: 13). Simultaneously, the Commission and subsequently the Council became increasingly aware of the EU's

competitive lag, added to which the constraints imposed by EMU via the SGP 'constitute[d] a significant change in the macro-economic policy environment' and further narrowed the policy options of the Member States (Begg and Berghman, 2002: 187). A coordinated European effort building on the EU's soft modes of governance seemed best to address these economic problems. The result was the launching of the Lisbon Agenda which aimed to make the EU: 'the most competitive and dynamic knowledge based economy in the world, capable of sustainable economic growth and with more and better jobs and with greater social cohesion' (European Council, 2000b: 5). The Lisbon Agenda incorporated all three coordination processes by institutionalising the 'open method of coordination' (OMC) and extending it to a range of new policy areas including microeconomic policy, social inclusion, research and development, education and sustainable development (see Best and Bossaert, 2002; European Council, 2000b; James, 2012).

A lack of progress in the Member States promoted a mid-term review of the Agenda. The newly formed Barroso Commission appointed the former Dutch Prime Minister Wim Kok to analyse the Agenda. The Kok Report (2004), as it became known, argued that Member States were failing to achieve their targets as a result of its overloaded policy agenda (there were some 50 benchmarks in the area of employment and social policy alone), poor coordination, conflicting priorities and weak national ownership. The Barroso Commission re-launched the Agenda under the banner of the 'Lisbon Strategy for Growth and Jobs' with a simplified number of aims and governance structure (known as Lisbon II). The result was a 'meta-OMC' in which the BEPGs and EES guidelines were merged into a single guidelines package structured

around macroeconomic, microeconomic and employment pillars (Tholoniati, 2010: 107). The OMCs of social protection and inclusion, and education and training were separated from the process and were to be organised independently, albeit they were feed in and out of the meta-OMC. The re-launch of Lisbon not only reflected a desire to improve its governance mechanism, but also a modification within its political priorities. A newly formed centre-right Commission and a majority of centre-right governments in the Council shifted the aims and objectives of Lisbon from one in which economic growth was to be combined with social cohesion, to one in which economic growth was to create social cohesion (ter Haar and Copeland 2010). In other words, rather than being an independent objective in its own right, social cohesion in Lisbon II became a function of, and dependent upon, progress made within the 'economic' pillars.

The Lisbon Strategy has spawned an extensive academic literature (e.g. Begg 2007, 2008, 2010; Borrás and Radaelli, 2011; Collignon, 2008; Copeland and Papadimitriou, 2012; de la Porte and Pochet, 2003; Radaelli, 2003; Zeitlin *et al*, 2005; Zeitlin, 2009), but most empirical studies with respect to concrete policy outcomes at the Member State level remain sceptical. A number of scholars have taken a much broader understanding of outcomes to conceptualise the impact of the OMC at the national level. Zeitlin (2009) conceptualises substantive policy change in terms of changes in national policy thinking (cognitive shifts), in national policy agendas (political shifts) and in specific national policies (programmatic shifts) and argues that there is evidence of cognitive and political shifts, but little to suggest that there have been

programmatic shifts within the Member States. This claim has been subsequently confirmed by the empirical findings of Büchs (2007).

However, the financial crisis, which started in 2007/2008, reveals the limitations of the achievements made during the EU's experiment with new modes of governance. The collapse of the US housing bubble and exposure of many European banks to the US sub-prime mortgage market gradually spilled over into a financial crisis and a fully-fledged Eurozone crisis. The crisis has provided an exogenous shock that has not only tested the resilience of the European economy, but the progress made within the Lisbon decade, the robustness of EU economic governance and the unity of the Eurozone. Lisbon II attempted to link and streamline the governance mechanisms of the BEPG with the micro-economic and employment guidelines of the Lisbon Strategy. Macro and micro economic policy, as well as employment policy, were to be simultaneously reported into a single document with developments in one policy area being sympathetic to events in others. However, the crisis has demonstrated that some governments paid little attention to the macro-economic policy guidelines, as well as the relationship between the macro-economic, micro-economic and employment policy spheres.

For Dyson and Quaglia (2012) the crisis has exposed the serious weaknesses in the construction of EU economic governance over the last two decades. During the boom years of the Lisbon Strategy low interest rates within the Eurozone enabled countries such as Greece, Italy and Portugal to postpone structural economic reforms and generate growth via credit-based consumption. While in Ireland and

Spain cheap credit generated housing bubbles that burst with spectacular effects in 2007/2008. In short, Eurozone Membership has, if anything, reinforced the structural imbalances within the EU between Northern exporters posting current account surpluses and Southern importers posting current account deficits.

Since the onset of the crisis various attempts have been made to strengthen EU economic governance and to reduce structural imbalances across Europe. The political backdrop to such a movement is not just one of 'crisis' but also one of caution regarding the deepening of European integration. Amsterdam and subsequent Treaty revisions (Nice in 2001 and Lisbon in 2008) have been modest in comparison to the SEA and Maastricht. Rather than expanding the EU's competences, they have been more concerned with reforming the EU's decision-making process and other procedural matters. In this respect there is a tension between the EU constitutional discourse concerned with limiting and constraining EU powers and a policy discourse that often looks to the EU for responses to problems and challenges facing the EU Member States (Armstrong, 2012: 212). The solution to this dilemma in Europe 2020, the successor to the Lisbon Strategy, is to provide an enhanced role for Country Specific Recommendations and the creation of the European Semester. The European Semester is an annual economic governance cycle of macro-economic, budgetary and structural policy coordination with the simultaneous reporting of National Reform Programmes for Europe 2020 and their Stability and Convergence Programmes under the SGP (European Commission, 2010: 27). The priorities of Europe 2020 place a much greater emphasis on correcting macro-economic imbalances. The dominant discourse surrounding Europe 2020 has

been one of 'smart' budgetary consolidation and 'sound' public finances underpinning long-term growth and employment (Copeland and James, 2013). Furthermore, the agreement of the Euro Plus Pact in March 2011 introduced six legislative proposals on economic governance to enhance fiscal discipline and to avoid excessive macroeconomic imbalances. This includes a reform of the SGP aimed at enhancing the surveillance of fiscal policies, a strengthened role of the Council to monitor the situations in the Member States, and the possibility of being able to impose financial sanctions where compliance is breached (European Council, 2011). Following the continuation of the Euro Zone crisis, the reform of the EU's Monetary Union has continued to gather momentum. No sooner had the 'Six Pack' been adopted (November 2011), but the Commission proposed the addition of two new regulations – called the 'Two Pack' – to the Six Pack. The Two Pack came into force on 30 May 2013 and is designed to further enhance economic integration and convergence amongst Eurozone state. It introduces a common budgetary timeline and common budgetary rules for the Eurozone. Starting with the forthcoming budgetary cycle states must publish their medium-term fiscal plans (Stability Programmes), together with their policy priorities for growth and employment over the next 12 months, by 30 April. By October, states must publish their draft budgets for the following year and these must be adopted by 31 December. During this period the Commission will examine and give an opinion on each draft budget by 30 November and if it detects severe non-compliance with obligations under the Stability and Growth Pact, it can ask the Member State concerned to submit a revised plan. The second regulation is based on the premise that the intensity of economic and budgetary surveillance should be proportionate to the seriousness of

the financial difficulties encountered by a Member State. Member States facing serious problems of financial stability or receiving budgetary assistance would be subject to intense monitoring by the Commission and the ECB (European Commission, 2013).

In parallel to the reforms surrounding the governance of EMU, discussion at EU level has also centred on a fiscal and banking union. Progress on the former has been more modest than the term 'fiscal union' would imply and current agreements and proposals have resisted any attempt towards a 'fiscal transfer union'. The 'Treaty on Stability, Coordination and Governance', agreed in January 2012 by 25 Member States (the Czech Republic and the UK refused to sign the agreement) is an intergovernmental Treaty committing Member States to the 'balanced budget rule', according to which annual public budgets need to be in balance or surplus, and thereby not in a deficit except in exceptional circumstances. With respect to a banking union, the a Single Supervisory Mechanism for Eurozone banks was agreed in March 2013, but as with the negotiations surrounding fiscal policy, at the time of writing the outcome of current proposals for further integration are unclear.

II: The European social dimension

Analysing the political economy of European integration illustrates that there has been some modest progress within the construction of an EU employment and social policy, but what does such policy cover? Ter Haar and Copeland (2010) provide a stocktaking exercise of its various components. EU social policy associated with hard

law found in the Treaty and EU Directives predominantly concerns the rights of workers and their freedom of movement. This has often led to claims that EU social policy is predominantly based on establishing 'social rights' (Keune, 2012; Leibfried, 2010). The EU has been responsible for the harmonisation of Member State social policies in several areas to create a level playing field in order to ensure 'the creation of the Single Market did not lead to a lowering of labour standards or the distortion of competition' (DG EMPL).² There are five main areas covered by hard law comprising of health and safety, equal opportunities and anti-discrimination, free movement of workers, as well as social partner recognition and the Structural Funds. In the field of health and safety legislation the main Directive has been 89/391/c of 12 June 1989 on the introduction of measures to encourage improvements in the health and safety of workers. From this Directive 17 daughter Directives have been adopted to establish minimum requirements of health and safety. Second, in the area of equal opportunities and anti-discrimination Article 119 of the 1957 EEC Treaty referred explicitly to the right of women to equal pay with men. Throughout the various Treaty revisions the Commission has been able to prepare Directives not just on equal pay, but also on the equal treatment of workers. Thus various Treaty revisions have all strengthened the rights of women. A number of secondary legislative achievements have also been constructed to include issues such as access to benefits, parental leave and access to childcare and maternity pay.

Labour mobility was included in the EEC Treaty, Articles 48-51 EEC contain the main clauses establishing the right to the freedom of movement of workers. Council regulation 118/97 provides for the equal treatment of workers in the matters of

social security. This enables workers to transfer their social security entitlements, including pensions and unemployment benefits, to another Member State. From 1993 onwards EU social dialogue was incorporated into the Social Protocol. Since 1985, sectoral dialogue committees have been set up in 33 different industrial sectors. The European social partners have adopted over 40 cross-industry and 300 sectoral joint texts (Commission, 2004d). The final component of the EU's hard law social acquis relates to the Structural Funds created in 1957 which grant financial assistance to resolve structural economic and social problems. The Structural Funds are comprised of four main components, but the European Regional Development Funds (ERDF) and the European Social Funds (ESF) are the most significant with respect to EU Social Policy. The principle of the ERDF is to promote economic and social cohesion within the EU through the reduction of imbalances between regions and social groups. The ESF concerns itself with reducing unemployment, as well as developing human resources and promoting integration in the labour market (DG REGIO 2013).³

The soft law component of EU social policy is predominantly associated with attempts to create a broader social policy for all citizens. Policy areas governed by soft law include poverty and social exclusion, the EES, education and training, pensions, youth policy, social protection, adequate healthcare provision and the reconciliation of work and family life. These policy areas are governed by traditional soft law such as white and green papers, Council resolutions, action programmes, but also the OMC. It is important to note however, that some policy areas developed a more formalised and comprehensive version of the OMC than others, with a

correlation between the particular OMC and the progress made within the policy area (Copeland, 2012: 234). The OMC social inclusion, for example, had no specific targets, no recommendations, and few benchmarks or deadlines other than for the purpose of reporting (Daly, 2012: 74-75); while the EES had an annual governance cycle with specific targets, recommendations, and benchmarks.

In terms of the normative component of the EU employment and social policy, there is a general consensus across the EU as to where the boundaries of acceptable state involvement lie. This boundary can be identified via an international comparison of the EU with that of the USA. Pontusson (2005: 8–12) argues that American levels of poverty, social protection, labour law, and healthcare contrast significantly with those in the EU. In this respect there is something unique about employment and social policy in the EU, and a neoliberal welfare state on a par with the USA is unacceptable to the majority of the European electorate. Hence what is particularly distinctive about EU society is the belief that economic growth should be combined with social cohesion and that the state has an active part to play within the provision of welfare. Furthermore, there is a general consensus that the state should provide public services, or at least guarantee them, as well as services of general interest (ter Haar and Copeland, 2010: 280-281) .

Is there a European social Model?

Whether such developments within EU employment and social policy represent an emerging European social Model, (that is, the existence of a transnational model which Member States converged upon with delegation of authority and

responsibility at EU level) remains disputed within the academic literature. A number of scholars have pointed to the variety of governance instruments utilized within the EU to promote integration within social policy and it is argued that the EU promotes a unique type of welfare state both in terms of its scope and content (Pontusson, 2005; Vaughan Whitehead, 2003). However, in their 2005 work Jepsen and Serrano Pascual highlight no less than four definitions of the European social model within the current academic literature, highlighting the difficulties posed by using the term. First, the European social model can be defined as an entity (comprising of common institutions, values or forms of regulation) that has specific aims or focuses on the capacity for political regulation of the market economy. Second, it can be defined whereby specific models of welfare state are identified as paradigm cases with the aim of the EU moving towards a particular type. Third, there are those who see the social model as a 'European project' under which the European welfare states are committed to a certain basic level of welfare provision that distinguishes them from the more strictly liberal models like the USA (which includes the argument that the UK is not a strict liberal welfare state). Finally, Jepsen and Serrano Pascual (2005) add their own definition in which they argue that the existence of a European social model is utilised within the European discourse as an instrument for optimising the adjustment of social protection systems to market forces.

In this respect there is no single definition of the European social model within the literature. To add further confusion to the debate the European Commission has been reluctant to provide an official definition, yet has continuously made reference to its existence in various documents. In this respect, the Commission seemingly

assumes that the European social model is understood and that any reference to its content is superfluous. Furthermore, on a number of occasions the Commission has made reference to the European Social Model and the European social models and the two are clearly different. To make reference to the European social model would be to highlight the EU's competence in the fields of employment and social policy, as well as the similarities and convergence within the Member States under the banner of EU governance; while to make reference to the European social models is to highlight the different welfare states that exist within the EU. The heads of state at the Nice European Council (described the European social model in the following terms:

'The European social model, characterised in particular by systems that offer a high level of social protection, by the importance of the social dialogue and by services of general interest covering activities vital for social cohesion, is today based on [...] on a common core of values. [...]. It now includes essential texts in numerous areas; free movement of workers, gender equality at work, health and safety of workers, working and employment conditions and, more recently, the fight against all forms of discrimination.' Again there is a tension here between acknowledging the diversity of welfare states within the EU and a description of the EU's actual competence within employment and social policy. The statement also tends to underestimate the differences between the varieties of welfare state found within the EU. For example, when compared to Sweden, it is difficult to claim that welfare benefits in the UK offer a 'high level of social protection'. (European Council, 2000a)

If we compare developments in employment and social policy with the SEM, the EU's case study *par excellence* in terms of integration, it becomes obvious that a 'model' on a par with the Single Market does not exist. Even if we take the view that the EU is unlikely to construct a redistributive welfare state (given the political effort and resources required for such) and that any European social model is likely to feature the characteristics of Majone's 'regulatory state', at present the vast majority of the EU's *acquis communautaire* concerns the functioning of the SEM. This is upheld by the European Commission and the Court of Justice of the European Communities (ECJ) by means of judicial review, in particular the infringement procedure. In 2002, ten years after the completion of the Single Market, the Commission had 1,500 infringement proceedings open against the Member States for failing to correctly apply directives. The majority of the infringement proceedings concerned themselves with the SEM and not employment and social policy. In reality, the majority of EU employment and social policy is comprised of soft law. The effectiveness of the latter as a governance tool has been called into question. While the implementation of traditional EU hard law (directives) varies between the Member States (references on compliance), over the last decade Member State engagement within the OMC and more generally EU soft modes of governance, has been disappointing. Initially, the Lisbon Strategy and the OMC were greeted with optimism. In 2002 Barnard and Deakin argued that the OMC was to be seen as a way of regulatory intervention which attempts to provide space for experimentation in rule-making and to encourage regulatory learning through the exchange of best practice between different levels. Rhodes (2000:3) claimed that providing the political will exists, 'Lisbon may one day be considered Europe's "Maastricht" for the

welfare state'. But by the middle of the decade, and confirmed by the Commission's own independent review in the form of the Kok report, the inability of Lisbon (and thereby the OMC as a governance) to deliver on its promise was becoming apparent. Not only were governments engaging in the OMC to varying degrees, they could also ignore more domestically contentious objectives/policies with very little short-term consequences.

Not only did the OMC fail to generate political engagement, but it was also particularly susceptible to shifts within the EU's political constellations, especially when compared to the SEM. As Phillip *et al* (2004: 33) argue: 'the OMC [or more generally EU soft law and norms and values] remains vulnerable to changing political majorities'. That is, as the EU's political space is something of a revolving door, with actors of different political constellations continuously coming and going, EU soft modes of governance are more susceptible to these changes. A criticism of the Lisbon Strategy (and thereby EU social and employment policy) has been precisely this: that the fluid nature of EU politics resulted in continually shifting goalposts and the means through which they were to be governed (Copeland, 2012: 233). The result was that the aims and objectives of Lisbon were constantly evolving, thereby creating confusion and uncertainty as various levels of governance as to what was supposed to be achieved. As Bulmer (2012: 36) notes following its launch in 2000, a 'sustainable development strategy' was added at the 2001 Gothenburg European Council, it was then completely re-launched in 2005, only for the Spring 2006 European Council to identify an additional narrative of 'greening up the European economy'. This stands in contrast to the SEA which remained consistent in its aims

and objectives between it coming into force (1987) and its completion (1992). All of this highlights that the weaknesses of EU soft modes of governance may not simply relate to the weak incentive structures inherent in such governance to promote actor engagement (with little European Commission and ECJ oversight), but the susceptibility of new modes of governance to the fluid nature of EU politics.

Therefore, given that the majority of employment and social policy is governed by soft law, the EU's competence and the corresponding transnational political activity within the field are best understood as being a 'dimension' of the European integration process, rather than a model. The European social dimension (ESD) therefore refers to the EU's hard and soft law competence within employment and social policy, as well as the normative component of the policy area. Similar to all policy areas, the ESD features considerable political activity at the European level, but unlike the SEM or Monetary Union, it is a work in progress rather than a *fait accompli*. Its current and future developments are therefore very much dependent upon the EU's political constellations, as not only is soft law susceptible to political shifts, but given that the ESD has a small hard law component, the whole process of integration within employment and social policy remains fragile.

III: The challenge of the 2004 and 2007 EU enlargements

The current literature identifies the 2004 and 2007 EU enlargements as a potential threat to future substantive developments in the ESD. Relative to EU-15, the majority of the EU's new Member States have had very different historical

developments and have experienced a unique transformation of their political economies. Having radically overhauled their state-socialist systems, the Central and Eastern European (CEE) states currently represent middle-income capitalist democracies integrated into the regional (EU) and international political economy. 'The transition to capitalism from Communism is different from earlier transitions to capitalism' note King and Széleányi (2005: 222), highlighting the different international political economy conditions under which the transition process has occurred CEE. Debates regarding their political economies remain inconclusive, as the institutional legacies of the state-socialist systems are pitted against the domestic politics of reform and the influence of international institutions, such as the World Bank, the IMF and the EU, as well as the dominant discourse surrounding the 1997 Washington Consensus (Bohle and Greskovits, 2007a, 2007b, 2006; Bruszt, 2002; Deacon, 2000; Feldmann, 2006, 2007; Keune, 2006; King, 2007; King and Széleányi, 2005; King and Sznajder, 2006; Muller, 1999a, 1999b; and Vaughan-Whitehead, 2003).

For Vaughan-Whitehead (2003), King and Széleányi (2005), and King and Sznajder (2006) neoliberal forces have clearly been the dominant influential factor within the CEE states. In a detailed analysis of the political economies of CEE and Cyprus and Malta, Vaughan-Whitehead (2003) points to the neoliberal tendencies of institutions and policies within such countries. For Vaughan-Whitehead (2003) this represents a clear threat to the political economy of the EU and enlargement is predicted to threaten developments within the ESD. King and Széleányi (2005), and King and Sznajder (2006) focus on the social structures of the emerging political economies

within CEE and their significance to the overall determination of their political economies. Despite their internal differences of class structure, the argument here is that neoliberalism has served as the ideological cement that united different class factions against the state-socialist systems and provided a powerful narrative in which to frame the transition to a market economy. The result of which has been the creation of liberal capitalism in CEE in which foreign direct investment has an overwhelming dominance and influence. Economic growth is dependent on the investment strategy of particular multinational corporations, the lending decisions of foreign owned banks, and the ability to import industrial inputs and capital from, and export manufactured goods to, the core of the capitalist world economy (King and Szelényi, 2005: 219-220). CEE states have adopted a more liberal-individualistic approach to welfare policy, as well as weak social dialogue and worker representation, and this, combined with the related migration of some of their workers to the EU-15 Member States, has been conceived as providing the best means through which the region can converge upon Western European levels of productivity and per capita income (see Adnett and Hardy, 2005). These particular claims have been further substantiated by Draxler and Van Vliet (2010) who demonstrate that in terms of welfare spending as a percentage of GDP, there is 'no convergence from the East'.

The available empirical evidence of the region appears to support this argument. Between 2000 and 2008 with the exception of Belgium, net union membership across the whole of the EU has declined (measuring membership as a proportion of wage earners in employment). However, the trend towards dwindling unionisation

on employees has been more pronounced in CEE where on average, union density shrunk from just below 29% to just under 19 %. In EU-15 the decline was from 28% to 25% (Visser, 2011). In addition to the general trends of de-industrialisation, growing unemployment and extensive migration to Western Europe, according to Glassner (2013: 6) the causes of the steep decline in CEE include, legal obstacles to the recognition of trade unions, weak institutional support for unions in collective bargaining, and the marginalisation of unions in political decision-making). Other employment related data for CEE supports the general trend found within trade union membership: employer association density stands at 38% (62% in EU-15); and collective bargaining coverage rates at 30% (71% in EU-15) (Visser, 2011).

However, Bohle and Greskovits (2007a, 2007b, 2006), Cernat (2006), Keune (2006) and Feldmann (2006 and 2007) argue that the transition process in CEE is more complex and that domestic social structures and the influence of international institutions has varied considerably. The result is a difference between the varieties of capitalism of CEE with a neoliberal variety in the Baltic States, an embedded neoliberalism version in the Visegrád four, neo-corporatism in Slovenia, and cocktail capitalism in Bulgaria and Romania. The Baltic States are distinguished by radically liberalised markets, a thoroughly reformed market-supporting institutional framework, and the least generous welfare states among in CEE. In comparison, the Czech Republic, Hungary, Poland and Slovakia have maintained more generous welfare states (relative the Baltic States) and have prioritised industrial upgrading, rather than macro-economic stability, as in the Baltic States. Slovenia represents an entirely different capitalist trajectory, which features neo-corporatist institutions, a

much stronger representation of labour with its mixed sectoral and economy wide bargaining, and a more generous welfare state (Bohle and Greskovits, 2007a, 2007b). Cocktail capitalism, found in Bulgaria and Romania, combines elements of the three previously mentioned models: a weak state, but a large public sector, privatization paradigms that have hesitated between Anglo-Saxon and continental templates, weak employer associations and an activist but fragmented labour union movement that has supported weak neo-corporatist institutions (Cernat 2006). Recent studies of cocktail capitalism suggest that it is drifting more towards the liberal variety (Ban 2013).

Despite the differences between the CEE states Bohle and Greskovits (2007a, 2007b) characterise them as all featuring 'liberal dependency'. This particular argument is also highlighted by Nölke and Vliegenthart (2009) who also extend their analysis to include Bulgaria and Romania. The argument of liberal dependency is similar to points made by King and Szelényi (2005), and King and Sznajder (2006): that economic growth is dependent upon multinationals and foreign owned banks. It may therefore be that the differences highlighted between the CEE states are not particularly significant in terms of the overall direction of their political economies, but as Hay and Wincott (2012: 63-64) argue regarding the region 'more research and better data is required before we will be in a position to provide clear and robust answers to these questions'.

Given the differences of opinion regarding the political economy of the CEE states, the impact of EU enlargement upon the ESD remains unclear. There are two likely

outcomes; first, that the CEE states bolster liberal forces within the EU and this undermines progress within the ESD; or secondly, that the actual differences between the political economies of CEE prove significant, and that the 2004 and 2007 enlargements have little impact on the overall direction of the ESD. In this respect, EU enlargement will simply add to the EU's existing diversity of varieties of capitalism with little overall impact on policy direction and outcomes. The purpose of the research presented in subsequent chapters is to analyse the impact of the 2004 and 2007 enlargements in the context of this uncertainty.

Conclusion

This chapter has been concerned with the political economy of European integration and in particular, developments within employment and social policy. The process of European integration has predominantly been a market-making exercise, and if compared to developments within the SEM, those in the field of employment and social policy have been more modest. The majority of the *acquis communautaire* concerns the Single Market and when progress via hard law in employment and social policy has been achieved, it has predominantly resulted from concerns that differences within social and labour standards across the Member States could distort competition and thereby undermine the Single European Market. When attempts to establish a more comprehensive EU social policy have been made, they have primarily featured legally non-binding agreements that have a limited impact in terms of Member State convergence and harmonisation. Such agreements made between the Member States, such as the European Employment Strategy (1997), the

Lisbon Strategy (2000), and Europe 2020 (2010), are predominantly intergovernmental governance structures with few short term consequences should governments be unwilling to engage in the process. The result is that the EU has often set itself ambitious targets in policy areas such as employment and social inclusion, but governance mechanisms such as the open method of coordination (OMC) have not lived up to their potential.

In the context of the process of European integration, this chapter has argued that claims of a European social model are exaggerated. Developments within the field are not only modest, but they are also very much a work in progress. The concept of a European social dimension (ESD) is therefore more appropriate when referring to developments within EU employment and social policy, and the associated transnational political activity. The concept of a ESD therefore refers to the EU's hard and soft law competence within the field, as well as the normative component of the policy area. Similar to all policy areas, the ESD features considerable political activity at the European level, but unlike the SEM or Monetary Union, its development is a work in progress. Given the 'incomplete' nature of the ESD, it is susceptible to shifts within the EU's political constellations and the chapter identified the 2004 and 2007 EU enlargements as potentially undermining future developments. The current set of literature concerning the CEE, their political economies, and the subsequent impact of the ESD is divided. The first school of thought argues that the CEE are much closer to a liberal model of capitalism, as they are dependent for economic growth upon multinationals and foreign owned banks. The argument here is that CEE states will be opposed to further integration within the ESD and bolster liberal

forces within the process of European integration. The second school of thought argues there to be significant political economy differences between CEE, with a liberal model in the Baltic States, an embedded liberal model in the Visegrad four, a neo-corporatist variety in Slovenia, and 'cocktail capitalism' featuring elements from different models in Bulgaria and Romania. In this respect, EU enlargement is conceived to have little impact on the overall direction of the ESD, as it will simply add to the current diversity of interests within the EU's transnational political space. The purpose of the following chapter is to provide a theoretical framework from which to analyse the question of the impact of EU enlargement upon the ESD.

¹ Under this Charter, the Community is obliged to provide for the fundamental social rights of workers under the following headings: freedom of movement; employment and remuneration; improvement of living and working conditions; social protection; freedom of association and collective bargaining; vocational training; equal treatment for men and women; information and consultation and participation for workers; health protection and safety at the workplace; protection of children and adolescents; elderly persons; and disabled persons.

² Available at: <http://ec.europa.eu/social/main.jsp?catId=157&langId=en> – accessed 06/03/2013

³ Available at: http://ec.europa.eu/regional_policy/thefunds/regional/index_en.cfm - accessed 06/03/2013



2: Governance and the Clash of Capitalisms

This chapter provides a theoretical lens through which to analyse the impact of EU enlargement upon the European social dimension. At the heart of the theoretical debate on European integration lies the fundamental division between those who view the EU as an international organisation in which the Member States are the ultimate determinants of outcomes, as opposed to those who consider integration to generate its own momentum and thereby undermine Member State sovereignty. This division has its origins within international relations theory and is often referred to as the intergovernmentalism versus neo-functionalism debate. Such theoretical claims are proven via extensive case study analysis of EU policy negotiations. The last two decades have witnessed a shift within EU studies from the dominance of international relations (IR) approaches to those drawing on comparative politics and public policy perspectives. This shift is known as the 'governance turn' within EU studies and has concerned itself with the more day-to-day political processes of European integration (Hix, 1994; Kohler-Koch and Rittberger, 2006). In this respect the EU theoretical debate has shifted from a debate within IR to a debate between the sub-disciplines of politics, i.e. between those who use the IR discourse and view the EU as an international organisation (in which intergovernmentalism is dominant) and those who view the EU as an emerging polity and use the discourse and approaches of comparative politics/public policy. For Verdun (2003) this particular divide also corresponds to a North American/European divide within EU scholarship

with the former more likely to view the EU as an international organisation, while scholars in the latter are more likely to view the EU as an emerging polity.

Given the long history of IR inspired negotiation theory within EU studies, an obvious theoretical framework to utilise for this research is liberal intergovernmentalism (Moravcsik, 1998; Moravcsik and Schimmelfenning, 2009) (LI). However, despite LI remaining a broadly useful framework, its assumption that EU level actors bare little or no influence on the European integration process has proved itself to be true in only a small number of cases, usually Treaty changes. Furthermore, the strict conditions required for the assumptions of LI to hold (such as unanimity voting) rarely feature within EU policy negotiations. The theoretical lens constructed in the chapter and used to guide the analysis within the following three case studies is therefore situated in the governance approach to European integration. EU level actors can, and do, have an influence on the process of European integration and analysing policy negotiations requires a broader analysis of the various actors involved, rather than simply focusing on governments.

This chapter presents a modified version of Stone Sweet's and Sandholtz's (1997, 1998) 'supranational governance' approach to account for the integration dynamics of the EU. It argues that EU negotiations are conducted within a transnational political space, and that transnational actors are capable of exerting their influence. Divisions within the EU's political space can be understood as a clash of capitalisms between two broad coalitions - the liberal and regulatory coalitions which are centred on different conceptions of how the EU ought to be governed. Put simply,

divisions exist over whether the EU should be a simple market-making process inspired and guided by neoliberal ideology with minimal regulation and the promotion of competition; or whether it should enhance more market supporting legislation to create a more social democratic approach to integration with the construction of a European social dimension. The constructed framework can therefore be used to guide the analysis within the following three case studies. The chapter begins by outlining liberal intergovernmentalism as a framework in which to analyse EU policy negotiations. In the second part it is argued that the supranational governance approach to EU integration is a more appropriate framework through which to analyse negotiations, but requires the incorporation of the role of political ideology within the framework. The third and final section outlines the features of the EU's political space in the context of the clash of capitalisms.

I: Theorising European Integration: Liberal Intergovernmentalism

Liberal intergovernmentalism (LI) has established itself as a 'baseline theory' in the study of the EU and is 'an essential first cut explanation against which other theories are often compared' (Moravcsik and Schimmelfennig, 2009: 67). LI represents a bottom-up perspective of European integration and is concerned with how to conceptualise and explain relations between the Member States and of the processes and outcomes of European integration (Börzel, 2005). The theory was initially developed by Hoffmann (1966 and 1995) and refined and defended by Moravcsik (1998). Underpinning the LI framework is the assumption that the EU represents an international organisation (and not an emerging polity) with Member

States controlling the pace and scope of the integration process. The EU institutions are technocratic, their purpose is to bolster the creditability of interstate commitments, and importantly they do not influence decisions or outcomes.

At its most fundamental level, LI rests on two basic assumptions about politics. First, that states are actors and achieve their goals through intergovernmental negotiation and bargaining, rather than through a centralised authority making and enforcing political decisions. For Moravcsik (1993: 480) the EU 'is best seen as an international regime for policy coordination', and Member States are 'masters of the Treaty' and continue to enjoy pre-eminent decision-making power and political legitimacy. Second, states are rational. Actors calculate the utility of alternative courses of action and choose the one that maximises their utility under the circumstances. Agreement to cooperate, or to establish international institutions, is explained as a collective outcome of interdependent rational state choices and intergovernmental negotiations (Moravcsik and Schimmelfennig, 2009: 68). Based on an extensive empirical analysis of the process of European integration (1955-1992), decisions to cooperate internationally can be explained in a three-stage framework: states first define preferences, then bargain to substantive agreements, and finally create (or adjust) institutions to secure those outcomes in the face of uncertainty (Moravcsik, 1998). Each of the three stages merits further attention.

First, in determining state preferences national governments aggregate the interests of their domestic constituencies, as well as their own interests. State preferences are neither fixed nor uniform, they vary among states and within the same states across

time and issues according to issue-specific societal interdependence and domestic institutions (Moravcsik, 2008). Importantly, economic interests are the ultimate determining factor within national preference formation and are a function about how to manage globalisation (Moravcsik and Schimmelfennig, 2009: 70), although the LI framework provides some room for geopolitical and ideological considerations (Moravcsik, 1998).

Second, bargaining between the Member states reflects the LI concept of asymmetrical interdependence, that is, the uneven distribution of the benefits of a specific agreement and information about preferences and agreements play a crucial role. Actors that are least in need of a specific agreement are best able to threaten others with non-cooperation and thereby force them to make concessions; those who gain the most economically from a proposal compromise the most on the margin to realise such gains, whereas those who gain the least tend to enjoy more clout to impose conditions and extract concessions (Moravcsik, 1998: 3). Furthermore, those actors that have more and better information about other actors' preferences and the workings of institutions are able to manipulate outcomes to their advantage. For the LI bargaining theory to hold, negotiations are required to take place within a non-coercive, unanimous voting system where transaction costs are low and asymmetrical interdependence defines relative power (Moravcsik and Schimmelfennig, 2009: 63).

Third, once agreements have been made EU Member States delegate authority to international institutions. Directly, such institutions increase the credibility of mutual

commitments and reduce the temptation for Member States to cheat or defect. As Moravcsik explains: 'governments transfer sovereignty to international institutions where potential joint gains are large, but efforts to secure compliance by foreign governments through decentralised or domestic means are likely to be ineffective' (Moravcsik, 1998: 9). Indirectly, institutions help states to collectively superior outcomes by reducing the transaction costs of further international negotiations on specific issues and by providing the necessary information to reduce the uncertainty surrounding the future preferences and behaviour of other states (Moravcsik and Schimmelfennig (2009: 72). Beyond implementation and advisory functions, the role of institutions is limited and 'supranationalism is a controlled means of implementing intergovernmental bargains' (Wincott, 1995: 602). Governments control the level and speed of the European integration process driven by the domestic political and economic issues of the day. Any increase in power at the supranational level is a direct result of decisions made by national governments and not the influence of international institutions.

Theoretical Criticism

Moravcsik's LI has been a major influence on the contemporary work in EU studies (Rosamond, 2000: 145), but the governance turn in the study of European integration has resulted in significant criticism of the theory. One of the most common criticisms of LI is that of the central analytical focus on states and the claim that EU institutions, such as the Commission, the European Court of Justice and the European Parliament, as well as transnational actors such as business and social interests, have little influence on the integration dynamic or outcomes.

Governments remain in the driving seat of the process and ultimately determine outcomes. According to the LI framework, the process of European integration is not about replacing the nation state, but about rescuing and adapting it to cope with globalisation (Moravcsik and Schimmelfennig, 2009: 73). Wincott (1995) argues that such an emphasis within the theory focuses on the 'supply-side' of European integration and provides a one-sided account of the process. For Wincott (1995: 603-606), the everyday practises of the EU institutions are important factors behind the integration trajectory and supranational institutions are key determinants of the overall process.

Wincott's (1995) criticism of LI points to a broader institutionalist critique of the theory that EU institutional arrangements can drift away from their initial expectations. As such, institutions are important mediating variables to understand the policy processes and policy outcomes of European integration. Pierson (1996) argues that despite the initial primacy of Member States in the design of EU institutions and policies, gaps may occur in the ability of governments to control their subsequent development for four reasons: firstly, the in-built short-termism in which governments will make decisions to satisfy an electorate can result in agreeing to EU policies that lead to a long-term loss of national control; secondly, the unintended consequences of a decision can create additional gaps which governments may not be able to close through subsequent action; thirdly, government change is likely to result in future governments with different preferences being constrained by the weight of past activities; and finally, EU institutions can become locked-in not just as a result of change resistant institutions

from above, but also through the incremental growth of entrenched support for existing institutions from below, as societal actors adapt to and develop a vested interest in the continuation of specific EU policies.

A second criticism from the institutional perspective is that the functional understanding of international institutions within LI excludes the prospect of them exerting their own influence within the integration process. Historically, the European Court of Justice has actively pursued an integrationist agenda. During the 1960s and 1970s the ECJ interpreted its competences in an integrationist manner and this was unanticipated and initially undesired by governments. One of the most well known cases in EU integration history is the ECJ's *Cassis de Dijon* (1978) ruling - an event that is underplayed within Moravcsik's analysis. The ECJ ruled that restrictions on imports between the Member States justified over concerns of the quality of a product constituted an obstacle to trade. The Court asserted that the regulatory structures of different Member States served similar ends and that regulations introduced in one state should be recognised as basic standards being met and goods should therefore be free to circulate (Wincott, 1995: 604). Essentially, this ruling was a broad interpretation of the free movement of goods (Article 28), as opposed to its narrow understanding within the Member States (Chalmers and Haasbeek, 2007: 78). The European Commission can also exert its influence during the integration process - again the *Cassis* ruling serves as example. The Commission was able to use the ECJ judgement to entrench the principle of mutual recognition, whereby a Member State should accept that the regulatory requirements of one Member State were equivalent to those of another (Chalmers

Haasbeek, 2007: 78). This alleviated the need for total harmonization of regulatory requirements by the Community and thereby avoided bottlenecks within the integration process. Rather than having to achieve a general agreement on a single standard – the traditional total harmonisation method used by the EC, the Commission could simply allow national differences to flourish, knowing that they could not be allowed to interfere with the circulation of goods (Wincott, 1995: 605). To prevent a regulatory ‘race to the bottom’ in which Member States competitively cut regulatory standards the Commission simultaneously developed the notion of minimum harmonisation embodied in legal requirements.

For Wincott (1995), the fundamental point of the previous example is not asserting the importance of standalone entrepreneurial institutions, rather it is to emphasise the interaction between institutions *i.e.* the relationships between the different EU institutions and the network and exchange of ideas that this creates. Therefore, the institutional setting of the EU has an impact on the behaviour of state actors, both constraining their behaviour and providing opportunity structures. This leads to a third broader criticism concerning the role of ideology and the influence of a broader set of transnational actors. As Wallace (see Wallace *et al*, 1999: 159) argues: ‘over the period of EU evolution more of a tussle has occurred between competing economic doctrines than Moravcsik acknowledges’. The Common Agricultural Policy (CAP), the Single Market and Monetary Union have been achieved as a specific political-economic doctrine gained transnational ascendancy at a particular moment. Furthermore, Moravcsik (1998) dismisses the lobbying activities of interest groups and their strategic alliances with the Commission (e.g. the European Round Table of

Industrialists), but their activities and influence is well documented (Green-Cowles, 1995; Sandholtz and Zysman, 1989). That the EU is a quasi-polity that represents neither a traditional international organisation nor a fully-fledged federal state is an argument that has gained increasing significance over the last two decades (see: Hix, 1999; Marks *et al*, 1996).

II: Theorising European Integration: Supranational Governance

In response to the shortcomings of LI, Stone Sweet and Sandholtz (1997; 1998) provide an alternative theoretical framework anchored within the governance approach to European integration. If LI predominantly focuses on the 'supply-side' of the process, then the supranational governance approach attempts to incorporate the 'demand-side' to 'develop a framework – a common vocabulary and heuristic – for understanding the dynamics of European integration' (Stone Sweet and Sandholtz, 1997: 298). The Supranational Governance framework draws insights from neo-functionalism, particularly its emphasis on social exchange, communication, transactions, and the relationship between global interdependence, political choice and supranational institutions (Stone Sweet and Sandholtz, 1997: 300). For Stone Sweet and Sandholtz intergovernmentalism and supranationalism represent two ideal forms of governance within the EU. In reality, European integration is a dynamic process and EU policy areas can be located along a continuum that stretches between the two ideal types. At the left-hand pole sits intergovernmental politics in which negotiations and governance within policy areas

feature the characteristics of LI. The right-hand pole is constituted by supranational politics. A supranational mode of governance is one in which:

'[The] centralised governmental structures (those organisations constituted at the supranational level) possess jurisdiction over specific policy domains within the territory comprised by the Member states. In exercising that jurisdiction, supranational organisations are capable of constraining the behaviour of all actors, including the Member States, within those domains' (Stone Sweet and Sandholtz, 1998: 8).

European integration is provoked and sustained by the development of causal connections between three factors: European Community rule-making (EU rules – both legal and less formal); supranational organisations (EU institutions that produce, execute and (re)interpret EU rules); and transnational exchange (actors on the pan European stage (social, economic, political) who engage in EU exchanges and influence policy-making processes at the European level).

The first dimension measures the legal-normative component of the continuum. At the far left rules are few and weak, but as we move along the continuum, rules stabilise state bargaining, delegitimize exit, and at the level of law lay down binding standards of conduct enforceable by courts. The second dimension measures the influence of EU institutions on the policy-making process and outcomes. Supranational organisations include the Commission, the ECJ, the Parliament, and at times the Council of Ministers. At the left-hand pole, the regime's organisations

exhibit little if any meaningful autonomy from the most powerful Member States. As we move along the continuum the capacity of supranational institutions increases *i.e.* their ability to define and pursue a politically relevant agenda. At the supranational pole, institutions may exercise substantial autonomy in the face of Member State indifference or hostility. The third dimension is the presence and influence of transnational actors – interest groups, business, and knowledge based elites – on policy processes and outcomes. In intergovernmental politics, national executives mediate between domestic actors and supranational organisations and rules. In supranational politics, transnational actors can exert their influence on national governmental structures, as well as supranational bodies (Stone Sweet and Sandholtz, 1998: 10).

Taken together, the three dimensions are constitutive of supranational politics and the continuum provides the tools with which to describe EU governance. However, the framework also accounts for some of the dynamics as to why movement of a policy area along the continuum occurs. The supranational governance approach emphasises the role of society, particularly non-state actors who engage in cross border transactions and communications. Such actors require European standards, rules, and dispute mechanisms. In the beginning the causal mechanism for integration is quite simple: increasing levels of cross border transactions and communications by societal actors will increase the perceived need for EU-wide rules that in turn exert pro-integration pressure on their own governments. At this particular stage intergovernmental bargaining is a specific mode of decision-making within the EU policy process. Once the most obvious hindrances to cross-national

exchange are removed, new obstacles to such transactions are revealed and become salient. With the removal of tariffs and quotas, for example, differences in national regulatory standards (environment, health and safety, technical compatibility) become more apparent as obstacles. Actors seeking to benefit from intra-EU trade will then target these obstacles by attacking regulatory barriers through litigation and by pressuring EU legislative institutions to widen their jurisdiction into new domains (Stone Sweet and Sandholtz, 1998: 15).

Therefore once such rules are established, they generate a dynamic of their own. But from the supranational governance perspective, the process of European integration is not one that is simply driven by exogenous pressures from cross border exchange - EU institutions can also generate their own endogenous dynamic. People acting within a rule context inevitably encounter the limits of the rules, that is, situations in which their context is unclear or undisputed. In either case actors may push for the creation of new rules or seek a reinterpretation of the existing rules. The new or changed rules then guide subsequent interactions, as people adapt their behaviour to the rules. The disputes that arise thereafter take shape in an altered rule structure and initiate the process that will again reinterpret and modify the rules. Since rules are central to this dynamic, the Treaty is the crucial starting point for subsequent integration, but when there is no Treaty bases competence for such a development, the relevant actors will create one (Stone Sweet and Sandholtz, 1998: 17).

The final argument within the supranational governance approach is that it provides an explanation of the general direction of European integration. As argued in

Chapter One, the process of European integration has predominantly been a market-making exercise. Despite some modest developments surrounding the construction of an EU social policy, the European social dimension has not been a counter-balance to market integration. This trend, according to Stone Sweet and Sandholtz (1998: 15), is a result of business being the sector for which the material stake in cross-border transactions is the greatest and most obvious. Companies with an interest in cross-border transactions will press for the reduction of national barriers, but the consequences of integration for people in their role as workers and consumers are less transparent. This explains why European companies have had a greater impact on integration than either labour or consumers.

Theoretical Criticism

The Supranational Governance approach is immensely valuable, but it is not without criticism. Branch and Øhrgaard (1999) argue that Stone Sweet and Sandholtz fail to escape the intergovernmental-supranational dichotomy and simply offer a mirror image of LI. While LI privileges national actors and intergovernmental bargaining and thereby concentrates on the 'grand bargains' of decision-making, at the other extreme Stone Sweet and Sandholtz privilege transnational business actors and supranational actors and thereby predominantly focus on decision-making in the Single Market. A second criticism of the Supranational Governance approach is the argument that European integration is essentially a market-driven process and a function of transnational exchange. For Branch and Øhrgaard (1999: 128-131) the implication is that where there is no market-driven transnational exchange, there will be little, if any, integration. This fails to account for attempts by the European

institutions and some Member States to promote market-correcting integration precisely to compensate for the absence of transnational exchange. Branch and Øhrgaard (1999: 129) point to the area of social policy which was promoted in the late 1980s for mainly political reasons to counterbalance the effects of the deregulatory Single Market programme and to combat the view that the EU was a predominantly market-making exercise.

A third more general criticism relates to the continuum put forward by Stone-Sweet and Sandholtz in terms of measuring exactly where a policy domain should be situated. At the two extremes of the continuum the framework provides a clear understanding of the features of a policy area, but what would be the determining factors behind situating a policy area along the continuum at say points 3, as opposed to point 4? Does QMV in the Council 'count' for as much as the Commission's power to issue decisions? Furthermore, how can movement along the continuum be assessed? Although according to Stone Sweet and Sandholtz disjunctures between the three dimensions are short-lived and movement in one dimension initiates shifts within the other two, this does not help to determine at what stage a given policy domain makes the leap from one point on the continuum to the next (Branch and Øhrgaard, 1999: 135). In short 'without clear criteria for, first, situating a policy domain on the continuum and, second, reassessing its position, the continuum would appear to be of limited use in determining any form of governance short of the two ideal-types' (ibid).

A final major criticism of the Supranational Governance approach is similar to Wallace's (see Wallace *et al*, 1999:159) critique of LI in that it lacks a role for political ideology. For Stone Sweet and Sandholtz European integration results from increased levels of transnational exchange which in turn creates pressure from transnational business for the removal of barriers and the harmonisation of standards. Although such an assumption may be necessary for a theory that aims to explain the process of European integration, the assumption constructs such actors as a relatively homogeneous group of individuals and this masks important differences between them. For example, Hooghe and Marks (1999) argued that transnational political divisions surrounding the formation of the Single European Act represent the emergence of an EU polity. Accordingly, when national actors step into the European arena they bring with them the ideological convictions from their respective national arenas, resulting in two broad multi-level coalitions: liberal and regulated capitalism (Hooghe and Marks, 1999: 76).

In defence of the Supranational Governance approach

Despite its shortcomings, the Supranational Governance framework remains a valuable approach through which to understand the process of European integration. The major criticisms of the framework by Branch and Øhrgaard (1999) result from a particular reading and interpretation of the approach (Stone Sweet and Sandholtz, 1999). While Stone-Sweet and Sandholtz concentrate on the more 'day-to-day' policy processes for their empirical case studies, this is precisely the point - during the penning of the Supranational Governance framework, case studies of intergovernmental negotiations already featured within the EU literature. The

argument formed within their volume is that these negotiations are to be positioned towards the intergovernmental pole on the continuum, and that Stone Sweet's and Sandholtz's case studies volume are examples of the 'other' policy areas. Perhaps their biggest mistake, however, was that they never explicitly indicated where such case studies were to be situated along the continuum, thus providing the impression of a continued intergovernmental/supranational dichotomy within the grand theories of European integration.

A second point to re-consider is the argument by Branch and Øhrgaard that EU integration does not always result from increases in transnational exchange, as demonstrated by the case of EU social policy. However, although Stone Sweet and Sandholtz (1999: 146) emphasise that transnational exchange tends to activate EU integration, they do not argue that such activity is the only factor behind the process. Rather the concern of empirical case studies should be with how their three variables interact overtime. Furthermore, they also argue that relative levels of transnational activity measured across time and policy sector explain the significant variations in the level of integration between policy areas. Therefore, although the initiative for integration within the social dimension came from the EU social actors, certain Member States and the Commission, that the social dimension has failed to develop as a counter-balance to the SEM is a result of the low levels of transnational exchange exerting harmonisation pressures within the EU. Rather than disproving the Supranational Governance framework, the case of EU social policy serves to illustrate the main tenets of the approach.

A third point relates to the limited value of the continuum and the problems associated in determining the precise location of any given policy domain. However, unlike LI, the Supranational Governance approach is not a deterministic framework through which to view the process of European integration, rather it is a heuristic device intended to aid the organisation of research (Stone Sweet and Sandholtz, 1999: 148). The framework reasonably depicts how to conceptualise variation on the dependent variable, and embodies certain specified causal relationships between the three main independent variables. The empirical policy case studies within the original analysis represent several illustrations of how the framework can be utilised; they are not the only examples and future research agendas can draw from them as example.

A final criticism of the approach to consider is the role of political ideology. Within the Supranational Governance perspective the issue is distinctively absent. Given the lengths taken by Stone-Sweet and Sandholtz to prove that transnational actors have an influence on the process of European integration, it is unfortunate that they do not elaborate on how such interests are organised. In short, politics matters in furthering the understanding of the origins, formation and potential impact of a particular policy. The following section modifies the supranational governance continuum to incorporate the politics of European integration.

III: The Clash of Capitalisms and Supranational Governance of the European Political Economy

The EU's Political Space as a Clash of Capitalisms

How are we best to understand the EU's political space within the context of the supranational governance framework? For Hooghe and Marks (1999: 71) the EU's political space is best understood as a clash of capitalisms centred on different conceptions of how the EU ought to be governed. For them the signing of the Single European Act not only signifies a deepening of the European integration process, but also the emergence of a transnational political arena in which decision-making has become: 'a conscious political struggle among coalitions of political actors having distinctly different conceptions of how Europe should be configured politically'. Such different conceptions manifest themselves within two dimensions. The first dimension ranges from left to right and concerns economic equality and the role of the state. When national actors step into the European arena, they bring with them ideological convictions from their respective national arenas (ibid, 76). The left-right dimension is therefore imported into the EU from national polities.

Central to understanding the left-right dimension is Hall's and Soskice's (2001) distinction between liberal market economies (LME) and coordinated market economies (CME) within the varieties of capitalism literature (VoC). For Hall and Soskice (2001: 6-7) the differences between the two VoC are evident in five institutional spheres: industrial relations; vocational training and education; corporate governance; inter-firm relations; and employer-employee relations. National political economies 'can be compared by reference to the way in which firms resolve the coordination problems they face in these five spheres' (ibid: 8). In LMEs the activities of firms are coordinated via competitive market arrangements in

which market relationships are characterised by the arm's length exchange of goods and services. In CME, firms depend more heavily on non-market relationships to coordinate their activities. Such non-market modes of coordination generally entail more extensive relational contracting within private and established networks and a strong reliance on collaborative relationships between firms (ibid: 7-9). While LMEs are underpinned by a legal system that supports formal contracting and a hierarchical competitive system, CMEs provide a legal environment designed to facilitate information sharing and collaboration, and are supported by complementary institutions, such as powerful employer associations, strong trade unions and extensive networks of cross share-holding.

Underpinning the VoC are the issues of comparative institutional advantage and institutional complementarities (Ebbinghaus and Manow, 2006; Estevez-Abe *et al*, 2001; Hall and Soskice, 2001; Hall, 2007; Hall and Gingerich, 2009; Huber and Stephens, 2001; Rhodes, 2005). National institutional frameworks provide nations with comparative institutional advantages in particular activities, products and services. Firms can perform some types of activities, which allow them to produce some kinds of goods, more efficiently than others because of the institutional support they receive for those activities in the political economy. Conversely, policies that serve LMEs well can erode the capacity of CME firms and vice versa (Hall and Soskice, 2001). Underpinning a comparative institutional advantage within the VoC is a set of complementary institutions. Institutional practices are said to be complementary when each raises the returns from each other (Hall and Gingerich, 2009: 151). For Hall and Soskice (2001: 18), 'nations with a particular type of

coordination in one sphere of the economy tend to develop complementary practices in other spheres as well'. This also extends to social policy and the welfare state, as Huber and Stephens (2001: 199) observe: 'within each country certain - though not all - aspects of its welfare state and production regimes do fit each other'. Welfare state - economy linkages within VoC demonstrate a strong correlation, as evident from the relationship between their social policies and: their systems of industrial relations; production systems and employment regimes; and financial and corporate financial systems (Ebbinghaus and Manow, 2006).

Alongside the left-right dimension is a second, distinctively European dimension of contestation of nationalism versus supranationalism, depicting conflict about the role of the nation state as the supreme arbiter of political, economic and cultural life. At one extreme are those actors who wish to preserve or strengthen the nation state, while at the other end are those who wish for deeper integration within the EU and believe that nation states can coexist with supranational institutions. The nationalism versus supranationalism distinction has its origins within the Eurosceptic vs. pro-European dimension evident within national political arenas. At the one extreme are those who wish to preserve or strengthen the national state; at the other extreme are those who wish to press for ever close European Union and believe that national identities can co-exist with an overarching supranational identity (Hooghe and Marks, 1999: 76).

Within the EU's political space, attitudes within the two dimensions coalesce to form a dominant political cleavage ranging from: leftist orientations and supranationalism

which support 'regulated capitalism' known as the regulatory coalition; to right-wing orientations and nationalism which support neoliberalism known as the liberal coalition. Put simply, divisions exist over whether the EU should be a simple market-making process inspired and guided by a neoliberal ideology with minimal regulation and the promotion of competition between the Member States; or whether it should enhance more market supporting legislation to create a more social-democratic approach to integration with the construction of a social dimension (and eventual European social model). Yet although this particular cleavage is the dominant way of combining these dimensions, it does not encompass all actors. For example, there are left leaning nationalists in the Danish Social Democratic Party and right-leaning supranationalists among the German Christian Democrats (Hooghe and Marks, 1999: 77).

The neoliberal coalition conceives the process of European integration as a means to insulate markets from political interference by combining a European-wide market under selective supranational surveillance with intergovernmental decision-making vested in national governments. The coalition aims to constrain national barriers to trade and promote competition between national governments for mobile factors of production. It also aims to limit the ability of social groups to pressure governments into regulation. In contrast, the regulatory coalition has the aim of creating a European liberal democracy, capable of regulating markets, redistributing resources, and shaping partnership among public and private actors. The coalition emphasises supply-side policies and the capacity to provide collective goods to promote comparative advantage in international economic competition. It also argues for a

deepening of democracy at the EU level, with directly elected institutions, democratic scrutiny and interest representation. The coalition has promoted and supported social dialogue at the EU level, structural funds to support poorer regions, progress within the social dimension, environmental policy, European-wide infrastructure in transport, communications and information technology, and a variety of less ambitious measure in research and development, education and consumer protection (Hooghe and Marks, 1999: 82-96).

Successive British governments since the 1980s have staunchly defended the neoliberal coalition. It has also gained broad support among strategically placed political and economic elites. These include leaders of European multinational corporations such as those represented within the European Round Table of Industrialists (ERT), business associations such as BusinessEurope, financial interests within international finance and central banks, pressure groups, think tanks and opinion leaders such as the *Economist* (see Hooghe and Marks, 1999: 83). The European Trade Union Confederation (ETUC) and trade unionists at the national levels, as well as interest groups such as the European Anti Poverty Network support the regulatory coalition. But organised labour is not nearly as influential at the European level as it has historically been in most Member States. In contrast to multinational firms that have adapted smoothly to the process of regional integration, organised labour has had great difficulty, partly because unions are deeply embedded in distinctively national institutions, but also because the power and representation of trade unions has witnessed a steep decline over the last thirty years as a result of the internationalisation of economic activity (Marks and McAdam,

1996). It should also be noted that the regulatory coalition is much weaker than the liberal coalition because it is extraordinarily heterogeneous (Hooghe and Marks, 1999: 89). National institutional variations underpin different constellations of interest and it is difficult to create winning coalitions for regulations that apply to such heterogeneous institutions (Hooghe and Marks, 1999; Majone, 1996).

Governance and the Clash of Capitalisms

In short, politics matters in further understanding policy-making within the EU. Stone Sweet's and Sandholtz's supranational governance continuum is situated within a complex political arena, and while business may be the ultimate beneficiaries of European integration, the policy negotiation process represents a transnational political conflict featuring a clash of capitalisms. The simple supranational governance continuum is modified to incorporate the EU's political space (figure I).

Insert figure 2.1 here

Figure 2.1: The Dynamics of European Integration

Shaping the political economy continuum are the political dynamics at both the EU and Member State level. Governments of the Member States form alliances with each other as well as transnational actors – such as different supranational actors

(e.g. the Commission) or various interest groups (e.g. the European Trade Union Confederation (ETUC) and BusinessEurope). The outcome is then a function of a complex interaction of toing and froing bargaining. As transnational actors increase their influence on policy outcomes in policy areas towards the supranational pole, they do so within a clash of capitalisms political constellation. Towards the intergovernmental pole, negotiations also feature a clash of capitalisms, but the governments of the Member States become more central to outcomes.

There are a number of inherent features within the supranational governance of the EU's political economy that render negotiations, outcomes and day-to-day governance very different to policy-making in Member States. First, at the EU level there is a more pronounced power asymmetry between the left and right than at the Member State level. Labour organisations and social NGOs have struggled to establish themselves at the transnational level owing to their embeddedness and historical differences. Transnational exchange, which drives the process of market integration, is relatively low between the EU Member States in the social dimension and this limits the integration momentum within policy area. Add to this the declining power of the traditional social democratic left over the last thirty years, and the result is that the left within the EU's political space is much weaker than that which can be traditionally found within the Member States.

The second point to note is that the two coalitions are significantly less stable and more fluid than political coalitions found in government in the Member States, and this adds a high level of uncertainty to the EU policy-making process. During EU

policy negotiations Member States predominantly concern themselves with 'goodness-of-fit' of a proposed policy within their domestic situation so as to avoid high adaptational costs in their domestic setting, as well as negative political consequences (Börzel, 2002). But while the varieties of capitalism literature is useful for understanding Member State positions within the clash of capitalisms, it can only ever be indicative of a position a government will take for three important reasons. First, the LME/CME dichotomy within the VoC literature has come under attack for being too simplistic - there are a number of countries situated somewhere between the two ideal types (e.g. Allen, 2004; Amable, 2003; Crouch, 2005; Deeg and Jackson, 2007; Hay and Wincott, 2012). This is particularly true for the Mediterranean Member States (MME) that Rhodes (2005b) refers to as Mixed Market Economies (MME). The current literature therefore points to the existence of a spectrum in which to position countries, ranging from a pure LME to a pure CME at the two extremes, with MMEs situated around the centre. Second, even if the VoC approach proved to be a more useful framework to understand the political positions of Member States in the two coalitions, the idea that their VoC wholly determine such positions is overly institutionalist. Indeed, governments may support the domestic status quo and take a position in accordance with their VoC, but there is nothing to stop a government from using the EU as a political opportunity structure to legitimise a domestic reform that does not represent a 'goodness-of-fit' and thereby shift the domestic status quo. Third, EU policy negotiations do not occur in isolation of each other. At anyone time there can be a number of individual policy negotiations that governments are required to participate in, and as such, they will attach a greater significance to some policy areas, relative to others. Governments

may be willing to compromise during certain policy negotiations to achieve desired objectives in other policy areas, in doing so they may also enter into agreements with other governments.

Member State positions within the governance of the EU therefore reflect complex calculations and are much less predictable than would first appear. What are the consequences of this for the governance of the European integration process? The liberal and regulatory coalitions should be understood as coalitions representing 'political tendencies', as oppose to the 'political factions' found within domestic arenas. A political faction represents a relatively stable long-term strategic coalition to further a broad range of policy objectives through consciously organised political activity (Rose 1966). By contrast, a political tendency represents a body of attitudes about a broad range of problems and the attitudes are held together by a more or less coherent political ideology, rather than a stable group of members (Rose, 1966: 319).¹ The number of Member States and transnational actors who adhere to a tendency varies from issue to issue, but while certain transnational interest groups, such as the European Anti Poverty Network, are consistent in which coalition they attach themselves to, Member States are much more fluid. Participants within a faction are therefore not necessarily self-consciously organised in support of a single policy, and they do not expect, nor are they expected, to continue to operate as a group supporting the same tendency over a period of time. Member States can therefore shift positions from one policy area to another and they may be attached to different coalitions in different policy arenas at anyone given time. The result of such a political environment in the EU's transnational political space is that no one

coalition is able to get full control of the political agenda and EU policies often represent a patchwork of ideological priorities. While the Single European Act (1986) was a victory for the liberal coalition (Hooghe and Marks, 1999), it is more questionable which coalition won EMU (van Apeldoorn, 2002). The 1995 EU enlargement, which extended EU membership to Austria, Finland and Sweden, is attributed to an increased momentum within EU social policy from 1995 onwards (Velluti, 2010). There have also been documented clashes of capitalism within specific policy areas such as Cohesion Policy (Hooghe, 1998) and the Takeover Directive (Callaghan and Höpner, 2005; Clift, 2009).

The European social dimension and the impact of the 2004/2007 enlargements

Where is the European social dimension to be situated with respect to the modified supranational governance framework? On the face of it and certainly compared to the SEM (the case study *par excellence* of European integration and the foundation for Stone Sweet's and Sandholtz's typology), developments suggest that the social dimension tends to be considerably more intergovernmental. Comparing supranational governance in the social dimension to SEM, for example, we find the following: the *Acquis Communautaire* is less developed and extensive; the EU institutions have less supranational autonomy; and transnational society is less developed and influential. However, the social dimension is not purely intergovernmental and EU actors can and do have an influence on the process of integration. Developments in EU social policy around the forging of the Lisbon Strategy in 2000 serve as example: progress can be attributed to the large majority of centre-left governments in power in the Member States in the period when it was

being negotiated; the entrepreneurship and vigour of the Portuguese Presidency; the left-leaning position of the Prodi Commission; support from the Parliament; and the lobbying of NGOs. Integration within the social dimension is therefore situated somewhere around the centre of the supranational governance continuum. At this point on the continuum supranational actors may often be the source of successful policy innovation, but the Member States remain in the driving seat of the integration process, and can significantly determine outcomes and even block progress (Copeland and Daly, 2012: 275-276).

Given the uncertainty surrounding Member State positions within the EU's clash of capitalisms, how can we assess the impact of EU enlargement upon the ESD? The empirical case studies that follow analyse policy negotiations centring on the ESD and reflect a six-year timeframe (2004-2010). During this period, governments can change and there is the possibility that Member States will take positions during negotiations that are influenced by some of the factors outlined above. By analysing Member State positions and impact *overtime*, the analysis is able to draw on the general political tendencies of the CEE towards the ESD. Between 2004-2010 there were a variety of governments in power across CEE: Bulgaria, Estonia and Latvia had centre-right governments; while Hungary, Lithuania, Slovakia and Slovenia all had centre-left governments; The Czech Republic, Poland, each had two or more governments during the period, with at least one government from the centre-left and one from the centre-right.² And between EU accession in 2007 and 2008 Romania had a centre right coalition government followed by a grand coalition between the main centre-left and centre right parties.

As a result of EU enlargement we can expect one of the following to happen within the clash of capitalisms surrounding the ESD:

- 1) That the 2004/2007 enlargements have little impact upon the clash of capitalisms surrounding the European social dimension. Central and Eastern European Member States join the two different coalitions with little overall impact on the EU's political space.
- 2) That the 2004/2007 enlargements have a significant impact upon the clash of capitalisms surrounding the European social dimension. Central and Eastern European Member states predominantly join either the liberal or regulatory coalition and this either undermines the European social dimension or strengthens it.

Selection of case studies

The following three case studies therefore analyse the positions and impact of the 2004 and 2007 Central and Eastern European states. The three case studies concern the respective negotiations of the Services Directive (2004-2006), the revision of the Working Time Directive (WTD) (2003-2009), and the Europe 2020 poverty and social exclusion target (2010). The three case studies represent the most significant developments in the ESD since 2004 and importantly, they represent a six-year timeframe. Furthermore, they each represent one of the three constituent elements of the ESD. The revision of the WTD represents a hard law component of the ESD. Originally agreed in 1993, the WTD contained a clause requiring it to be reviewed after ten years. The poverty and social exclusion target was included within Europe

2020, the successor to the EU's Lisbon Strategy. It builds on the OMC social inclusion (2000-2010) and aims to remove 20 million individuals across the EU from living in poverty and social exclusion by 2020. It therefore represents a soft law component of the ESD. Finally, the Services Directive concerns the underlying norms and values component of the ESD. The Directive relates to the SEM, but the debate surrounding the negotiation process focused on the impact the proposed directive would have on the ESD. The concern was that a liberal Services Directive would create competitive pressures that would indirectly undermine the more extensive systems of labour law and social protection found across the EU.

Conclusion

This chapter has argued that the process of European integration can be understood with reference to the supranational governance approach. Contrary to claims made by liberal intergovernmentalists that transnational actors have little influence on the outcomes of EU policy negotiations, the supranational governance approach argues that such actors can and do influence the process. The level of influence transnational actors have on policy outcomes depends and the level of integration within the particular policy field. Put simply, in policy areas where national sovereignty has been pooled, transnational actors can and do have an influence on policy outcomes, whereas in those areas in which the level of European integration is low, outcomes and negotiations are much more intergovernmental. For Stone Sweet and Sandholtz (1997, 1998) the supranational governance continuum features intergovernmental policy negotiations at the left-hand side, supranational politics at

the right-hand side, and policy areas situated in the middle feature elements of both extremes. However, to fully understand the process of European integration, this chapter has argued that the supranational governance approach requires modification to account for the political dynamics of the EU. It argues that EU negotiations are conducted within a transnational political space in which actors divide into two broad coalitions – the liberal and regulatory coalitions – that centre on different conceptions of how the EU ought to be governed. Division between the two coalitions concern whether the EU should be a simple market-making process inspired and guided by neoliberal ideology with minimal regulation and the promotion of competition; or whether it should enhance more market supporting legislation to create a more social democratic approach to integration with the construction of a European social dimension. But while the two coalitions represent a relatively stable body of attitudes held together by a more or less coherent political ideology, the members in such coalitions are less stable. This results from the dynamic nature of politics both at the EU and Member State levels. Within such a political environment no one coalition is able to gain full control of the political agenda, resulting in EU policies often representing a patchwork of ideological perspectives.

The following three case studies apply the framework constructed within this chapter to analyse the impact of the 2004 and 2007 EU enlargements upon the ESD.

Given the uncertainty surrounding Member State positions within the EU's political space, the three case studies represent a six-year timeframe. This enables the analysis to draw out the political tendencies of the CEE states over time.

¹ It is important to note that Rose (1966) was referring to political factions and political tendencies in the British party system.

² The Czech Republic had a centre-left coalition government between 2002-2006, no government between 2006-2007, and a centre-right coalition government from 2007 and 2009, followed by a brief caretaker grand coalition government in 2009, and a centre-right government following the 2010 parliamentary elections. From 2001-2005 Poland had a centre-left government, 2005-2007 a populist government, and 2007-2010 a centre-right government.

3: The Negotiation of the Services Directive

This chapter is the first of the three case study chapters that analyse the impact of the 2004 and 2007 Central and Eastern European (CEE) States upon policy-negotiations surrounding the European social dimension (ESD). The chapter concerns the negotiations of the Services Directive, which has become known as one of the most contentious pieces of EU policy negotiated over the last decade. Despite the freedom to provide services being one of the four founding principles of the Treaty of Rome (along with goods, people and capital), in reality a fully functioning single market for services did not exist. The Single European Act (SEA) concerned the physical product market and while its spill-over had included some services (such as air transport, telecommunications) integration within the service sector had been piecemeal. The Prodi Commission argued that not only was the EU's service sector an untapped potential source of growth and jobs, but it would also enable the EU to meet some of the Lisbon Strategy targets. In 2003 service providers such as architects and lawyers wishing to offer their services outside of their Member States, still faced huge obstacles in the form of national standards. In its report *The State of the Internal Market for Services* the Commission noted: 'a decade after the envisaged completion of the Internal Market, there is still a huge gap between the vision of an integrated EU economy and the reality as experienced by European citizens and European service providers' (Commission, 2002: 9).

While the proposed Services Directive directly related to the Single European Market (SEM), the ensuing debate focused upon the impact it would have on the potential to undermine the European social dimension. The negotiations witnessed a clear division along the clash of capitalisms political constellation. The regulatory coalition argued that the proposed directive would undermine the more extensive systems of social protection and labour law found within some Member States. It argued that the use of the country of origin principle, which was to be used for temporary cross border service providers, would allow workers to ignore certain aspects of labour law not found within the Posting of Workers Directive. There was also a lack of clarity with respect to the supervision of temporary service providers, as they were to be supervised via a complicated relationship between the country of origin and the country of destination. Questions were raised about the incentive a Member State would have to supervise a service provider operating temporarily in another Member State. Finally, the proposed directive was broad in scope and included services of general economic interest (SGEI) such as healthcare. Opponents were concerned that EU public services would be opened to competition, possibly privatised and eventually undermined. In contrast, the liberal coalition argued that the proposed directive would generate significant gains in growth and employment that would outweigh any negative effects of the directive. Furthermore, the negative criticism of the proposal was based on an exaggeration and misconception of the directive.

The proceeding chapter analyses the negotiations of the proposed directive from 2004-2006. In particular it pays attention to the positions and contribution of the

CEE states during the negotiations. The first part of the chapter analyses the political economy of the service sector within the EU, thus highlighting the potential for political divisions between actors within the EU's political space. The second part of the chapter focuses on the negotiations and the final agreed version of the directive. The chapter concludes by reflecting on the positions and contributions of the CEE states during the negotiations.

I: The Political Economy of Services

Services within the EU

Freedom to establish and freedom to provide services is a fundamental principle of the 1957 Treaty establishing the EC¹. Despite this, in reality a fully functioning single market for services has not existed. The completion of the Single Market in 1992 mostly liberalised trade in goods, not services, and the sector was therefore largely left out of the 1987 SEA. By early 2000 the liberalisation of the service sector had been piecemeal with only a handful of areas forming a single market (e.g. telecommunications, financial services, broadcasting and the recognition of professional qualifications). For example, service providers such as architects, lawyers or construction workers who wished to offer their services outside of their home country on either a temporary or permanent basis, still faced huge obstacles in the form of differing national standards. Although cross border flows in services had steadily increased (the value of EU intra-service trade on average grew by 10.5 % annually in the period 1985-2001 – Kox *et al*, 2004: 5) so too had the number of ECJ rulings aimed at enforcing the founding Treaty principle (between 01/01/1997 and

31/12/2000 there were 15 ECJ rulings on the Freedom to Provide Services, between 01/01/2001 and 31/12/2003 this had increased to 85). In terms of employment, in 2000 services accounted for 116 million jobs in the then EU-15 Member States which represented 72 per cent of the active workforce. In comparison, manufacturing accounted for 33 million jobs (19.45% of the total workforce). Furthermore, between 1997 and 2002 services accounted for approximately 11.4 million jobs in the EU, representing 96 % of total net job creation during that period (ibid: 10).

Given the fragmented nature of the EU's services sector, Member States have been able to maintain a high degree of autonomy, and as such distinct national differences remain. Since the 1970s more liberal regimes such as the UK have been able to shift resources into the service sector relatively easily. The flexibility of the labour market, combined with an educational system that privileges general skills and a welfare state well suited to the creation of jobs in services via low levels of employment protection and unemployment benefit, has suited the creation of jobs in services at the expense of traditional manufacturing (also see: Hall and Soskice, 2001; Hall, 2007; Pontusson, 2005; Rhodes, 2005). Traditionally, more CMEs have developed a different strategy to service sector development. For example, to complement its high value export-led sector in manufacturing and to prevent low paid/low skilled jobs developing within the service sector, the Swedish government increased public sector employment and expanded a public day care system to make it easier for women to work. The Swedish model therefore provides exceptionally high levels of public services based on high levels of female employment which ultimately crowd-out low paid service sector jobs (Esping-Andersen, 1990). This

particular trajectory has enabled the Swedish economy to cope with the pressures of a post-Bretton Woods era by ensuring that the complementary institutions of its export-led sector have remained intact.²

However, not all regulatory economies have followed the Swedish example. Germany has been faced with what Scharpf (2006) refers to as the 'Continental dilemma' of rising unemployment and an inability to create sufficient jobs within the newly developed service sector. The German economy provides a number of formal and informal structures, such as high social security and healthcare costs for employers, extensive dismissal protection and a German identity closely associated with industrial employment, which have inhibited the expansion of the service sector (Annesley, 2004: 46-54). From the early 1990s until the recent financial crisis the German economy witnessed a decline in economic performance (Dyson and Padgett, 2005: 115) and its pre-financial crisis reform proved to be a crucial economic and political challenge. In an attempt to preserve the institutional complementarities of the core industrial sector, the German economy has developed a dual labour market based on the promotion of part-time 'mini jobs' now occupied by more than 4 million workers on whom there are reduced social charges for the employer, such as healthcare insurance (Hall, 2007: 70). The key issue is whether this development will gradually enforce similar changes on the core labour market, although evidence from Japan suggests that such a dual labour market model can be sustained (ibid). Broadly speaking, the expansion of the service sector within Germany has developed consensually and incrementally, and any signs of the creation of a low-wage service sector have met with resistance due to concern over

the spill-over effects to the institutional complementarities of the economy (Allen, 2006: 359; Annesley, 2004: 65).

As a result there remain significant differences between the service sectors of the EU's Member States and there is a spectrum along which they can be positioned. The UK, Sweden and Germany provide clear examples of the different types of service sectors found within the EU, with more liberal countries such as the UK at one extreme and countries such as Sweden at the other, while Germany's service sector lies somewhere in between the two.

The Prodi Commission had long believed that the EU's service sector was an untapped source of growth and jobs. It argued that growth had been limited owing to a number of barriers which restricted the freedom to establish services (permanent establishment in another Member State) and the freedom to provide services (temporary cross border service provision) and a rapid liberalization of the EU service sector was therefore justified (European Commission, 2004b). In its contribution to the Lisbon Special European Council the Commission proposed two over-arching objectives for the Lisbon Strategy: the pursuit of economic reform to prepare the knowledge economy; and the strengthening of the European social model by investing in people (European Commission, 2000b: 2). To achieve the former the Commission put forward six sub-objectives of which one was for improvements to the Internal Market which required 'attacking' restrictions to the growth of cross-border services by 2004. As a result, the March 2000 Presidency Conclusions briefly called for the Commission to outline a strategy for the 'removal

of barriers to services' before the end of 2000 (European Council, 2000b: 6). This request was followed by a review of the EU service sector in early 2001 by the Commission, the launch of a public consultation in 2002, and the release of the first draft of a proposed directive in early 2004. It was initially anticipated that following the review the Commission would publish a 'systematic and comprehensive list of persistent barriers and a request for their removal to Member States' (European Commission, 2001: 1). However, 'informed by the latest economic research' the Commission used the opportunity to propose a directive arguing that 'the key global competitiveness goal set by the Lisbon European Council could not be met unless sweeping changes were made to the functioning of the Internal Market for services in the near future'. The result was the EU's Services Directive agreed in 2006 which remains one of the largest and most controversial pieces of EU legislation.

The Negotiation of the Services Directive and the European Social Dimension

On face value the Services Directive concerns the Single Market, is the policy domain of the Directorate General for the Internal Market and Services, and therefore has little direct relationship with the ESD. Yet when the Directive was transmitted to the European Parliament it was placed under the Enhanced Cooperation procedure rather than it being given the as the sole responsibility of the Committee for Internal Market and Consumer Affairs (IMCO). The Enhanced Cooperation Procedure is used when a directive affects more than one policy area and indicates that in the case of the Services Directive, the proposal had policy implications beyond the functioning of the Internal Market. For the proposed Directive IMCO was appointed as the lead

committee, with the Employment and Social Affairs Committee (EMPL) appointed as the second committee.³ This indicates that the proposed directive affected not just the Internal Market, but labour law and social policy. In fact, the ensuing debate and negotiations of the proposed directive focused upon the preservation of 'social Europe', the expansion of unfettered neoliberalism, and the negative effects such competitive free market forces would have on employment protection and social policy across the EU Member States. As Kowalsky of the ETUC (2005: 8) noted at the time: 'seldom has controversy related to a legislative proposal been so clearly linked with the struggle to shape a European Social Dimension. It [was] a question of whether there [was] to be an internal market with a social dimension or merely a glorified free trade zone.'

In January 2004 the first draft of the proposal was released, penned by the then Commissioner for the Internal Market Frits Bolkestein – a former Dutch Cabinet Minister who made no secret of his neoliberal preferences for the EU (cf. Clift, 2009; Höpner and Schäfer, 2010). Bolkestein favoured the rapid liberalisation of the service sector and the solution was a directive that had a horizontal approach to reforming the sector. According to the Commission's *Extended Impact Assessment of Proposal for a Directive on Services in the Internal Market* a horizontal approach combined administrative cooperation, the application of the country of origin principle and the harmonisation of some basic requirements for services (Commission, 2004b: 27-28). Furthermore, a horizontal approach could also be agreed upon relatively quickly and would encourage the process of regulatory and administrative simplification in a more coherent way than unilateral action by Member States. The Commission

argued that it would provide legal certainty for service providers without imposing over complex rules, and it would be possible to agree essential requirements at the Community level whilst providing for the necessary flexibility for member states and economic operators (ibid). In short, to aid the freedom to establish services (permanent establishment in another Member State) certain barriers and authorisation schemes were prohibited and Member States were to create single points of contact for service providers to assist their completion of the necessary administrative procedures. To improve the freedom to provide services (temporary cross border services) providers were to utilise the country of origin principle whereby they would be subject to the laws of their country of establishment (with the exception of the Posting of Workers Directive), thereby encompassing the principle of mutual recognition. Finally, to increase consumer protection and mutual trust between the Member States, the directive proposed a harmonisation of legislation in order to protect general interest (European Commission, 2004a: 3-4).

The negotiations witnessed political division between EU actors in accordance with the clash of capitalisms political constellation. The liberal coalition aimed for a fully liberalised EU service sector in line with the first draft proposed by the European Commission (see below). The main concern of political actors within the regulatory coalition was that the proposed directive utilised the country of origin principle for temporary cross border service providers, included public services within its scope, and created uncertainties with respect to who was responsible for supervising temporary cross-border service providers. First, the utilisation of the country of origin principle for such purposes would essentially provide temporary cross border

service providers with exemptions with respect to certain aspects of labour law within the host country. This would inadvertently place a downward pressure on the more extensive employment and social protection systems of some member states. Second, the inclusion of services of general interest in the directive potentially opened-up healthcare systems to competitive market pressures. The particular concern here was the regulations governing easier access to healthcare, especially provided in another Member States, which could a pressure on costs and thereby the quality of healthcare services across the EU (ETUC 2005). Thirdly, there were uncertainties surrounding the monitoring of temporary service providers and the regulatory coalition argued that, as a result, they could essentially be unsupervised (see below for more detail). In the eyes of actors surrounding the regulatory coalition if the proposed Directive was agreed, the result would be the erosion of both social Europe and the more generous welfare states within the EU. In the eyes of the more liberal individuals, such an argument was based on misinformation and an exaggeration of the truth. Central to the analysis in the following section is the position, contribution, and impact of the CEE states to the negotiations.

II: Negotiating the Services Directive: Proposal, Negotiation, and Compromise

The European Commission and proposal for reform

Under the co-decision procedure the draft directive was transmitted to the Council and the Parliament on 6th February 2004. The proposed directive was discussed in

the Economic and Financial Affairs Council (ECOFIN) meeting of 11th March 2004, but the negotiations did not gather momentum until after the May 2004 EU enlargement, the subsequent European Parliamentary elections and the formation of the first Barroso Commission. The delays in forming the first Barroso Commission meant that the newly appointed Internal Market Commissioner, Charlie McCreevy, did not begin work on the Directive until early 2005.⁴ Although all of the Member States had expressed their support for liberalization and further integration within the service sector, the majority of governments did not form official positions in 2004. As one Swedish Representative noted: 'it was the largest EU proposed draft Directive I have ever come across and for the remainder of the year almost every Ministry at the national level was involved in trying to interpret its scale, scope and consequences'.⁵ Nevertheless, within the actors of the EU's broader political space the release of the first draft caused something of a storm. On 4th June 2004 Belgian trade unions organised what was to be one of several street protests during the negotiations in Brussels objecting to the Services Directive. 5000 trade unionists took to the streets of Brussels demanding that the national and regional governments make an assessment of the impact of the proposed directive (Van Gyes, 2004). The Belgian trade unions, as well as the European Trade Union Confederation (ETUC), argued that the proposed directive would undermine the ESD and modify the Posting of Workers Directive through the back door (see below); the Commission and Business Europe considered this to be a misinterpretation of the proposal.

Regulatory coalition objections to the proposed directive

Towards the end of 2004 a split between the liberal and regulatory coalitions emerged. The ten new Member States, along with Ireland, Luxembourg, Spain, the Netherlands, the UK and BusinessEurope, formed the liberal coalition and supported the proposed draft of the directive. The regulatory coalition, which Jacques Chirac claimed was being spearheaded by France and Germany (BBC, 2005), also included Austria, Belgium, Denmark, Finland, Greece, Italy, Portugal and Sweden (as well as the ETUC) (see Lindstrom, 2010). It argued that the directive would undermine their domestic service sectors and had three main objections with the proposal. First, its broad scope included services of general interest (SGI) and services of general economic interest (SGEI), which included healthcare and social services. The coalition argued that this would result in the introduction of market principles to European healthcare systems that could create pressures for privatisation. By easing the restrictions of EU patients to receive treatment in another Member State, patients who were subjected to long waiting lists could potentially find it easier to shop around in other member states and get the costs of such treatment reimbursed. The directive would also enable patients to receive temporary cross border treatment (and possibly cheaper and more competitive) from a service provider more easily. Therefore the inclusion of SGEI in the draft directive would potentially open-up healthcare systems to competitive market pressures. The particular concern here was the regulations governing easier access to healthcare, especially provided in another Member States, which could place a downward pressure on costs and thereby the quality of healthcare services across the EU (ETUC, 2005).

Second, the coalition objected to Article 16 for temporary cross border service providers, which utilised the country of origin principle. Article 16 stated that: 'Member States shall ensure that providers are subject only to the national provisions of their Member State of origin which fall within the coordinated field' (Commission, 2004a: 55). Article 17 contained a number of derogations for the country of origin principle including the Posting of Workers Directive. Temporary cross border service providers would therefore comply with the legislation of their country of origin with the exception of the labour law contained within the Posting of Workers Directive. The Posting of Workers Directive specifies a number of employment conditions which host states are obliged to guarantee workers posted to their territory (Article 3.1). The binding rules are to be laid down by law, regulation, administrative provisions, and/or in collective agreements and arbitration awards that are declared *universally* applicable (Ahlberg *et al*, 2006; Dølvik and Visser, 2009).

A problem with the Posting of Workers Directive is that it is considered to be a minimum of standards for labour law, as some Member States have more extensive formal and informal labour laws and practices that are not covered by the Directive. In countries such as Germany and Sweden where there is no national *universally* applicable minimum wage, collective agreements are used to determine sectoral and regional minimum wages, as well as some aspects of labour law which are not covered by the Posting of Workers Directive, such as employment contracts and dismissal rules. Traditionally, Swedish trade unions and employers reach an agreement on the minimum wage through sectoral dialogue with 90% of employees

working in the private sector being part of a collective agreement. As such, the negotiated labour conditions resulting from collective agreements are not *universally* applicable and are therefore not covered by the Posting of Workers Directive. Regulatory coalition Member States could point to a number of examples where the directive had been detrimental to the established practices of some sectors, such as the German construction industry (Kahmann, 2006). The coalition argued that the derogation of the Posting of Workers Directive, as opposed to all labour law, would provide temporary cross border service providers with exemptions with respect to certain aspects of labour within the host country. This would turn EU minimum standards into maximum standards thereby placing a downward pressure on Member States with more extensive social protection systems (ETUC, 2005).

Thirdly, by making the Posting of Workers Directive a derogation from Article 16 rather than all labour law, the legal uncertainty of the areas not covered by the directive was unclear. This was further complicated by the uncertainty surrounding the supervision of temporary service providers. Article 16 (2) stated that: 'the Member State of origin shall be responsible for supervising the provider and the services by him, including services provided by him in another Member State' (Commission, 2004a: 55). The regulatory coalition argued that Member States, particularly more liberal countries, would have little incentive to supervise their service providers who were temporarily operating in another Member State. Articles 24 and 25 dealt more specifically with the supervision of temporary service providers and stated that while supervision was the responsibility of the country of origin, the

host country was responsible for supervising the Posting of Workers Directive. There were two problems with such a system. First, host Member States were unable to make declarations on temporary service providers other than those included in the Posting of Workers Directive, thereby confirming to the regulatory coalition that the directive was being narrowly interpreted. Secondly, Article 24 prohibited host Member States from requiring temporary service providers from holding employment documents in its territory, making supervision difficult. In reality this meant that a Polish temporary cross-border service provider could operate in neighbouring Germany or any other Member State, and with the exception of the Posting of Workers Directive, would be subject to Polish operating laws and procedures. The country of destination (Germany) would supervise the Posting of Workers Directive, while the country of origin (Poland) would supervise all other legislation. Such arrangements would result in the parallel coexistence of 25/27 legal systems for temporary service providers in a single country (Kowalsky, 2005: 2). The proposed solution to such difficulties would be close cooperation between the relevant Member State authorities, but trust issues, particularly between the two coalitions, persisted.

For the regulatory coalition the proposed directive, particularly the application of the country of origin principle, would result in EU companies flocking to establish themselves in Member States with the lowest levels of social protection – known as ‘social dumping’. Subsequently, the workers that such companies export could have poorer employment conditions and pay compared to the host country, which could lead to a further decline in consumer protection and welfare. Opponents of the

legislation therefore feared that the directive would open the door to competition based on low pay and poor working conditions, as well as lower levels of consumer protection (Economist, 2005). According to those in the liberal coalition, such an argument was based on misinformation and an exaggeration of the truth.

Negotiating the proposal and the increasing tension between the two coalitions

In the Parliament the Internal Market and Consumer Affairs Committee (IMCO) appointed Evelyn Gebhardt, a French born German socialist (PSE) MEP as the rapporteur and the Employment and Social Affairs Committee (EMPL), appointed Anne Van Lancker, a Belgian socialist, as the draftsman. Following the Parliamentary elections although the reconvened Parliament returned a majority of the centre-right European People's Party (EPP), it was decided that the rapporteur and draftsman would remain unchanged. The reconvened Parliament began work on the directive in late September 2004 and up until this point, the directive had received only negative publicity. The liberal coalition argued that opposition to the Directive was protectionist and undermined the Internal Market. 'Europe is not making the best use of its Internal Market' argued Balkenende the Dutch Prime Minister, in response to criticisms of the directive, 'one of the biggest mistakes we can make is to hamper the dynamism of the economy by protectionism that can save some jobs, but in the long term will make us weaker, not stronger' (Reuters, 2005).

To one observer, the introduction of the CEE states had brought a fresh perspective to the debate.⁶ Governments of the CEE states proved to be the most enthusiastic

supporters of the directive within the liberal coalition and their accession into the EU resulted in a shift to the centre of gravity within the debate (Europe Information, 2005). For example, 'for the Polish government, as well as the governments of the other new Member States, only a Services Directive that was truly liberal was acceptable'.⁷ CEE support for the liberal coalition was founded on two principles. First, the directive concerned the free movement of workers and following the 2004 enlargement the majority of EU-15 Member States had placed transitional arrangements to limit the movement of workers from the new Member States (with the exception of Ireland, Sweden and the UK). All of the new Member States argued that regulatory coalition opposition to the directive was a further attempt by some EU-15 members to maintain the restrictions on the free movement of labour. They argued that old Member State opposition to the directive was because such states did not want to open their economies to competitive forces. Second, the ideological principles underlying the proposed directive were also significant, as one Hungarian representative noted: 'the free movement of workers was clearly an issue in determining the position of the Hungarian government, but it was also concerned that if it opposed the country of origin principle, then it would be criticised at home for being anti-free market'.⁸ The Commission estimated that the CEE states would benefit the most from a liberal Services Directive, owing to the relative underdevelopment of the sector (Commission, 2004b: 29). The Commission's Extended Impact Assessment claimed that a fully liberalized EU service sector would increase EU GDP by between 3 and 6 percentage points, but that the more regulated economies found in the CEE would benefit from the upper rate. For the CEE states a liberal services directive would be easy to implement and unlock much needed

growth and jobs to catch-up with levels in EU-15 Member States. The proposed directive would not only increase cross border service provision from east to west, but it would also complement the deregulation and liberalisation process of the previous 15 years in the former state-socialist economies. As the Commission noted in its *Extended Impact Assessment* (2004b: 37), following accession preparations and screening by the Commission “significant changes are already being made to the regulation of services in the Accession and Candidate Countries and a number of barriers to establishment of service providers and to cross-border service provision are being removed”. As such, enlargement had resulted in a profound change in the EU, torn apart between Member States reluctant to change and those which have already changed (Messerlin, 2005: 120).

What annoyed the CEE states and other members of the liberal coalition was not only the choice of rapporteur, but that Evelyn Gebhardt remained in position after the 2004 Parliamentary elections.⁹ Evelyn Gebhardt was openly negative about the Directive and clearly favoured one which sympathised with the left and the trade union movement, rather than being based on a consensual agreement between the different sides.¹⁰ In the Parliament MEPs from CEE claimed that they had little chance of success in ensuring that their opinions would be heard by the rapporteur. As a result, from the beginnings of the negotiations the CEE states felt sidelined and excluded, despite their alliance with some of the old EU-15 Members. This feeling was to continue for the duration of the negotiations. For many who were working in the various EU institutions there had been concerns that EU enlargement would

create an old versus new Member State divide in the union; just a few months after the enlargement, it appeared as if such a fear had become a reality.

During the latter half of 2004 the Commission was forced to respond to the mounting criticism of the proposed directive by members of the regulatory coalition and released a number of documents clarifying the proposal. It was in the European Parliament, however, where the fiercest battle between the two coalitions was fought. Evelyne Gebhardt had begun re-drafting the directive and favoured the regulatory coalition;¹¹ it was also alleged that she was taking instruction from the Élysée.¹² On 11th November 2004 IMCO and EMPL organised a joint hearing in the Parliament with experts and representatives of the social partners. The ensuing report, drafted by Gebhardt and with a clear backing from the Party of European socialists (PES) (at this stage predominantly drawn from the EU-15 Member States), argued that although all the participants were, in principle, in favour of the Commission's initiative to remove obstacles and promote freedom of services, most participants and the rapporteur were in favour of maintaining high standards of quality and protection in the interests of fair competition. It called on the Commission to withdraw or radically redraft the proposal (European Parliament, 2004a: 2).

By now, the liberal coalition was becoming concerned with the seemingly growing criticism voiced in the hearing. The shadow rapporteur, the then British European People's Party (EPP) MEP Malcolm Harbour, organised a EPP lead hearing on 9th December to defend the directive. Harbour argued that although certain aspects of

the directive needed clarification, in principle the EPP supported the proposal, including the country of origin principle. Harbour was also able to draw support from the PSE MEPs from the CEE states who had decided not to support Gebhardt and sided with the EPP. Although partisan support in the European Parliamentary coalitions is relatively fluid, this particular occasion was unique in that there was a clear split in the PSE between old and new Member States. Being a socialist MEP in CEE clearly means something very different to those found within EU-15. As one Hungarian MEP noted at the time: 'as a socialist MEP it is my belief that my duty is to secure jobs for those who want to work, barriers to the formation of job creation are wrong and I do not believe that such an approach is beneficial to anyone'.¹³ Such an opinion contrasts heavily with the 'more but better jobs' slogan which was used at the time by the PSE when referring to job creation in the EU.

Laval, the French referendum on the EU Constitution and the strengthening of the regulatory coalition

Negotiations in the Parliament coincided with the first of what was to be two external events that were not directly related to the proposed directive, but increased its publicity, created the belief that social Europe was under threat and heightened tensions between the two coalitions. The first was the Laval case in Sweden, which involved the Latvian based, but Swedish owned subsidiary of L&P Baltic AB, Laval. Laval had secured a contract to build a school in the Swedish town of Vaxholm and posted workers from Latvia. Although Laval complied with the Posting of Workers Directive, it refused to enter into a collective agreement with the

Swedish Building Workers' Union arguing that such agreements were not *universally* applicable in Sweden. Furthermore, as the posted workers were not part of the trade union, Laval argued they were exempt from the collective agreement. With minimum wages organised by collective agreement, the company refused to guarantee the local minimum wage for the posted workers who were effectively being paid less than the sectoral agreement and had less generous employment contracts than if they had been Swedish. In November 2004 the trade union voted for industrial action that consisted of a blockade to encourage its members not to perform work at Laval's workplace. In February 2005 Laval withdrew from the contract and challenged the obstruction of the trade unions in the Swedish Labour Court; the case was referred to the ECJ for clarification (ETUC, 2008; 2006). The case illustrated the tension between the EU's freedom of movement for labour and the Swedish collective bargaining model, as it appeared to undermine Swedish industrial relations (Financial Times, 2005a). The opposition and publicity which surrounded Laval should not be underestimated, as it helped to spread knowledge of the Services Directive across the EU and create an environment in which it appeared that social Europe was under threat (Agence France Press, 2005). The ETUC was quick to point out that Laval would be just one of many similar incidences for some (i.e. more CMEs) Member States if the proposed Services Directive was agreed (see: Leslie, 2009).

By the end of 2004 / early 2005 the opposition movement to the Directive had spread to the trade union movement across the EU. Although such opposition was to be found in the trade unions of the CEE states, unlike the majority of the EU-15

members, it was not to be found in the public at large. Furthermore, governments within the CEE states remained skeptical of the criticism which the opposition movement had focused its attention. That the Services Directive would undermine labour law was 'a complete exaggeration to the Polish government as it was clear to us in the first draft that the Posting of Workers Directive was a derogation from the Country of Origin Principle'.¹⁴

At the beginning of 2005 Gebhardt and Van Lancker had finalised their positions. The two agreed on most of the main issues: a more limited scope for the Directive and the exclusion of healthcare; the exclusion of the posting of workers Directive; and clarity that a country of destination would supervise a temporary service provider.¹⁵ Mrs Gebhardt and Mrs Van Lancker had however reached very different conclusions on the country of origin principle. Mrs Gebhardt believed that a harmonisation approach to individual sectors was the best solution and where that was not possible, there would be mutual recognition upon the decisions or jurisprudence of the ECJ (*ibid*). Mrs Van Lancker believed that the country of origin principle should remain and be used where there was a high degree of harmonisation (which was very few places). In sectors where there was no harmonisation, the country of destination principle would be used and temporary service providers would follow the rules and regulations of the host member state (*ibid*). Although this was basically the current situation in the EU services sector, it was hoped that such pressures would eventually create harmonisation.

By the beginning of 2005 the regulatory coalition held the initiative and was acting as a single coherent voice within the debate. Despite not representing the majority of the Member States, the regulatory coalition was successfully communicating its points to the media and public. The political debate had been reduced to a few issues and focused on the negative consequences of liberalizing the service sector rather than the real benefits. On March 22 Jacques Chirac announced that the regulatory coalition was demanding 'far reaching revisions' to the Services Directive to preserve social Europe (BBC, 2005). The opposition movement appeared to be much stronger and more influential in the debate, even though it did not necessarily represent the majority of the Member States in the European Council. The opposition movement had the support of the trade unions which, in terms of numbers and ability to raise awareness, was much more effective than BusinessEurope which had sided the liberal coalition. On this occasion the defenders of the ESD were in a minority position, but what they lacked in numbers was gained by their cooperation with each other, support of the trade union movement, and the ability of the latter to raise public awareness.

Furthermore, of the group countries who favoured a liberal directive, the vast majority of them were from the new member states that were relatively inexperienced in the EU policy-making process. The liberal coalition was becoming increasingly frustrated, as the general public and the press appeared to believe the distorted claims of the regulatory coalition - that the country of origin principle applied to both temporary and permanent cross border service providers. Within the liberal coalition although old member states, such as the Netherlands and the UK,

were in favour of the proposed directive, they were disinclined to fully defend it because even a less radical version of the directive would improve the current situation and represent a starting point for future developments and ECJ rulings.¹⁶ In this respect they were supporting the status quo, as can sometimes be the case with the liberal coalition (Hooghe and Marks, 1999). The CEE states felt differently about the situation and argued that the proposed directive should not only be defended, but be more radical with the removal of any derogations from the utilisation of the country of origin principle for temporary cross-border services providers. Slovakia's finance minister, Ivan Miklos, said "if we want the updated Lisbon Strategy to be taken seriously this time, efforts to hamper the [Services] Directive must be resisted" (Reuters, 2005). The minor differences within the liberal coalition over whether or not the directive should be defended, inadvertently gave the regulatory coalition an advantage. Furthermore, the new member states within the liberal coalition were relatively inexperienced in the EU policy-making process and struggled to influence the debate.

On 19 March 2005 75,000 to 100,000 trade unionists protested in Brussels against the directive, the largest protest ever seen over a piece of EU legislation (Kowalsky, 2005: 7). Evelyn Gebhardt and Anna Van Lanker had finalised their positions and agreed on most of the main issues to amend, which favoured the regulatory coalition (Agence Europe, 2005). They included: a more limited scope for the directive and the exclusion of healthcare; the clarification that temporary cross-border service providers would adhere to all host country labour law; and that the country of destination would supervise temporary service providers. However, they

reached very different conclusions on the country of origin principle. Gebhardt believed that a harmonisation approach to the individual sectors was the best solution and where that was not possible, there would be mutual recognition upon the decisions of jurisprudence of the ECJ. Van Lancker believed that the country of origin principle should remain and be used where there was a high degree of harmonisation (which was very few places). In sectors where there was no harmonisation, the country of destination principle would be used and temporary service providers would follow the rules and regulations of the host Member States. Although this was the current situation, it was hoped that such pressures would eventually create harmonisation.

The French referendum on the EU Constitution in May 2005 was the second external event that helped to strengthen the cause of the regulatory coalition. The French rejection of the constitution was multifaceted, but the rhetoric attached to the Services Directive was a key determinant of the 'non' vote.¹⁷ During the debate the French trade unions made a tenuous link between the Services Directive and the EU constitution, arguing that the constitution was a neoliberal project and that the Services Directive was a perfect example of how the EU would develop if the constitution were to be approved. The symbolic 'Polish plumber' featured in the French debate to illustrate the threat between the free movement of workers and the French welfare state; at times the reference bordered on xenophobia (Franck, 2005; Hainsworth, 2006). Nevertheless, the episode strengthened the regulatory cause within the negotiations.

Representatives from the liberal coalition publically expressed their disappointment and frustration with the positions taken by the regulatory coalition. Jan Maria Rokita, a senior official in Poland's then coalition government openly referred to the French and German stance on the Services Directive as a 'scandal'. He argued that: 'if we don't manage to fight against this social protectionism, then there might be the impression that the entire EU will rather contract than develop' (eureferendum 2005). Krisjanis Karins, Latvia's Economics Minister said: 'this notion of social dumping is insulting. I think what they mean to say is fair and real competition' (International Herald Tribune, 2005). There was clearly considerable tension between the two sides and the UK threatened that if necessary, it had sufficient broad support to push the directive the Council (The Business, 2005).

Gebhardt presented her draft of the directive to the Parliament in May 2005 which contained some 1602 amendments. The scale of the amendments was such that it was required to be released in two parts.¹⁸ The country of origin principle was replaced with a complex relationship of mutual recognition, harmonisation and the country of destination principle. The release of the amended proposal 'created a feeling of discontent in the directive's supporters, particularly in the CEE states, as it had been crafted with little representation from the east'.¹⁹ At the end of June 2005 there were three important developments in the debate. First, it was the beginning of the British Presidency and in a speech to the European Parliament on the 23rd June, Tony Blair committed the UK Presidency to resolving 'some of the hard dossiers', of which the Services Directive was one (Blair, 2005). This implied to the CEE states that Britain would be able to use its expertise and resources to push for a

liberal directive. Yet Britain was concerned over the political tensions between the two sides and a preoccupation with a deal on the revision of the Working Time Directive, which held much greater domestic political significance, compared to the Services Directive.²⁰ The British Presidency was unable to break the deadlock in the Council and could do little other than to get the Member States to formally declare their positions.

Secondly, the governments of the CEE states were alarmed by Gebhardt's amendments and a realisation that the liberal coalition might be losing the debate. As one representative noted: 'because the liberal group of countries were in a majority position, we never thought that the opposition movement would be able to influence the debate to the full extent that it did'.²¹ Governments of the CEE states lobbied their MEPs to get more involved in the debate, stressing the importance of a liberal directive for growth and jobs in the region. MEPs from CEE therefore spent the summer of 2005 researching into the directive with the aim of ensuring that Gebhardt's amendments would not pass the IMCO and Parliamentary votes.²² The only group of MEPs from CEE Europe that was able to exert any real influence on the debate was the socialists. They formed a close relationship with Malcolm Harbour with the aim of ensuring that the rapporteur's amendments did not pass the scheduled IMCO vote. In fact, they turned out to be the shadow rapporteur's strongest allies.²³

Finally, in what was to be one of several moves by the Polish government to influence the debate, Poland launched its own publicity campaign on the Services

Directive and the free movement of labour. Concerned over the negative publicity which Polish workers had received in the French referendum campaign and now the Services Directive, the Polish government launched a publicity campaign promoting the Polish plumber and the Polish nurse; names which had become a symbolic reference in the debate on the free movement of labour from EU-10 to EU-15. At the informal Competitiveness Council on 11-12 July 2005 in Cardiff, the Polish government organised the distribution of posters and t-shirts promoting the Polish plumber and the Polish nurse in an attempt to reduce the negative reputation they had unfairly received. Although the campaign was 'very ingenious' it failed to have any real impact, as it was much more concerned with the publicity of the case rather than having a direct effect on the policy-making process (ibid).

Parliamentary vote and acceptance of a compromise

Gebhardt's amended proposal was scheduled for a vote in IMCO for September 2005, but the vote was postponed until 22 November, as Harbour was constructing his own draft which maintained the Country of origin principle. With the support of his own party and that of the socialists from the CEE states, Harbour and his colleagues renamed the country of origin to the 'freedom to provide' services in the hope that such renaming would reduce the negative publicity which Article 16 had attracted. In an attempt to compromise with regulatory coalition, Harbour removed healthcare from the scope of the directive, as well as including the clause that temporary cross-border service providers were to adhere to all labour law of the host country, and not just that contained within the Posting of Workers Directive.

The scheduled IMCO vote took place on 22 November 2005, but was a defeat for Gebhardt and the regulatory coalition, as they failed to achieve any of their high profile amendments. The Committee voted 25 in favour and 10 against with five abstentions to the proposal put forward by Harbour to maintain the country of origin principle, albeit renamed.²⁴ The Financial Times (2005b) noted that 'a coalition of centre-right, liberal and eastern European lawmakers succeeded in pushing through a version of the law that emphasises cross-border freedom'. The vote in the Committee had been secured by a deal reached between the EPP and socialist MEPs from CEE; without such a deal a liberal version of the directive would have been lost.²⁵ Although there was relief within the liberal coalition, the CEE states argued that the directive had been watered down.²⁶ The amended proposal was due to be voted in plenary on 16th February 2006 and there was a sigh of relief in the liberal coalition. In the scheduled plenary vote the EPP planned to form an alliance with ALDE (liberals) and the PES MEPs from the CEE states.

However, the Commission had become increasingly concerned that subsequent negotiations in the Council would be as problematic as the Parliament and the Internal Market Commissioner, Charlie McCreevy, had switched from defending the proposal to admitting that it may require some revisions and concessions.²⁷ In light of the negative publicity surrounding the proposal, McCreevy was able to distance himself from the proposal, given that it had been drafted by his predecessor and there was fear of a deadlock in the Council. Furthermore, the Barroso Commission had relatively few achievements to its name and it was anxious, not just to reach an agreement of the directive, but to expand its reputation.²⁸ Despite the victory of the

liberal coalition in the IMCO vote, pressure from the regulatory coalition was clearly having an effect. Shortly after the IMCO vote McCreevy informed the Parliament that if a two-thirds majority could be achieved in plenary, then the Commission would accept the amendments and transmit them to the Council for voting. By presenting a draft to the Council that had the backing of the only directly elected EU institution, the Commission hoped that the Council would accept the proposal. Such a move is unprecedented in the history of EU policy-making, as the Commission effectively gave control of the directive to the Parliament.

To achieve such a vote the directive needed to gain broad support in the Parliament. The EPP realized that if it was to achieve a two-thirds majority in a plenary vote, then it would need the broad support of all PSE MEPs, and not just those from the CEE states.²⁹ Towards the end of 2005, a high level working group in the Parliament between the EPP and the PSE was formed in an attempt to reach a compromise. The group consisted of six MEPs and included Mrs Gebhardt, Mr Harbour and Mrs Van Lancker. The exact negotiation process is unclear as the group met in secret, but the outcome resulted in the EPP abandoning its position on the country of origin principle and accepting a proposal in which it was removed. Further concessions were also made which included: the reaffirmation that healthcare would be excluded from the directive; the explicit recognition that labour law and working conditions would not be affected; and the clarification that temporary service providers would be monitored by the country of destination (European Parliament, 2006). Clearly influential in achieving the parliamentary compromise was the 'unique opportunity' given to the institution in forging the final outcome.³⁰

The high level working group contained no representative from the CEE states and governments from the region claimed that they were being further sidelined. Further frustration within the liberal coalition, particularly the CEE states, deepened when a study by the Netherlands Bureau for Economic Policy Analysis in February 2006 revealed that not only would the inclusion of the country of origin principle result in higher levels of GDP, but that the CEE states would be its ultimate beneficiaries. Unlike previous reports, the February 2006 report analysed the trade effects of the Services Directive with and without the country of origin principle. If the Services Directive included the country of origin principle, then the long-term effect would be to increase EU GDP by approximately 0.3 - 0.7 per cent per year by 2040; if the country of origin principle was removed then the estimate was 0.2 - 0.4 respectively (De Bruijn, Kox and Lejour, 2006). But the report also included estimates for individual countries with and without the country of origin principle and this caused the greatest amount of friction between the two sides, as it became clear that the CEE states, not the old EU Members, would ultimately benefit from a liberal Services Directive. If a liberal Services Directive was implemented, the report calculated that an old member state such as France would have an increase in GDP per annum of 0.45 per cent, but CEE states such as Hungary and Poland would benefit from growth rates of 2.6 per cent and 1.0 per cent respectively. If the country of origin principle was removed, the estimates for France, Hungary and Poland became 0.3, 1.7 and 0.6 of an increase in GDP per annum (ibid: 34)³¹. What was therefore obvious to the CEE states within the liberal coalition was that the

removal of the country of origin principle was estimated to be more damaging to their prospective growth.

A plenary vote on the parliamentary compromise was scheduled for 16th February 2006. Just before the vote Piotr Wozniak, the then Polish Economy Minister, along with like-minded colleagues Alan Johnson, the British Secretary of State for Trade and Industry, Etele Baráth, the Hungarian Minister for European Affairs, Laurens Jan Brinkhorst, the Dutch Minister of Economic Affairs and Milan Urban, the Czech Minister of Industry and Trade – wrote an open letter to Charlie McCreevy warning against any watering down of the Directive (Open Democracy, 2006). The letter called on the Commission to support an ambitious version of the Services Directive that would lead to a ‘truly functioning internal market’ (BBC, 2006). However, the efforts of the liberal coalition failed to have an impact and on 16th February 2006 the scheduled Parliamentary vote produced a near two-thirds majority of 395 votes in favour of a weak directive, with 214 votes against and 31 abstentions.³² Most regulatory coalition members followed the German example of their MEPs from both the EPP and the PES voting in favour of the draft directive. In the liberal coalition the majority of countries followed the Hungarian and Polish example of PES MEPs voting in favour of the draft directive, but their EPP MEPs voting against what they considered to be a weak directive. Although PES MEPs from the CEE states had supported the country of origin principle, they regarded the second draft of the directive to be a realistic and a very typical European compromise. In contrast the vote against the directive by the EPP was a protest over the watering down of the directive and the removal of the country of origin principle.³³

Following the Parliamentary vote, the Austrian Presidency announced that it would aim for a common position in the Council by the end of June 2006. Shortly after the vote Wozniak, the Polish Economy Minister, had declared, "I'm not sure if it's worth supporting the law in its present form" (Open Democracy, 2006). At the meeting of EU economy ministers Wozniak also claimed that as many as 15 countries were unhappy with the amended version of the directive and that the Council should refuse to accept the amendments (ibid). Latvia's Economics Minister, Karins, said that the new directive was "unacceptable" and claimed that members of the liberal coalition, including the Netherlands and the UK, were prepared to form a blocking minority in the Council (Baltic Business Weekly, 2006). The Commission released an amended proposal of the Directive on the 4th April 2006 which was '98 per cent in line with the parliament's position' according to the EPP-ED MEP Jacques Toubon (European Parliament, 2006b). The Austrian Presidency had prepared a number of informal Council meetings prior to the formal vote scheduled on 29th May 2006 and warned the liberal coalition of the dangers of reopening the negotiations. Within the liberal coalition the CEE states continued to express their disappointment with the amended directive during meetings and continued to push for a weaker directive. However, both the Commission and the Austrian Presidency were determined to stick to the agreements made in the Parliament and were advising governments not to re-open negotiations. This political pressure created a general acceptance in the UK, the Netherlands and Spain to vote in favour of the directive and to accept a compromise. The latter group of governments within the liberal coalition maintained their position that it was much better to have the agreement reached in the

Parliament, rather than to re-open negotiations and risk the directive being withdrawn.³⁴ The proposed directive still liberalized the EU's service sector, but it was just less ambitious than the Commission's original proposal. And as mentioned above, it was hoped that the agreement would provide a foundation for ECJ rulings and further liberalization within the sector. This weakened the liberal coalition and eventually persuaded the CEE states to vote in favour of the directive in the Council.

The remaining six months of the Directive were relatively straightforward in comparison to the previous two and a half years. After the Council vote, the Parliament debated the second draft of the Directive on 13 October 2006 with a vote in favour of the draft during the 13 November 2006 IMCO meeting. On 15 November 2006 the Parliament voted on the Directive and it was passed with a two-thirds majority. During the second reading, the PPE MEPs in the Parliament from the CEE states continued in their efforts to water down the Directive.³⁵ The Finnish Presidency worked hard to defend the text and reiterated the problems of re-opening the debate (*ibid*). The voting statistics and their traits remained near identical to the previous Parliamentary vote in February 2006 and so too did the contents of the Directive. The final Directive contained eight chapters each concerning a specific aspect of liberalising the EU services sector and Member States were given until 2009 to transpose the directive into national law.³⁶

Conclusion

The negotiations of the Services Directive witnessed deep divisions between the EU actors along the clash of capitalisms political constellation. During the negotiations the concern within the regulatory coalition was that the Commission's proposal to liberalise and de-regulate the EU's service sector was too radical, as it would undermine some of the more generous systems of social protection and labour regulation across the EU. While the aim of the Services Directive was to liberalise the EU's service sector, promote further market integration, and ultimately to increase growth and jobs, the political debate surrounding the negotiation process focused on the effects the proposal would have on the European social dimension. The regulatory coalition argued that the scope of the directive, the utilization of the country of origin principle for temporary cross border service providers, albeit with the exception of the areas covered by the Posting of Workers Directive, and the lack of certainty surrounding the supervision of temporary service providers. The regulatory coalition argued that such ultra-liberalism would create a race to the bottom in terms of welfare and labour regulation, and that EU companies would seek to establish themselves in Member States with the lowest standards (i.e. social dumping). In contrast members of the liberal coalition not only supported the Commission's proposal, but argued that regulatory coalition claims of the proposed directive were an exaggeration of the truth. Furthermore, any negative effects of the proposed directive would out way the benefits gained from increases in growth and jobs. As a result of deep political divisions within the EU's transnational political space, the final agreed directive represented a compromise: for the regulatory coalition, all of the contentious points of the proposal were removed; while for members of the liberal coalition, a directive was agreed which would form both the

basis of a single market for services and the foundation for future further liberalisation.

What about the Central and Eastern European states? All eight of the then new members joined the liberal coalition. Central to their position was the issue surrounding the post-2004 restrictions placed on the free movement of labour from the new Member States to EU-15. These restrictions created a sense of injustice and a feeling of a second-class status within the EU. Tensions were further heightened by the Vaxholm case and the French referendum on the EU constitutional Treaty, which further highlighted the issue of the free movement of workers from east to west. However, the restrictions on the post 2004 free movement of workers were just one factor influencing the position of CEE governments during the negotiations – political economy considerations were also significant. Interviews conducted for the research confirm that CEE governments perceived a liberal version of the directive as an opportunity to reform their service sectors in a relatively simple way to maximise growth and jobs. That the Commission's proposal would cement a liberal service sector within the east appeared to be of little concern, as one interviewee from the Czech republic noted: 'how else are we supposed to catch-up with western levels of growth and jobs?'.³⁷

But while the CEE states joined the liberal coalition, they failed to have any impact on the debate. The negotiation process might have concluded very differently had Commissioner Charlie McCreevy not taken the unusual step of intervening and allowing the Parliament to take control of the directive. McCreevy intervened in the

negotiations because of the negative publicity that the proposed directive was receiving combined with the desire to forge a quick agreement. The result was there were no real negotiations in the Council and this is where the CEE states could have been useful to the liberal coalition. In short, while the services directive was a victory for the regulatory coalition, it does reveal the sympathetic tendencies within the CEE states for the liberal coalition. .

¹ Article 49 of the EC Treaty stipulates that 'restrictions on freedom to provide services within the Community shall be prohibited in respect of nationals of Member States who are established in a state of the Community other than that of the person for who the services are intended' (Treaty Establishing the European Community, 1957: 22).

² Furthermore, despite economic turmoil and significant structural reforms to the economy during the 1990s, which included a rationalisation of the welfare state and the outsourcing of some social services to private organisations, the public sector was expanded to absorb those individuals who could not find work, rather than a deregulation of the service sector towards more LME practices (Benner and Bundgaard, 2000; Hall, 2007).

³ The Enhanced Cooperation Procedure enables a lead committee to take responsibility for the coordination of a directive and a second committee is allowed to have an input. The second committee votes on the articles of the directive which are within its policy domain, while the lead committee votes on everything else

before the directive goes to plenary, and both committees are unable to vote on each other's amendments.

⁴ Interview 11, Member of the European Parliament (11 April, 2007).

Although the Council appoints the President of the Commission, the appointment and that of the individual cabinet members requires an absolute majority vote in favour from the Parliament. During the election of the first Barroso Commission, the Parliament had delayed the ratification of the Commission and blocked several Commissioner Appointees, thereby forcing a re-shuffle.

⁵ Interview 1, Representative of a Permanent Representation in Brussels (25 March 2007).

⁶ Interview 11, Member of the European Parliament (11 April, 2007).

⁷ Interview 15, Representative from a Representative of a Permanent Representation in Brussels (5 March, 2007).

⁸ Interview 7, Member of the European Parliament (21 March, 2007).

⁹ The 2004 European Parliamentary elections returned a centre-right majority but it was decided that Evelyn Gebhardt would remain as the rapporteur for the directive.

¹⁰ Interviews: 11, Member of the European Parliament (11 April, 2007); and 17, Member of the European Parliament (19 March, 2007),

¹¹ Interview 11, Member of the European Parliament (11 April, 2007).

¹² Interview 6, Member of the European Parliament (19 March, 2007).

¹³ Interview 22, Member of the European Parliament (21 March, 2007).

¹⁴ Interview 12, Representative of a Permanent Representation in Brussels (5 March, 2007).

¹⁵ Interview 13, Administrator of the European Parliament (22 May, 2007).

¹⁶ Interview 8, Representative of a Permanent Representation in Brussels (21 March, 2007).

¹⁷ The French rejection of the EU constitution was based upon the objection to Turkish membership, the polarisation of the debate between Anglo-Saxon economic liberalism and the European Social Model, and objection to the Services Directive. See: Franck (2005); Hainsworth (2006); Schmidt (2007); Stefanova (2006).

¹⁸ Interview 13, Administrator of the European Parliament (22 May, 2007).

¹⁹ Interview 8, Representative of a Permanent Representation in Brussels (21 March, 2007).

²⁰ Interview 8, Representative of a Permanent Representation in Brussels (21 March, 2007).

²¹ Interview 4, Representative from BusinessEurope (09 March, 2007).

²² Interview 11, Member of the European Parliament (11 April, 2007).

²³ Interview 11, Member of the European Parliament (11 April, 2007).

²⁴ Interview 13, Administrator of the European Parliament (22 May, 2007).

²⁵ Interview 23, Representative from the European Commission (23 May, 2007).

²⁶ Interview 23 Representative from the European Commission (23 May, 2007).

²⁷ Interview 11, Member of the European Parliament (11 April, 2007).

²⁸ Interview 13, Administrator of the European Parliament (22 May, 2007).

²⁹ Interview 7, Member of the European Parliament (21 March, 2007).

³⁰ Interview 8, Member of the European Parliament (27 March, 2007).

³¹ The report calculates an upper and lower estimate for all of the data and the figures presented in this paragraph are an average of the two estimates.

³² Raw data is available at:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=->

[//EP//NONSGML+PV+20060216+RES-RCV+DOC+PDF+V0//EN&language=EN](http://EP//NONSGML+PV+20060216+RES-RCV+DOC+PDF+V0//EN&language=EN) -

accessed 12/03/2013.

³³ Interview 7, Member of the European Parliament (21 March, 2007).

³⁴ Interview 8, Representative of a Permanent Representation in Brussels (21 March, 2007).

³⁵ Interview 8, Representative of a Permanent Representation in Brussels (21 March, 2007).

³⁶ For an analysis of the final version of the Directive see Barnard (2008); also see Höpner and Schäfer (2010) who argue that the ECJ's ruling on the Laval case partly reversed the political compromise on the Services Directive.

³⁷ Interview 21, Representative of a Permanent Representation in Brussels (20 March, 2007).

4: The Revision of the Working Time Directive

This second of three case study chapters analyses the negotiations of the revision of the Working Time Directive (WTD). How much people work is an important and contested aspect of economic life. By some normative standards, working fewer hours is an important measure of the 'good life', to be weighed against growth, employment, and other measures of economic wellbeing (Burgoon and Baxandall, 2004: 439-440). In 1993 the WTD was introduced to regulate and harmonise working time across the EU. It set out a 48-hour limit to an employee's working week (to be calculated as an average over a three month reference period), as well as requirements for rest and annual leave. Importantly, the original directive contained the opt-out whereby employee's would be allowed to work in excess of the 48-hour week, providing that they signed an opt-out agreement. The opt-out had been included to appease the UK government, who was opposed to any regulation of working time. When the UK transposed and implemented the directive in 1998, it was the only Member State to use of the opt-out and to apply it to all sectors across the economy. While the inclusion of the opt-out had ensured the securing of an agreement between the Member States, a review clause was contained in the original directive requiring both the opt-out and the reference period to be reviewed 10 years after its implementation. At the time of the original negotiations, it was hoped that such a timeframe would enable the UK to move away from its long hours working culture and that during subsequent revision of the directive, would result in a removal of the opt-out.

While the original directive was negotiated as a piece of health and safety legislation, it has often been referred to as a cornerstone of the European social dimension, as behind the legislation laid the normative argument that, as a symbol of progress in EU employment and social policy, the EU should regulate working time. But while Britain had been in a minority position during the 1992 negotiations, by the time of the revision of the directive in 2004 (12 months later than was originally planned), it was able to command a majority position within the EU's political space. Britain's position had strengthened as a result of a strategic agreement with Germany, extensive resource deployment by British governments (both the governments of Tony Blair and Gordon Brown), and support from the CEE states (with the exception of Hungary). The negotiations witnessed deep divisions between EU actors along the clash of capitalisms political constellation with the liberal coalition arguing that the opt-out should remain and the reference period extended (beyond the current three months to twelve months). In contrast, the regulatory coalition argued that the opt-out should be removed and any requests for further flexibility could be achieved, as a compromise, by extending the referencing period. After 5 years of negotiations the EU was unable to reach an agreement on the revision of the directive and the original directive, including the opt-out, remains in force across the EU.

The proceeding chapter analyses the negotiations of the revision of the WTD between 2004-2009. In particular it pays attention to the positions and contribution of the CEE states during the negotiations. The first part of the chapter analyses the political economy of working time within the EU, thus highlighting the potential for

political divisions between actors within the EU's political space. While the second part of the chapter focuses on the negotiations and the inability of EU actors to reach an agreement. The chapter concludes by reflecting on the positions and contributions of the CEE states during the negotiations.

I: The Political Economy of Working Time

Working Time in EU Member States

Average hours worked across the EU vary significantly, but actual comparison between different Member States can be difficult for a number of reasons. First, comparable data is not collected in all Member States. Second, there is no uniform method of calculating working hours with some Member States using annual calculations while others prefer weekly calculations. Therefore establishing comparable normal weekly working hours is problematic, as a weekly average calculated from an annual aggregate may include holiday entitlements and so distort the data. A second problem is the inclusion of part time work into any calculations, as this will underestimate the average working week of full time paid employees. One possible solution to the latter problem is to ensure that EU Member States provide calculations for average full-time employees, but then the problem here is that calculations may not necessarily reflect a 'typical worker' given the increasing prevalence of part-work across the EU over the last two decades (European Foundation, 2011: 2).

To address some of these problems the European Foundation for the Improvement of Living and Working Conditions (2011: 1-33) produces calculations based on Eurostat's Labour Force Survey which are weighted in order to reflect the relative size of a country in terms of persons aged 15-64 who are employed full time. From the Foundation's 2010 data, workers in Romania work the most number of hours per week in the EU (41.3) while workers in Finland work least (37.8). For the same period, the EU-27 average is 39.7 hours, the EU-15 average slightly lower at 39.4, and the EU-12 average (all of the 2004 and 2007 new Member States), slightly higher at 39.9. While the difference between the EU-15 states and the CEE Members is relatively small, it should be noted that with the exception of Slovakia all of the CEE states have an average hourly working week above the EU-27 average. In this respect, the CEE states align themselves more with liberal countries such as the UK where working hours are traditionally longer.

Burgoon and Baxandall (2004) argue that in accordance with Esping-Andersen's categorisation of welfare states, Social Democratic, Liberal and Christian Democratic countries also form *three worlds of working time*. Analysing the data from 1980-2000 in terms of both annual hours per employed person (capturing how much time employed people spend on the job) and annual hours per working-age person (how much work takes place averaged across all people of working age, including the unemployed, disabled and others outside of the paid labour force by choice or tradition) gives rise to three clusters. Social Democratic countries such as Sweden combine relatively low hours per employed (1560 per year) with medium hours per working-age person (1,142). Liberal countries such as the UK work high hours by

both measures (1,801 and 1,238 respectively). And the Christian Democratic countries work relatively medium hours per employed person (averaging 1,604) and particularly low hours per working-age person (981). Data on the number of hours worked per worker compiled by the European Foundation confirms this trend between the different clusters (European Foundation, 2011: 1-33).

The Working Time Directive (1993)

The WTD sets a 48-hour limit to an employee's working week as well as requirements for rest and annual leave. The original 1993 Directive has five provisions: a minimum daily rest period of 11 consecutive hours per 24-hour period (Article 3) and at least one rest day in seven (Article 5); a rest break if the working day is more than six hours (Article 4); a maximum weekly working time of 48 hours on average (Article 6); at least four weeks paid annual leave (Article 7); and a maximum of eight hours night work on average in each 24 hours (Article 8) (Council Directive 93/104/EC). According to the 1993 Directive, the average working week is to be calculated over a four month period, known as the 'reference period', although this could be extended for up to 12 months via collective agreement. Importantly, the Directive contains the opt-out clause which permits Member States not to apply the maximum 48-hour limit on the basis of voluntary agreements between employers and employees (Article 22). Where the opt-out is implemented, employees are unable to work longer than 78 hours per week and employers are required to keep records and make them available to the appropriate authorities.

Britain had been a staunch opponent of the WTD and had argued that it was an employee's fundamental right to choose the amount of hours worked and that the WTD would reduce the flexibility of the British labour market. The opt-out was therefore included to gain British support and since 1993 the UK is the only Member State to make full use of the opt-out (European Parliament, 2004b: 7). For the then Commission and the majority of Member States the opt-out was something of a 'gentlemen's agreement' that would gain British support in the short term. In the long-term it was hoped to provide the impetus for the UK to reduce its long hours culture therefore converging on the European 'norm'. The original justification for the directive had been that working time was a health and safety issue and that excessive working hours over a prolonged period was detrimental to health. Although a number of studies supported this argument, it is also clear that behind the legislation laid a normative argument that the EU should regulate working time as a symbol of progress in EU employment and social policy.¹ In 2000 the Directive was amended with effect from 1 August 2003. This extended working time measures in full to all non-mobile workers in road, sea, inland waterways and lake transportation, to all workers in the railway and offshore sectors, and to all workers in aviation who were not covered by the Sectoral Aviation Directive. Furthermore, the regulations were to apply to junior doctors from 1 August 2004 (Department for Business Enterprise and Reform, 2007). As subsequent amendments were made to the WTD, the British implementation of the opt-out came under fire, particularly from the ETUC. The opt-out clause required employees to sign an agreement with their employer and employers are required to maintain a record of the necessary documentation. ETUC research had estimated that two thirds of British workers

were unaware of the 48-hour limit. In addition it was calculated that two thirds of British workers who worked long hours had not signed an opt-out and that one third of those said they were not given the choice (ETUC, 2007). There had also been allegations that companies were not maintaining the correct records or making them available to the authorities when requested to do so.

Why was the Working Time Directive Revised?

The 1993 Directive contained two review clauses which required the opt-out and the calculation of the reference period to be reviewed seven years after implementation *i.e.* before November 2003. Furthermore, two European Court of Justice (ECJ) rulings had questioned whether the inactive part of on-call time was to be considered as working time. The 1993 Directive made no reference to such working conditions and two court cases known as *SiMAP* and *Jaeger* were taken to the ECJ for clarification. The Syndicate of Doctors of Public Assistance (*SiMAP*) in Spain had raised the issue of on call time in the Superior Tribunal Justice (Court) of Valencia². *SiMAP* argued that all on-call time should be considered as working time and calculated into the 48 hour week limit, regardless of whether an employee was being active or inactive. The Spanish Court referred five questions to the ECJ in 2000 for clarification and the court ruled that 'time spent on-call by doctors in primary health care teams must be regarded in its entirety as working time and, where appropriate as overtime, within the meaning of Directive 93/104 if they are required to be at the health centre' (ECJ Case C-303/98).

The second case in 2003 between Norbert Jaeger and Landeshauptstadt Kiel in the court of Landesarbeitsgericht of Schleswig-Holstein in Germany was similar to the SIMAP case³. On this occasion the ECJ was asked give its views on the question of whether on-call services should be considered in their entirety as working time, even if the party concerned does not in fact perform his professional duties but is authorised to sleep during the time concerned. According to the jurisdiction of referral, this question was not asked and, as a result, the Court did not reply to it in the SIMAP judgment. The Court held that 'Directive 93/104 must be interpreted as meaning that a period of duty spent by a doctor on call, where presence in the hospital is required, must be regarded as constituting in its entirety working time for the purposes of that Directive, even though the person concerned is permitted to rest at his place of work during the periods when his services are not required' (ECJ Case C-151/02). According to the Commission the Court rulings clearly marked out the member states' room for manoeuvre in interpreting the definition of working time (European Commission, 2004e). The overwhelming majority of EU member states had interpreted the original Directive as saying that the inactive part of on-call time was not working time and as a result doctors were considered to be working within the 48 hour week. The ECJ rulings said the opposite and as a result many health sector workers were exceeding the 48 hour weekly limit. This had particular significance for healthcare systems where under the ECJ rulings, many healthcare employees were now considered to be exceeding the 48-hour week (European Commission, 2004c). Statistics released by the Commission highlighted the associated costs of implementing the Court rulings, but even if the financial costs

could be overcome, in the short-term it would be near impossible for Member States to fill the new posts given the training and skills required for such jobs.⁴

A result of the court rulings was that France and Spain, two of the WTDs most ardent supporters, chose to apply the individual opt-out in their healthcare systems - Austria, Germany, the Netherlands, and after 2004 Slovenia, also followed suit. Both the Commission and the Council became anxious to find a solution to the issue of on-call time, as the *SiMAP* and *Jaeger* judgements went beyond the original underlying principles of the directive (House of Lords European Union Committee, 2004: 32). The Commission therefore decided to combine the revision of directive (i.e. the reference period and the opt-out) with a review of the definition of working time. According to one representative, had it not have been for the ECJ rulings then the Commission would have ignored the review clause in the Directive.⁵

The Revision of the Working Time Directive and the European Social Dimension

The main issues within the revision of the WTD are the opt-out clause, the reference period and on-call time. A revised WTD that removed the opt-out and maintained a short reference period would strengthen the directive and create full harmonisation across the EU. However, if the opt-out were to remain indefinitely and/or the reference period was extended, this would weaken the directive and represent a setback for the ESD. A failure to agree on a revision could also undermine the directive, as the use of the opt-out could spread across the Member States, making it potentially more difficult to remove in the future. Therefore the liberal coalition will

prefer an indefinite continuation to the opt-out and a long reference period, while the regulatory coalition will aim to end the opt-out and maintain a short reference period.

With respect to on call time, the issue is less divisive than the opt-out and the reference period between EU actors, particularly within the Council. Both the Commission and the Council disagreed with the ECJ's ruling of the *SiMAP* and *Jaeger* cases, and argued that only the active part of on-call time should be considered as working time. The financial implications of the ruling combined with the inability of most Member States to meet the required short and medium term employment levels, resulted in even the most ardent supporters of the WTD to argue that the decision should be overruled. Therefore, although this particular point is important to the re-negotiation of the WTD, it does not form a central issue in which the liberal and regulatory coalitions divided.

II: Negotiating the Revision of the Working Time Directive: Proposal, Negotiation, and Stalemate

The negotiation process is characterised by two traits: firstly, deep ideological divisions between the Member States which have been strengthened and deepened by the inclusion of the 2004 and 2007 CEE states; and secondly, a stalemate between the EU institutions (the Council and the Commission versus the European Parliament). The liberal coalition argued that it was an employee's fundamental right

to choose their own working hours and that restrictions on this right, as well as the overall burdens imposed by the directive, would inhibit growth at a time when the European economy required flexibility. The regulatory coalition argued that it was an employee's right to be protected against the health and safety risks of excessive working hours (such as stress, depression, and illness), and that the continuation of the 'Anglo-Saxon' opt-out was unnecessary and morally unjustified in the advanced capitalist economies of the EU. The regulatory coalition argues that governments should focus on ensuring that employees are capable of achieving a sufficient income without working excessively long-hours. The latter can be achieved through a variety of policy approaches, including a focus on education and training or government transfers such as a minimum income guarantee.

Preparations for the Release of a First Proposal

The Commission launched its consultation for the revision of the Directive on 15 January 2004 with participants given until 31 March 2004 to submit their comments and suggestions. The communication asked parties to consider five issues: the reference period; the definition of working time following the ECJ rulings; the opt-out; measures to improve the balance between work and family life; and whether an interrelated approach to these four issues would allow for a balanced solution capable of providing a high level of health and safety protection while simultaneously providing the necessary flexibility for employers (European Commission, 2004c: 22-23). Although the communication called upon EU actors to submit their opinions, the document itself clearly favoured a more flexible and

liberal approach to a revision of the Directive. The Commission noted that the implementation of the opt-out had been abused, but argued that the solution to the problem was a better monitoring of the situation, rather than a phasing-out of Article 22 (the opt-out). The Commission also made it clear that the definition of working time should run counter to the ECJ rulings in that the inactive part of on-call time was not to be considered as working time.

From the initial stages the Commission was pushing for a more neoliberal and flexible approach to the issue of working time. The Commission had noted that the implementation of the opt-out had been abused, but argued that the solution to the problem was a better monitoring of the situation rather than a phasing-out of Article 22. In an attempt to gain greater influence in the consultation process the Parliament launched its own report drawn up by MEP Alejandro Cercas, known as the Cercas report, which was adopted by a majority vote in the Employment and Social Affairs Committee on 11 February 2004. The report called for: the amendment of the directive as soon as possible; underlined the importance of addressing problems in the health sector arising from the SiMAP and Jaeger rulings; criticised Member States for introducing opt-outs to resolve these problems; supported additional steps to reconcile work and family life; and demanded the abolition of the opt-out as soon as possible (European Parliament, 2004b: 16). The report also argued that 'sufficient evidence has been built up over the seven-year period to prompt the conclusion that the opt-out mechanism is not the way to achieve flexibility in the working week, but rather a certain means of distorting the objective of improving health and safety at the workplace' (European Parliament, 2004b: 7).

Furthermore, between 1993 and 2003, the introduction of the opt-out in the United Kingdom had witnessed the number of employees working more than 55 hours increase substantially (ibid).

The Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) had an informal discussion on the communication on 4 March 2004. Although the meeting indicated there to be various dividing lines between the governments of the Member States, there was little indication of the problems which the Council would subsequently encounter during the protracted negotiations. On 19th May 2004 the Commission issued a second phase of consultation with the social partners at the Community level. The purpose of the consultation was two-fold: firstly to summarise the opinions of the various EU institutions; and secondly to invite the social partners to reach an agreement on the WTD which would then become law as a revised Directive. The consultation paper reiterated the point that any revision of the WTD needed to strike a balance between the protection of health and safety on the one hand and the need for flexibility in the organisation of working time on the other (European Commission, 2004d: 8). Accordingly, the Commission was highlighting 'the global and interdependent character of the amendments proposed, which must be interpreted in this context' (ibid). That is, a revised WTD should be more flexible than the original 1993 Directive because of the demands of globalisation. The Commission had asked the social partners to forward their recommendations or to initiate negotiations and include where appropriate, a detailed assessment of any alternative put forward. But a refusal to participate in the negotiations by BusinessEurope prevented any agreement taking place.

The release of the first proposal

The Commission released its first proposal for the amendment of the WTD on 22 September 2004 which maintained the use of the opt-out, extended the reference period from four to twelve months, and where the opt-out was used, there was to be a maximum 65 hour working week, although this could be exceeded via agreement between the two sides of industry. The Commission argued it had found the best solution which 'ensured a high level of protection of worker's health and safety, whilst allowing companies flexibility in managing working time' (European Commission, 2004b: 4). The proposal also addressed the issue of on-call time and proposed that the inactive part of on-call time was not to be regarded as working time. After five years of the implementation of the Directive, the Commission was required to produce a report which reviewed the opt-out and if necessary, introduced a phasing-out. Under the co-decision procedure the proposal was sent to the European Parliament and the Council. In the regulatory coalition, the ETUC expressed its deep concern with the Commission's proposal and stated that it was 'unacceptable' (ETUC 2004).

The release of the proposal coincided with the Dutch Presidency in the second half of 2004, and discussions within the Council concerned mainly technical issues at this stage.⁶ The December 2004 meeting of the Committee of Permanent Representatives (COREPER I) reached no agreement on the opt-out and the reference period, but agreement was reached on the issue of on-call time in accordance with the Commission's proposal. At this early stage of the negotiations

there was a clear divide among the Member States in the Council on the opt-out and the reference period. With respect to the opt-out, the Dutch Presidency had drafted a proposal which aimed to slowly eliminate its usage. A monitoring Committee would be set up comprised of a working group of social partners and Member State representatives with the aim of convincing British employers that the abolition of the opt-out was the best solution to managing labour. The Dutch presidency wanted to stress that the opt-out was not a good solution to manage labour and wanted to introduce flexible definitions so that in the future the opt-out could not be used.⁷ The Belgian, Spanish, French, Greek Portuguese and Swedish delegations clustered to form the core the Member States in the regulatory coalition and jointly stated that the opt-out should be phased out. Britain, Poland, Slovakia and Malta formed the core of the liberal coalition and argued that the Directive needed to respect the distinctive characteristics of the Member states' industrial relations systems.⁸ The UK, which spearheaded the coalition, argued that although the majority of UK workers did not work more than 48 hours a week, 'there was strong evidence to support the retaining of the opt-out because of its importance to UK competitiveness' (House of Lords European Union Committee, 2004: 7). Austria, Germany, Denmark and Finland stressed the need for a lasting solution taking into account the different systems of the Member States, while the remaining 11 Member States abstained from declaring their positions at this stage (Council of the European Union, 2004a; 2004b; 2004c). Such a pattern of divisions, as established during the early months of the negotiations, were to remain for the following years albeit with some minor shifts.

With little agreement in the Council, attention switched to the European Parliament. Alejandro Cercas, a Spanish MEP from the Socialist Party (PES), was appointed as the rapporteur for the directive. Mr Cercas was able to draw on the support from the MEPs of the Member States within the regulatory coalition, who were increasingly concerned by the growing strength of support for the continuation of the opt-out.⁹ The Cercas Report had generated significant opposition within the Parliament to the Commission's liberal proposal. It is worth reiterating the main points of the report. The Parliament would accept the extension of the reference period from 4 to 12 months on condition that the opt-out was removed. It was argued that such a compromise would give employers the necessary flexibility on working time, while simultaneously protecting the health and safety of employees. With respect to on-call time, the report followed the ECJ rulings and argued that all on-call time was to be considered as working time, regardless of whether it was spent either active or inactive (European Parliament, 2004b 13-14). 'We cannot lightly alter the *Acquis Communautaire* and legislate against the case law of the court of justice which has repeatedly supremely well argued and established that on-call duty is working time' argued the report, 'it is essential that the European institutions respect the inviolability of the acts that they have adopted and which affect the legal situation of legal persons' (ibid: 8). The Plenary vote on the amendments was scheduled for 9-11th May 2005. In the weeks preceding the vote Mr Cercas and his aides tried to gain as much parliamentary support as possible to ensure that his amendments would obtain an absolute majority. It was hoped that a strong majority would send a clear signal to the Council and the Commission and that any re-drafting of the proposal would need to be more in agreement with the position taken by the Parliament. On

11 May 2005, Cercas gained sufficient support to pass his proposed amendments by an absolute majority of 58 % (381/653) (Keter, 2009: 7). The vote crossed party lines and MEPs voted in line with the views expressed by their Member States in the Council, rather than their party affiliation in the Parliament. In total, the strongest support for Parliament's amendments came from France, with 97.1 per cent of its MEPs voting in favour, then Greece with 90.5 per cent, and Portugal with 89.5 per cent. The lowest levels of support came from the core group of countries in the Council which were against the removal of the opt-out, and this included Poland 75 per cent, Ireland 73 per cent, Czech Republic 67 per cent, Latvia 60 per cent, Slovenia 57 per cent and the UK 56 per cent.¹⁰ Britain is usually considered to be the strongest opponent of the WTD, but the vote reveals that a number of countries had a much stronger opposition than the UK, the majority of which were from the CEE states.

In accordance with the co-decision procedure, the amended draft Directive was returned to the Commission where it was hoped that the recommendations would be passed to the Council for agreement by the end of June 2005. However, the Commission intervened and argued that the Parliamentary proposal 'did not constitute an improvement to the Directive' and would 'make it more difficult to obtain an agreement or a sufficient majority in the Council' (European Commission, 2005: 3). The Commission was concerned with two amendments made by the Parliament: the definition of working time and the phasing-out of the opt-out. On the definition of working time, the Commission believed that the original draft was the best solution to the problem and pointed out that an agreement had been reached in the Council during the Dutch Presidency. On the issue of the opt-out, the

Commission considered Parliament's amendment of a phase-out within 12 months of the Directive as being too ambitious. In the amended proposal (released on the 31st May 2005) the Commission reintroduced its original definition of working time, as well as the opt-out, albeit for a period of 3 years. A proviso was added whereby any Member State could apply for an extension to continue the opt-out beyond the three-year period (European Commission, 2005: 6). The extension could be given 'for reasons relating to their labour market arrangements' and was to be awarded by the Commission (ibid: 10). In other words there was no confirmed end to the opt-out, as Member States would be allowed to apply for a seemingly indefinite extension in the name of labour market conditions. In the regulatory coalition the ETUC expressed its disappointment that the Commission had seemingly 'ignored the only democratically elected institution in the EU policy-making process'.¹¹ In its defence, the Commission claimed that its aim was to 'preserve the balance of the initial text and to ensure that a sufficient majority could be obtained in the Council' (European Commission, 2005: 3).

The Cercas report and the vote in the Parliament had attracted a considerable amount of media attention that had aroused support in both the pro and anti opt-out groupings. This had seemingly increased the costs associated with losing the debate and had helped to ensure that discussions in the Council would be more complicated and tense. In the latter half of 2005, the negotiations in the Council coincided with the British Presidency. Few representatives in the Brussels institutions expected the UK to be able to forge an agreement, as it had such a vested interest in the revision of the directive. However, the UK had reached a

compromise agreement with Germany: Germany would support the UK on the WTD in return for British support on the Takeover Directive (Financial Times, 2004).¹² This arrangement had brought Austria into the liberal coalition on this occasion and with support from Poland, Britain felt confident that it could tackle the WTD.¹³ The Baltic States, the Czech Republic, Slovakia and Slovenia all declared their support for the opt-out and for the first time in the history of the EU's social dimension the liberal coalition appeared to have gained control of the negotiations. For the UK, the balance of influence had been relatively easy to change once the 2004 Member States had joined the negotiations, and at times the latter appeared to be more hard-line and vocal with respect to the maintenance of the opt-out than Britain.¹⁴ Enlargement was therefore helping to tilt the balance of power between the two coalitions and this had boosted the confidence of the UK and its aim to push for an agreement. Britain invested a considerable amount of resources into finding a solution to the WTD. The then Blair government devoted approximately one hundred civil servants to the Directive who had been given strict instructions that the opt-out was to stay.¹⁵ A charm offensive was launched and during his visits to EU capitals, Tony Blair placed the WTD high on the agenda for discussion. In particular, the CEE states were identified as key targets that could be persuaded by the liberal cause, as their positions were less entrenched and more sympathetic than some of the EU-15 Member States.¹⁶ The spearheading the liberal coalition the British government was able to ensure that EU and member state institutions were continuously lobbied by UK ministers (ibid). As one interviewee commented 'it was the most impressive and professional attempt I have seen by a member state to influence and gather support for a proposal'.¹⁷ During September and October 2005

the WTD was being discussed on a weekly basis in the Working Party on Social Questions (WPSQ), a working group comprised of representatives from the EU Permanent Representations which undertakes more detailed analysis of Commission proposals than the committees which surround COREPER I. Almost all member states submitted various proposals and recommendations which concerned the definition of working time, compensatory rest and the reconciliation of work and family life. Some member states issued joint proposals whilst others did so individually.¹⁸ The main sticking point in the debate, the opt-out, was not discussed in the WPSQ.

The British Presidency had been undertaking various bilateral meetings with all governments in which it aimed to gauge the political climate and to influence the outcome of the debate.¹⁹ Combined with the discussions in the WPSQ, the British Presidency scheduled formal discussions on the revised WTD to be negotiated in the Permanent Representatives Committee at the meeting on the 25th November 2005. A technical report covering the status of the discussions, that is a summary of the main findings of the WPSQ, was presented to the Committee, although it did not include the opt-out. The British proposal contained the indefinite use of the opt-out, a twelve-month reference period, and a definition of on-call time whereby only the active part was to be considered as working time. Within the revised paragraphs of article 22 the British had introduced a clause that it hoped would pacify opposition to the opt-out. The clause stated that a member state which did not wish to make use of the opt-out could prohibit all workers on its territory, regardless of their country of origin, from working more than 48 hours a week. It was hoped that such a

condition would help to overcome the fears associated with the opt-out, but what the British failed to realise, whether intentionally or accidentally, was that the Posting of Workers Directive already covered such a condition.²⁰ Within the Council the UK was able to secure the support of all of the CEE states (with the exception of Hungary), as well as Austria, Germany, Ireland and Malta. However, the regulatory coalition remained able to secure a strong minority voice and the British Presidency failed to achieve its aim of securing an agreement in its favour (Council of the European Union, 2005). Under the Council's qualified majority voting (QMV) system, Belgium, Cyprus, France, Greece, Hungary, Spain and Sweden formed a blocking minority.²¹ The remaining Member States maintained their neutrality at this stage. During the meetings of the WPSQ a number of Member States had asked for clarification on whether the directive was to apply per worker or per contract. Its application per contract enables an employee to work more than the 48-hour limit per week, as a worker could have two contracts with different employers with the aggregate total number of hours worked exceeding the 48 limit. In particular, during their implementation of the directive Poland and Lithuania (and later Romania) had interpreted the WTD to apply per contract. This uncertainty helped to bolster support for the opt-out within the CEE States who feared that its removal, combined with the possibility of the directive applying per worker, would reduce labour market flexibility.²² More damagingly for the regulatory coalition was the discovery that both France and Sweden were applying the WTD per contract and not per employee. The UK used this information to highlight the poor implementation of the directive and to publicly criticise the regulatory coalition for being inconsistent.²³

The Financial Times (2006a) reported that the failure of the British Presidency on the WTD was due to the deep rooted ideological divisions between those Member States insistent on a flexible labour market and those who aimed for a more 'social approach'. For both coalitions the negotiations not only concerned the opt-out, but also what the directive signified in terms of the process of European integration. The continuation of the opt-out would signify that the EU was predominantly a market-making project with a social dimension that was simply an 'add-on' to appease certain interest groups and Member States. However, the removal of the opt-out would signal that the process of European integration was one that created markets as well as protecting workers and citizens. Although the UK was unable to reach an agreement on the WTD, it is credited with strengthening the liberal coalition.

Austria took over the EU Presidency in the first half of 2006. The timing of the Austrian Presidency coincided with intense negotiations over the Services Directive and this took precedence over reaching an agreement on the WTD. The Commission had been applying pressure on the European Council to reach an agreement on the Services Directive, not only to appease the negative publicity that the proposal had attracted, but also to give the Barroso Commission an achievement to its name.²⁴ The Austrian minister who was in charge of the Services Directive, Martin Bartenstein, was also responsible for the WTD and considerably more attention was given to the former than the latter.²⁵ The Austrian presidency had scheduled negotiations on the WTD for June 2006, but in preparation for an agreement very little time was devoted to the issue. Not only had the Austrian Presidency been concentrating on the Service Directive, but it had also underestimated how deep

political division between the two sides had become. Although the Presidency had held consultations with each of the Permanent Representations in Brussels, the political effort which was put into the preparations was probably the least of all the Presidencies (ibid). The result of such an approach was that the June 2006 Council meeting failed to reach an agreement on the opt-out and hence the WTD.

By the time of the Finnish Presidency in the second half of 2006, the negotiations were entering their fifth successive Presidency. Recognising this, the Finnish Presidency announced that the WTD would be its top priority and that it would aim to reach an agreement at the November 2006 Council meeting. Finland worked hard to craft a proposal that would appease both sides and the then Finnish Prime Minister, Matti Vanhanen, organised bilateral meetings with his counterparts, as well as other EU institutions, interest groups and the social partners.²⁶ At the beginning of the negotiations the deadlock between the two sides appeared to be equal, but the Finnish bilateral discussions had helped to reduce the margins considerably and as a result most countries had become more flexible.²⁷ In the proposal the opt-out was to remain, but it was to be the 'exception' and there were a number of safeguards put in place to ensure that its abuse would be minimal. A 60-hour limit calculated over a three month reference period was added to the Directive for those who made use of Article 22. Furthermore, a clause was added to the Directive which stated that after two years of implementation, Member States who made use of the opt-out were required to inform the Commission of the reasons, sectors, activities and number of employees concerned (Council of the European Union, 2006). On the same date the Commission was required to set up a

working party of representatives from the Member States and the European social partners, which was to monitor the implementation of article 22. After three years of implementation of the Directive, the Commission was required to release a report which 're-examined the use of the option provided by Article 22 with a view to the gradual ending of the use of this option' (ibid).

The Finnish proposal represented a potentially workable compromise between the two sides, as the opt-out would be subject to review with the possibility of it being slowly phased out. It was hoped that over time support around the UK in the liberal coalition could be reduced and the opt-out eventually removed.²⁸ Yet such a proposal proved to be insufficient to overcome the divide between the two coalitions.²⁹ The majority of the Member States were in favour of the compromise, but the core group of countries in the regulatory coalition maintained their insistence on a clear and definitive end to the opt-out. The revised Finnish proposal was due to be discussed in the Extraordinary Council Meeting scheduled for 7th November 2006, a meeting which had the sole aim of reaching an agreement on the WTD. In preparation for these discussions, the Presidency organised an informal meeting of problematic countries on 26th October 2006. The aim of the meeting was to get the two opposition groups together to see if a compromise could be reached. Six countries took part in the negotiations, Britain, Germany and Poland on one side and France, Italy and Spain on the other. The meeting was not particularly successful as Member States simply reiterated their positions and the Finnish Minister of Labour, Tarja Filatov, did not push either group into making a compromise.³⁰ In the words of one representative 'the meeting was nothing more than a catastrophe as

France, Italy and Spain wanted to see a very clear end to the opt-out and no one was asked to make a compromise'.³¹

For regulatory coalition, the absence of a clear end to the opt-out was simply unacceptable. France, Italy and Spain had released a combined proposal that eliminated the opt-out within ten years.³² The Finnish strategy of slowly eliminating support around the UK proved to be an insufficient guarantee for the coalition who were increasingly alarmed at the support for the opt-out, particularly in the context of an enlarged EU. Furthermore, the Finnish proposal relied on the Commission to take the initiative over the elimination of the opt-out and given that during the negotiations the Commission had proved itself to consistently side with the liberal coalition, combined with a context in which the directive was perceived as only being revised as a result of the of the ECJ rulings, the regulatory coalition was concerned that the Commission would not honour its future obligation of such an agreement. The official message from the regulatory coalition was that it was unprepared to negotiate on the Finnish proposal. Nevertheless the Finnish Presidency continued with its preparations for 7th November Extraordinary Council meeting, as the informal messages from French, Italian and Spanish civil servants was that the official line was part of the negotiation game and that there was some room for manoeuvre.³³ It then came as something of a surprise to the Finnish Presidency when on 6 November French President Jacques Chirac declared on national television that he and his allies were unprepared to negotiate on the opt-out and that it was important to respect the opinion of the trade unions both in France and at the EU level (Financial Times, 2006b). This effectively torpedoed the

Council negotiations scheduled for the following day and no agreement could be reached.

When Germany took over the EU Presidency in 2007 it announced that the WTD would not feature on the Council's agenda. The lack of political agreement after three successive high profile Council meetings provided little incentive for Germany to take up the issue. Furthermore, Germany had a vested interest to keep the WTD off the agenda because of its deal with the UK - a lack of agreement ensures that the original directive, and hence the opt-out, remained in place. With the exception of Hungary, all of the CEE states joined the liberal coalition and enlargement therefore shifted the balance of power against the regulatory coalition. As Alistair Darling noted during the Finnish Presidency: 'what's been striking is that we used to be in a minority for many years [...]. A majority of people [at this week's meeting] kept saying, like we did, we need flexibility' (Financial Times, 2006c). While the UK had been in a minority position on the opt-out when the original directive had been agreed, by the time of its revision, it was able to gain sufficient support to defend its position. Hungary did not support the liberal coalition on this occasion because the 48-hour limit to the working week corresponded with the Hungarian Labour Code. As a result there was very little appetite at the Hungarian domestic level to re-open the discussion and reform working time.

From negotiation to conciliation

In the second half of 2007, Portugal held the Presidency of the Council and was under pressure from the Commission to find a solution to the deadlock. The

European Ombudsman had criticised the Commission for its 'inaction' on the issue, particularly with respect to on-call time (Europolitics, 2007a). Furthermore, the election of Nicolas Sarkozy signified that France may change its position, which would be a serious blow to the regulatory coalition. During the election campaign, Sarkozy had promised an end to the French 35 hour week which implied that he may also be prepared to compromise on the WTD.

To unblock the negotiations the Portuguese Presidency decided in July 2007, the beginning of its Presidency of the European Council, to try a different strategy to the deadlocked negotiations - to combine the revision of the WTD with the directive regulating temporary work (Council of the European Union, 2007: 8). There have been several failed attempts to regulate temporary workers since 1982, with the most recent attempt beginning in 2000 when the EU Social Partners began negotiations on a possible framework agreement. In May 2001 the negotiations broke down and in the following March the Commission issued a proposal, which, under the co-decision procedure, was transmitted, to the Council and the European Parliament. The proposed TAWs directive represented a number of initiatives by the EU to improve the employment rights of atypical workers, including the 1997 Directive on Part Time Workers and the 1999 Directive on fixed term workers. The TAW's directive had specifically been introduced in response to the growing criticism of the condition of temporary agency workers by the ETUC and the Dublin based European Foundation for the Improvement of Living and Working conditions (Eurofound). According to the International Confederation of Temporary Agency Work Businesses (CIETT), temporary work agencies in the EU employed 7 million

workers in 2001 (1.9 per cent of the work force) and such jobs tend towards lower pay and poorer working conditions than most forms of employment (CIETT, 2002: 21). Subsequent research by Eurofound (2007: 6) also confirms that temporary agency workers are often young and normally have a lower educational level than the average employee. According to the UK Trade Union Congress (TUC) (2005: 11) although agency work is often claimed to be a stepping-stone into permanent employment for 'disadvantaged' groups such as working mothers, the unemployed and ex-offenders, there is little empirical evidence to support this claim. Across Europe, between a third and two-thirds of temporary agency workers move on to permanent jobs within two years but these are most likely to be highly employable, educated workers aged 25 - 34 who have not been unemployed in the last five years. The proposal put forward that a temporary agency worker could not be treated less favourably, in terms of basic working conditions (working time, rest periods, holidays, pay), than a permanent member of staff doing a comparable job.³⁴ After four Employment Council Meetings however, the negotiations stalled in 2004 and the proposal had remained off the Council's agenda. The main divisions concerned the length of the qualifying period for implementing the principle of equal treatment between permanent and temporary workers (the draft directive proposed 6 weeks subject to agreement for a longer period between the social partners), as well as any specific derogation from the directive for certain contracts (e.g. the Commission proposed a derogation for contracts with a duration of less than six weeks) (EurActiv, 2007a).

By simultaneously negotiating the two directives, the Portuguese Presidency hoped that such a strategy would allow 'Member States to find a balance between the two directives that would be acceptable from a political point of view' (Council of the European Union, 2007: 8). In this respect, the negotiations would produce something for both coalitions and enable no one side to lose face, particularly France and the UK.³⁵ It was anticipated that the liberal coalition would compromise on the TAWs directive, while in return for this progress, the regulatory coalition would compromise on the WTD, in particular the opt-out. The Portuguese proposal for the WTD reintroduced the Finnish compromise, namely: an opt-out allowing for a maximum working week of between 60-65 hours; the clarification that on-call time would not be counted as working time except where provided for by national law or an agreement by the social partners; and finally, a more neutral revision clause which deleted the objective of phasing out the opt-out. Where the opt-out was used (and the proposal stated that it was to be the exception) to prevent its abuse a number of safeguards were introduced and included: 1) employers being unable to make their employees simultaneously sign both the opt-out and their contract of employment (thereby protecting workers from having to sign the opt-out as a condition of employment); and 2) the condition that any employee who refuses to work more than the 48-hour limit would not suffer as a result (Council of the European Union, 2007: 10-11). On the TAW directive, the Portuguese Presidency left open the negotiation of the specified time-period required for equal treatment between permanent and temporary workers. During the summer months of 2007 bilateral talks were held between the Presidency and the national delegations to

begin work on a new compromise deal that would be signed off at a meeting of employment ministers that December.

To reduce division between the two sides the Portuguese Presidency held bilateral consultations with the different Member States and the Commission. This helped to soften the now entrenched positions between the two sides (Europolitics, 2007b). Formal discussion and negotiation of the two directives was scheduled for the 5/6 December EPSCO Council meeting. Within the liberal coalition the majority of the CEE claimed that a compromise could be made, as long as the opt-out remained.³⁶ Germany, Malta, the UK and Poland remained opposed to an agreement on either directive and the coalition began to fracture. In light of this development the UK Prime Minister, Gordon Brown, called his Portuguese counterpart to link the current EU labour law negotiations to the successful signing of the Lisbon Treaty due to be signed in the Portuguese capital on 13 December (EurActiv, 2007b). During the EPSCO Council meeting the Portuguese Presidency decided not to call a formal vote and no agreement was reached. Nevertheless, the Presidency noted that a vast majority of Member States had spoken in favour of an integrated solution for the directives, building a global equilibrium between the two, and that many Member States had pressing needs to address labour market regulation problems which depended on a solution to the two files (EPSCO Press release, 2007: 8). It also concluded that the progress achieved under its Presidency gave a real margin for a political decision in 2008 "building on the solid basis for progress that the Council has just built" (ibid).

The deadlock in the Council was finally broken in June 2008 during the Slovenian Presidency. Initially the Slovenian Presidency hesitated to push for an agreement on the two directives, but developments in the UK signalled that an agreement could finally be reached. On 20 May the British government endorsed an agreement by the UK social partners (the Trade Union Congress and the Confederation of British Industry) entitling temporary workers the same rights as permanent staff after 12 weeks of employment. Reacting to the news, the Slovenian Presidency said: 'developments in the UK are encouraging for the work of the Presidency on this dossier. Agency Workers and Working Time Directives have been put on the EPSCO agenda of 9 June' (Agence Europe, 2008). Divisions between the two sides remained, but importantly the two main opposing Member States within the two coalitions, France and the UK, had signaled a compromise. In France, the recent flexibility of the UK on the TAW Directive combined with the upcoming French Presidency of the Council, which did not want the WTD on its agenda, convinced the government to also move to the centre ground.³⁷

In preparation for the June ESPCO Council meeting the Slovenian Presidency held bilateral negotiations with each of the Permanent Representations of the Member States in Brussels to ensure that agreement could be reached. The Commission also exerted pressure on the Member States with the Employment Commissioner, Vladimir Špidla, contacting governments to stress the importance of reaching an agreement after five years of negotiations.³⁸ The Slovenian proposal for both directives remained identical to those put forward by both the Finnish and Portuguese Presidencies. During the scheduled Council meeting the regulatory

coalition continued with its fierce opposition to maintaining the opt-out, albeit with the absence of France. Spain and Greece voted against the proposal for the WTD, while Belgium, Cyprus and Portugal abstained. The final agreement in the Council on the revision of the WTD: maintained the opt-out with a maximum working week of no more than 65 hours (down from 78); split on-call time into active and inactive working time; maintained a 3 month reference period; and agreed to review the situation of the opt-out after 7 years of the new directive coming into force. On the Temporary Agency Workers Directive, it was agreed that employees were to be given equal treatment as of day one with respect to terms of pay, maternity leave and annual leave – albeit it is possible to derogate from this through collective agreements and agreements between the social partners (European Commission, 2008a).

Within the regulatory coalition there was a sense of disappointment over the WTD, but not total defeat as under the co-decision procedure the agreement in Council was to be sent back to the Parliament. The ETUC criticised a “highly unsatisfactory and unacceptable” agreement, “in respect to the new provisions on on-call time and the continuation of the UK opt-out” (Europolitics, 2008c). The Commission gave its support to the two texts agreed and argued that in view of the strongly divergent positions of the Member States during the very protracted and difficult first reading on amendment of the WTD, the Commission perceives that: “supporting the common position is the best way of allowing the legislative procedures on this important amending proposal to continue” (Commission, 2008b: 10). As the proposed agreement was passed to the Parliament, governments from the two

opposing coalitions began to lobby their MEPs, particularly with respect to the WTD and the opt-out. . The regulatory coalition published a declaration expressing their opposition to the agreement on the WTD and called on the Parliament to amend the text along lines favourable to workers (Europolitics, 2008b). In contrast the liberal coalition argued that the agreement signified progress for workers over the TAWs, and progress for both workers and their employers over the WTD.

Vladimir Spidla, the Employment Commissioner, repeatedly urged the European Parliament not to split the directives and to respect the agreement made within the Council. However, in the build-up to the European Parliamentary elections, the Parliament decided against this advice.³⁹ Mr Cercas said that EMCO was 'not amused' by the political linking of the two directives and progress for workers should be achieved in both the TAW and WTD and not just one of them (Europolitics, 2008a). He also added "we really disapprove of this attitude of the Council. They want to sacrifice one directive for the other. But we don't fall for the Council's blackmailing. The EP has its dignity. We take decisions independently. The Council should stop its authoritarian attitude" (Europolitics, 2008a). In this respect, the Parliament could claim to be the 'true voice of European citizens defending their interests'.⁴⁰ On 7 October 2008 the Employment and Social Affairs Committee (EMCO) discussed the TAWs directive and voted 31 in favour, 1 against and 3 abstentions to adopt the amendments made by the Council. Following this, two weeks later the proposed directive was adopted in plenary without amendment.⁴¹

With respect to the WTD, on 5 November EMCO amended the proposal agreed in the Council by reintroducing the ECJ's definition of on-call time, that all on-call time be treated as working time, and removing the opt-out. The amendments were adopted with 35 votes in favour, 13 against and two abstentions. During the six weeks preceding the plenary vote, MEPs were subjected to an intense round of lobbying from both within the Parliament and from external sources. At this stage in the negotiations, political division was appearing to move beyond the liberal / regulatory coalitions within the EU's political space, and pitted the European Council and Commission against the European Parliament. The office of Alejandro Cercas went on the offensive to ensure the broadest possible support.⁴² The main targets for lobbying were MEPs from the regulatory coalition who had crossed party lines during first plenary vote. Although MEPs from the liberal coalition, particularly those from CEE were also targeted, it was widely believed that it would be more difficult to persuade them to support the rapporteur's position.⁴³ For its part, EU business lobbies (Eurochambres, BusinessEurope, CEEP and UEAPME) provided a coordinated attempt to influence the vote by writing to all 785 MEPs urging them to support the 'pragmatic' compromise adopted by governments. A no vote, they said, "is something that the EU simply cannot afford in the present economic climate" (The Guardian, 2008).

The plenary vote was a victory for Alejandro Cercas and the regulatory coalition. 421 MEPs voted in favour of the proposal put forward by Mr Cercas. In a statement following the result Mr Cercas said that "this is a triumph for all political groups in the European Parliament. It is clear that the Socialists did not clinch this victory on

their own. The Council now has to follow the position of the European Parliament, they have to back what the citizens want. I call of the Commission to stop supporting the Council and play the role of an arbitrator" (Europolitics, 2008d). As in the first round of Parliamentary voting, MEP voting patterns crossed party lines and demonstrate a strong correlation with their government positions in the Council, albeit there were some minor shifts. The strongest support in favour of the amendments tabled by Mr Cercas and thereby the regulatory coalition came from Austria and Spain with 100 per cent support from their MEPs, followed by Portugal (96 per cent), Hungary (91 per cent), Italy (74 per cent) and France (72 per cent). 100 per cent of MEPs from both Latvia and Malta voted against Mr Cercas's amendments, followed by the UK (73 per cent), Slovenia (71 per cent), Slovakia (70 per cent), Lithuania (66 per cent) and the Czech Republic (68 per cent). The vote reveals the continued support during the negotiations of the CEE states (with the exception of Hungary) to the liberal coalition.

Within the regulatory coalition there was a sense of relief that Parliament had defended the removal of the opt-out. Following two failed attempts of negotiations between the Council and the Parliament, the third and final stage of the co-decision procedure involves the forming of a conciliation committee between the two institutions.⁴⁴ On 23 January 2009 the Council gave the then Czech Presidency a mandate to begin negotiations with the Parliament to reach an agreement during conciliation. Prior to the formal three conciliation meetings, informal meetings are held between the three EU institutions. During the first informal meeting the European Parliament requested that the Council provide a clear written mandate of

its position, but the Czech Presidency was unable to provide this (Europolitics, 2009d). It was not the beginning of the three formal conciliation meetings that the Presidency was able to present a compromise text to the Parliament. The Commission continued with its position of supporting the liberal coalition and argued that any agreement between the Council and the Parliament could be reached if the former moved towards the latter's position on the issue of on-call time, while the Parliament should consider moving towards the prevailing opinion among the Member States regarding the opt-out (Europolitics, 2009a). In contrast, the Parliament believed that any compromise should witness it moving towards the Council's position on the issue of on-call time and in return, the Council should agree to remove the opt-out.⁴⁵ While both institutions were prepared to compromise, they had very different ideas as to how a compromise could be achieved.

Within the regulatory coalition there was concern that the Czech Presidency would be more favourable to the liberal coalition, given its loyalty during previous negotiations.⁴⁶ The Czech Presidency gave itself until March to find a compromise within the Council and thereby begin formal conciliation meetings with the Parliament scheduled for 17 March 2009. In the Council although the majority of the Member States were keen to reach an agreement on on-call time, divisions regarding the opt-out remained. The governments of Bulgaria, Estonia, Germany, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and the UK continued to support a revised directive that included the opt-out, while Spain, Luxembourg, Belgium, Hungary, Greece and Cyprus called for its removal. The remaining Member States declared that they were flexible on the opt-out (Europolitics, 2009b).

Conciliation during the Czech Presidency proved to be something of a disaster for the regulatory coalition - the Presidency had allegedly been briefed by the British government that the opt-out was to remain, added to which the Czech government collapsed during the process.⁴⁷ The result was that within the Czech Presidency there was little impetus to negotiate and to push for a compromise deal between the Council and the Parliament. At first formal conciliation meeting the Committee's chair, Vice President of the Parliament Mechtild Rothe, 'the Council did not put any "real" compromises on the table. We are ready to compromise, but they are not' (Europolitics, 2009c). The Czech Presidency's first proposal included a definition of on-call time which included the inactive part within the calculation unless national law/collective agreements stipulated otherwise, while the opt-out was to remain indefinitely. This proposal was near identical to the previous agreement reached in Council, albeit the wording was slightly different. In response the Parliament issued a non-paper containing various compromise proposals to be examined by the Council, including the removal of the opt-out, albeit without a specified time period. The final three-way talks were held on 27 April 2009, just weeks before the scheduled European Parliamentary Elections, but no compromise could be achieved and the talks broke down. In the eyes of the regulatory coalition the majority position within the Council did not favour a compromise deal, particularly with respect to the opt-out, and furthermore, the Commission did very little to support a compromise deal.⁴⁸

Conclusion

Following five years of negotiations, an agreement on the revision of the WTD could not be reached and the original 1993 directive continues. As a result, the use of the opt-out continues to spread. While some Member States only make use of the opt-out in their healthcare sectors following the *SiMAP* and *Jagear* rulings (and this was based on the assumption of being only a temporary arrangement until an agreement on on-call time could be included in a revised directive), for other States there has been a more general spread of the use of the opt-out.⁴⁹ The problem with this is that the longer the opt-out is used, the more difficult it will become to gain a broad consensus for its removal should the negotiations ever be re-opened. Failure to reach an agreement on the revision of the directive therefore serves to benefit the liberal coalition. Furthermore, while CEE states such as the Czech Republic, Latvia, Poland, Slovakia and Slovenia had introduced the use of the opt-out in their healthcare systems following the ECJ rulings, attempts to resolve the issue of on-call time as part of the negotiations and thereby eliminate the need to use the opt-out, did nothing to reduce support in such states for a revised directive in which the opt-out was removed.

Failure to reach an agreement on the revised WTD illustrates the inability of the EU to move forward on a piece of social legislation that is central to the ESD. Although the ESD policy-making process has a history of deep divisions, such divisions have rarely prevented a piece of legislation from being passed. Even when Britain objected to the Social Protocol in 1992, it was decided by the then 11 other Member States to go a head with the amendment of Article 117 of the Treaty of Rome without UK. The UK eventually signed the Social Protocol in 1997, but the point is

that even with objections from one or a few Member States, the ESD continued to be constructed and expanded. Liberal forces within the ESD have often found themselves in a minority position when legislation has been negotiated, but the revision of the WTD reveals that this has changed.

How has enlargement affected the negotiations? It should first be noted that the WTD has become a symbol of the ESD and a struggle between liberals who regard it to be a fundamental right for an employee to choose the number of hours worked and thereby maximise their own income vs. those in the regulatory coalition who argue that employees should be entitled to a decent standard of living without the detrimental health and safety effects of working long hours. One of the most striking observations from the negotiations is the support that the liberal coalition received from the CEE states (with the exception of Hungary). The UK invested substantial time and resources into the negotiations to ensure that the opt-out would not be removed from a revised directive, but it also gained considerably from the support of the CEE states. Initial support from Germany and Poland gave the UK the confidence to go on the offensive and recruit other Member States in the Council into the liberal coalition. The result was that with the exception of Hungary, all of the CEE states joined the liberal coalition. This not only gave the liberal coalition a strong voice, but it also put it in a majority position. Furthermore, following the 2007 enlargement, the liberal coalition was also able to secure the backing of Romania and Bulgaria.

¹ Despite the opt-out, Britain's Conservative government remained unsatisfied with the Directive prompting it to challenge the WTD's legal basis in the ECJ. The British

government argued that that the WTD was not a health and safety issue and that it had been wrongly implemented via health and safety provisions of the SEA (Article 118A) which permitted decisions to be taken by qualified majority voting, and thereby overruling British opposition (Blair *et al*, 2001). This was specifically because the UK considered those areas of social policy not embraced by the Maastricht opt-out should be subjected to unanimous voting. But this view was not shared by the ECJ which declared in 1996 that the WTD was a health and safety issue and that Britain had to implement the Directive (*ibid*). A reluctant Labour government implemented the WTD two years later in 1998, although it decided to use the opt-out for all sectors.

² Judgment of the Court of 3 October 2000 in case C-303/98, request submitted to the Court by the *Tribunal Superior de Justicia de la Comunidad Valenciana* (Spain) in the dispute between *Sindicato de Médicos de Asistencia Pública* (SIMAP) and *Conselleria de Sanidad y Consumo de la Generalidad Valenciana*, ECR 2000, p. I-07963.

³ Judgment of the Court of 9 October 2003 in case C-151/02, request submitted to the Court by the *Landesarbeitsgericht Schleswig-Holstein* (Germany) concerning the dispute pending before that court between *Landeshauptstadt Kiel* and Norbert *Jaeger*.

⁴ In its communication the Commission (2004c: 20) cited the German government as stating that the SiMAP and Jaeger cases would increase staffing requirements by 24 per cent and between 15,000 and 27,000 additional doctors would have to be employed, although far fewer doctors were out of work in Germany. The estimated

costs associated with such measures would be approximately EUR 1.75 billion. In the UK the estimates were put at between 6,250 and 12,550 doctors and 1,250 staff other than doctors. The additional costs would come in between £380 and £780 million.

⁵ Interview 14, Representative of a Permanent Representation in Brussels (05 March, 2007).

⁶ Interview 9, Representative of a Permanent Representation to the European Union (13 March, 2007).

⁷ Interview 14, Representative of a Permanent Representation in Brussels (05 March, 2007).

⁸ Interview 5, Member of the European Parliament (7 March, 2007).

⁹ Interview 19, Assistant of the European Parliament (7 March, 2007).

¹⁰ The statistics were calculated from the following rollcall vote dataset:

[http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-
//EP//NONSGML+PV+20050511+RES-RCV+DOC+PDF+V0//EN&language=EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+PV+20050511+RES-RCV+DOC+PDF+V0//EN&language=EN),

accessed 18/12/2009.

¹¹ Interview 2, Representative from the European Trade Union Confederation (26 March, 2007).

¹² The German government had calculated that the cost of losing the Takeover Directive was much greater for the German Economy than that involved in accepting a liberal version of the WTD.

¹³ There was no formal agreement between the UK and Austria, but Austria also supported the German position on the Takeover Directive and was eager to support

the UK/German agreement to ensure its long term interests could be achieved;

Interview 2 Representative of the European Trade Union Confederation (26 March, 2007).

¹⁴ Interview 10, Representative from a Permanent Representation to the European Union (15 March, 2007).

¹⁵ Interview 19, Member of the European Parliament (7 March, 2007).

¹⁶ Interview 18, Member of the European Parliament (7 March, 2007).

¹⁷ Interview 5, Member of the European Parliament (7 March, 2007).

¹⁸ Interview 29, Assistant in the European Parliament (25 November, 2010).

¹⁹ Interview 29, Assistant in the European Parliament (25 November, 2010).

²⁰ Interview 2, Representative from the European Trade Union Confederation (26 March, 2007).

²¹ Under the Council's voting system a majority requires the number of votes cast to represent a majority of the member states and to be a minimum of 72.3 per cent of the vote; see Eurostat, <http://europa.int.eu>

²² Interview 24, Representative from a Permanent Representation to the European Union (15 March, 2007).

²³ Interview 2, Representative from the European Trade Union Confederation (26 March, 2007).

²⁴ Interview 20, Member of the European Parliament (3 April, 2007).

²⁵ Interview 9, Representative of a Permanent Representation to the European Union (13 March, 2007).

²⁶ Interview 3, Representative from a Permanent Representation to the European Union (22 March, 2007).

²⁷ Interview 2, Representative from the European Trade Union Confederation (26 March, 2007).

²⁸ Interview 16, Representative from a Permanent Representation to the European Union (20 March, 2007).

²⁹ For the Finnish Proposal see Council of the European Union (2006)

³⁰ Interview 10, Representative from a Permanent Representation to the European Union (15 March, 2007).

³¹ Interview 3, Representative from a Permanent Representation to the European Union (22 March, 2007).

³² Interview 2, Representative from the European Trade Union Confederation (26 March, 2007).

³³ Interview 3, Representative from a Permanent Representation to the European Union (22 March, 2007).

³⁴ Temporary agency workers are defined as: 'workers with a contract of employment or employment relationship with a temporary work agency who are assigned to user undertakings to work temporarily under their supervision and direction' (European Council, 2008: 7).

³⁵ Interview 25, Representative from a Permanent Representation to the European Union (9 November, 2010).

³⁶ interview 26, Representative from a Permanent Representation to the European Union (17 November, 2010).

³⁷ Interview 25, Representative from a Permanent Representation to the European Union (9 November, 2010).

³⁸ Interview 27, Representative from a Permanent Representation to the European Union (4 November, 2010).

³⁹ Interview 28, Member of the European Parliament (16 November, 2010).

⁴⁰ Interview 29, Assistant in the European Parliament (25 November, 2010).

⁴¹ During the plenary vote the Party of the European Left- Nordic Green Alliance (GUE-NGL) tabled 7 amendments to the proposal, but they were all rejected in favour of the proposal adopted by the Council and EMCO (66 in favour of the amendments, 617 against and maintaining the EMCO agreement, and 15 abstentions).

⁴² For example, EU business lobbies wrote to all 785 MEPs urging them to support the 'pragmatic' compromise adopted by governments. A no vote, they said, 'is something that the EU simply cannot afford in the present economic climate' (Guardian, 2008).

⁴³ Interview 29, Assistant in the European Parliament (25 November, 2010).

⁴⁴ The committee, which is made up of twenty-seven members of the Council and an equal number of representatives from the Parliament, has to be set up 6 weeks after the Council's second reading. The Committee has 6 (or 8) weeks to draw up a 'joint text' from the date of its first meeting. Again within a period of 6 (or 8) weeks, the joint text is submitted by the Presidents of the EP and Council delegations for approval by the Parliament and the Council, without any possibility of amendment. If, on the other hand, the Conciliation Committee does not reach an agreement or if

the 'joint text' is not approved by the Parliament or the Council, the act is deemed not to have been adopted. See:

http://www.europarl.europa.eu/code/about/default_en.htm - accessed 10/05/2012.

⁴⁵ Interview 29, Assistant in the European Parliament (25 November, 2010).

⁴⁶ Interview 30, Representative from a Permanent Representation to the European Union (3 November, 2010).

⁴⁷ Interview 31, Representative of the European Trade Union Confederation (19 November, 2010).

⁴⁸ Interview 32, Representative from a Permanent Representation to the European Union (10 November, 2010).

⁴⁹ Bulgaria, Cyprus, Estonia, Malta, and the United Kingdom allow use of the opt-out, irrespective of sector. While Belgium, the Czech Republic, France, Germany, Hungary, Latvia, the Netherlands, Poland, Slovakia, Slovenia, and Spain allow for the use of the opt-out in certain jobs that use extensive on-call time (European Commission, 2010: 87).

5: The Negotiation of the Europe 2020 Poverty Target

The final case study addresses the negotiations of the EU poverty target included as part of the Europe 2020 - the successor to the Lisbon Strategy. The target aims to remove at least 20 million people living in poverty across the EU by 2020. Although the EU has had a long history of attempting to tackle poverty and social exclusion, practical and political differences between governments and the broader set of EU actors has resulted in very little progress in terms of substantive output (Daly 2012). While the Lisbon Strategy initially prioritised tackling social exclusion, it contained no explicit quantitative target to guide the Member States. Furthermore, the 2005 re-launch of the Lisbon Strategy under the banner of 'Growth and Jobs' effectively sidelined the open method of coordination in social inclusion. As ter Haar and Copeland argue (2010: 287-288) the re-launched Lisbon Strategy in 2005 essentially shifted its aims from one in which economic growth was to be combined with social cohesion, to one in which economic growth was to create social cohesion. In other words, it was reconfigured around the liberal aim whereby social cohesion was articulated as the result of economic growth and employment, rather than being an independent objective in its own right.

During the formation of Europe 2020, within EU institutions there were general expectations that the European Commission would develop new ideas to replace the Lisbon Strategy (Copeland and Daly, 2012: 276). In its first draft of Europe 2020 the European Commission proposed the inclusion of a headline target to reduce poverty

within the EU by 25% by 2020 (European Commission, 2010a: 5). Poverty was to be calculated via one single measurement of 'at risk of poverty' (that is, people living on less than 60 % of the national median equivalised income). The target was to be supported by one of the seven flagship initiatives to encourage progress on the guidelines – the European Platform against Poverty. However, EU actors initially failed to agree on the proposed target, and this, combined with political divisions over the education target, delayed the agreement on Europe 2020.

In contrast to the previous two case studies, the negotiations surrounding the poverty and social exclusion target were relatively short (three months) given that the European Commission aimed to reach an agreement on a successor to the Lisbon Strategy before the end of 2010. This chapter analyses the clash of capitalisms surrounding the negotiation of the poverty target. The governments of the UK, Ireland, Sweden and the majority of the CEE states formed the core of the liberal coalition and strongly opposed to the Commission's proposal. It argued against having one unifying measurement of poverty, particularly that which only focussed on a relative poverty definition. To strengthen its cause the liberal coalition highlighted the weak legal foundation of a quantitative target for the area of poverty and social inclusion. In contrast, the position papers of Austria, Belgium, Cyprus, France, Italy, Portugal and Spain all argued that the achievement of the Internal Market should not be considered as an end in itself. Rather, progress in growth and jobs should go hand in hand with the preservation and strengthening of the European social dimension. This group of 7 Member States, along with the EU social actors such as the European Anti Poverty Network (EAPN) and the newly elected President

of the Council, Herman Van Rompuy, formed the regulatory coalition and defended the proposed target. The remaining Member States suggested that they could be flexible on the issue and did not formally attach themselves to either coalition. While the poverty target was eventually agreed in the summer of 2010, it was very different to the initial proposal put forward by the Commission.

This chapter is organised as follows. The first part analyses the political economy of poverty and social exclusion within the EU, highlighting the potential for political divisions between actors within the EU's political space. While the second part focuses on the negotiations and the final agreement reached on the target. It concludes by reflecting on the positions and contributions of the CEE states during the negotiations.

I: The Political Economy of Poverty / Social Exclusion

Poverty/Social Exclusion within the EU

The EU's attempts to address poverty date back to the 1970s. This is because the presence of poverty in the EU Member States has always been regarded as conflicting with the basic policy targets of good economic performance in conjunction with a high level of social protection, education and social dialogue (Eurofound, 2007: 1). A 1974 Council resolution agreed that economic expansion was not to be seen as an end in itself, but should also result in an improvement in

the quality of life (OJ 12/02/1974, No C 13/1). Since the Community did not have direct powers to intervene within social policy, the Commission launched the Social Action Programme which set out to achieve three broad based objectives: the attainment of full and better employment; the improvement of living and working conditions; and the increased involvement of management and labour in economic and social decisions. The programmes were designed mainly as 'knowledge-generating activities' about anti-poverty strategies and activities (Bauer, 2002). The programmes took this form mainly because the legal and political mandate for EU action in this field was very constrained, and in fact a fourth programme was blocked on legal grounds (By the Germany and the UK). To stimulate action and monitor progress around the three objectives, the Commission also initiated a number of European networks and observatories. Although these developments were relatively minor in they did not result in substantive policy output in the short-term, the creation of the European networks and observatories established the foundations for future social policy development and helped to establish the EU 'poverty community' actors (Hantrais, 2007: 5; Daly, 2006: 462-465).

Although tackling poverty remained on the political agenda throughout the 1980s and 1990, as noted in chapter 1 activity was confined to the margins of the European integration process. The signing of both the Social Protocol under the Treaty of Maastricht (1992) and the creation of the European Employment Strategy under the Treaty of Amsterdam (1997) both indirectly attempted to address poverty, albeit with a limited success of deepening integration within the field. The failure to generate any integration momentum within the policy area resulted in the

Commission adopting a different strategy by framing the debate as one of 'social exclusion' rather than poverty. (Atkinson and Davoudi, 2000: 437). The term social exclusion had begun to establish itself over the course of the 1980s and 1990s in both policy and academic discourses. The concept is rooted in a set of social ills such as unemployment, marginalisation, low education and skills, low income, or homelessness, first appeared in French Social Policy Discourse in 1974 (Levitas, 1998; Silver 1994). However, social exclusion is a concept with a more wide-ranging set of references than individual social problems or financial shortages (as in poverty) and is meant to pick up on the culmination of numerous situations of disadvantage, with a particular emphasis in those at the margins (Daly, 2012: 70-71). At a more macro-level, it offers a structural critique of economic and social change and indeed of the welfare state, pointing to how processes like deindustrialisation and the way they have been handled led to whole sectors of the population being marginalised (ibid). The flexibility of the concept of social exclusion, given that it can be defined and therefore addressed in a number of different ways, has resulted in it being used alongside the issue of tackling poverty at the EU level. In fact, since the mid 1990s and up until the launch of the Europe 2020 poverty target, EU attempts to address poverty have been predominantly framed within the discourse of social exclusion.

The Lisbon Strategy, launched in 2000, aimed to put social exclusion at the heart of the EU's drive to improve competitiveness and make it: 'the most competitive and dynamic knowledge based economy in the world capable of sustainable economic growth and with more and better jobs and with greater social cohesion' (Council of the European Union, 2000: 5). At the heart of the original Lisbon Strategy was the

policy paradigm of combining economic growth with social cohesion. The March 2000 Presidency Conclusions made continuous reference to the modernisation of the 'European social model' as a necessity for its future preservation and this was to be done via the utilisation of the flexible new mode of governance, the OMC (see chapter 1). Under-employment, poverty and social exclusion were perceived as the main challenges facing Europe and the Lisbon Strategy was conceived to provide an EU coordinated solution to such problems. The emphasis on adapting Europe's existing social models in order to embrace globalisation and the new knowledge economy was very much a product of the political climate within the EU at the turn of the 21st century. British Prime Minister Tony Blair and Spanish Prime Minister Jose Maria Aznar both shared the belief that the answer to Europe's economic problems lay in the adaptation of Europe's social model through micro-economic reforms aimed at raising competitiveness and productivity (Bulmer, 2008; James, 2012). Tony Blair's 'third way' in the UK combined centre-right thinking on economic policy with centre-left thinking in social policy, and this discourse had been picked up in other Member States with Gerhard Schoeder's 'Neue Mitte' in Germany and Wim Kok's 'Polder Model' in the Netherlands (see: Jenson and Pochet, 2002; Pochet, 2006).

However, the guiding EU philosophy of combining economic growth with social cohesion proved to be short-lived. Despite Lisbon I (between 2000-2005) providing an umbrella for which a broad range of actors could govern the modernisation of the EU's political economy (both social actors and business actors), the re-launched strategy (Lisbon II 2005-2010) established a very different political landscape. Lisbon II (2005-2010) provided a more centre-right political paradigm in which to guide the

modernisation of the European economy. The Lisbon Strategy had always been a governance architecture in which different narratives of competitiveness competed for prominence, but the shift post 2005 placed growth and jobs firmly at the centre of priorities (James, 2012: 22-27). From 2005 onwards references to the modernisation and preservation of the 'European social model' in official documents became scarce (Copeland, 2012: 233) and in Lisbon II, social cohesion was articulated to result from progress made in economic growth and employment. While the OMC Social Inclusion was one of the weaker OMCs during both Lisbon I and Lisbon II (particularly when compared to employment), the re-launched Lisbon Strategy further undermined the policy area, as it was politically sidelined. During the Lisbon decade, Member States were required to write only four National Action Plans for the OMC social, compared to one each year in the Employment Strategy. And as Daly (2012: 74-75) notes a feature of the OMC social inclusion was one of 'no targets, no recommendations, few benchmarks or deadlines other than for the purpose of reporting, and no sanctions of any consequence'.

In terms of outcomes, the main achievements during the Lisbon decade in the area of poverty and social exclusion were agreements at the EU level on definitions of poverty and exclusion, and cognitive shifts within actors, rather than policy outcomes and convergence across the Member States (Daly, 2012: 68-87). For example, it was only in 2009 that a set of indicators for defining poverty as 'material deprivation' was agreed. Lisbon II continued with the EU's historic asymmetry that favours economic integration over social policy. Despite the considerable level of activity in the policy area during the Lisbon decade, substantive outcomes are

difficult to find and Member States maintained a high degree of autonomy in the policy area. This outcome is indicative of the politically sensitive and diverse nature of poverty and social exclusion, and of the difficulties posed in generating an integration momentum and convergence of social policy across the EU. Typically, welfare spending (including education) as a percentage of GDP represents the highest component of government expenditure within EU Member States. For both governments and the electorate this is a politically sensitive policy area with a multitude of organised interests. Here, the Principle of Subsidiarity, the idea that decisions must be taken as closely as possible to the citizen and the EU should not undertake collective action unless Union action is more effective, has provide itself to be a powerful weapon for governments who have aimed to limit encroaching EU intervention, including opposition towards EU social policy.

As such, there have remained significant divergences in the levels of poverty and social exclusion across the EU, and the 2004 and 2007 enlargements have served to only increase such differences. Underpinning such differences are diverse normative constructions of poverty (measurements, causes, consequences and solutions) and different tolerances of a given level of poverty. The result is that national policy frameworks are considerably diverse. Defined as the number of individuals at risk of poverty or social exclusion (discussed below), poverty within the EU varies from 14-16 percent of the population in the Czech Republic and Sweden, to 43-46 per cent in Bulgaria and Romania (Eurostat, 2011). According to the varieties of welfare capitalism literature, the broader spectrum of EU welfare states is comprised of the

social democratic variety, typified by Sweden with high levels of equality and means tested universal benefits; the Christian Democratic type typified by Germany with benefit levels dependent on employment ; and the liberal variety, typified by the UK, with means tested universal benefits, albeit in a context in which benefit levels are low and inequality is considerably higher (Esping-Andersen, 1990; Cousins, 1995). Between the two extremes sit the remaining welfare states, although there is considerable debate as to where such countries should be situated (Arts and Gelissen, 2002; Hay and Wincott, 2012; Ferrera, 1996). Nevertheless, they each strike their own distinct balance between social protection and redistribution.

Why was the Poverty Target Proposed?

The Commission's review of the Lisbon Strategy argued that any successor required a streamlined and simplified set of aims with a stronger governance mechanism. This was their opening position on the guiding principles to form the basis of Europe 2020 (Commission, 2009a; 2010a; 2010b). The release of the Commission's public consultation revealed that its philosophical position on Social Europe for Europe 2020 was identical to that of Lisbon II: progress in social exclusion and poverty reduction was to follow from success in economic growth and job creation (Commission, 2009a: 7). However, this had clearly changed by the time the first draft proposal of Europe 2020 was released on 3 March 2010, since it included the headline target to reduce poverty within the EU by 25% by 2020 - the first EU quantitative target in the area of poverty and social exclusion. (i.e. 20 million individuals) (European Commission, 2010a: 5). The Commission originally proposed

that the calculation of poverty should be done via one single measure of 'at-risk-of-poverty' (*i.e.* people living on less than 60% of national median equivalised income – the classic relative poverty measurement in the EU). In this respect, the initial proposal envisaged a convergence of how governments measure poverty across the EU. This, in turn, had the potential to generate some policy convergence across the EU, as measurements of poverty are not only normatively different, they also construct different policy responses to the problem. The target was to be supported by one of the seven Flagship Initiatives to encourage progress on the guidelines. This was the 'European Platform against Poverty' which would have the task of raising awareness of people experiencing poverty and social exclusion and transforming and strengthening 'the Open Method of Coordination on social exclusion and social protection into a platform for cooperation, peer review and exchange of good practice' (Commission, 2010a: 19).

There were a number of reasons behind the emergence of the poverty target. First, it was significantly influenced by the politics surrounding the re-election of Manuel Barroso as President of the Commission and his new cabinet in the latter half of 2009.¹ Although the Council appoints the President of the Commission, the appointment and that of the individual cabinet members requires an absolute majority vote in favour from the Parliament. During the election of the first Barroso Commission, the Parliament had delayed the ratification of the Commission and blocked several Commissioner appointees. During the course of the first Barroso Commission the relationship between it and the European Parliament had become strained. Not only did the Parliament heavily criticise Lisbon II for being too focused

on business interests rather than all EU citizens, but within the Parliament there was the perception that progress within the ESD had stalled and that the Commission held responsibility for this.² Prior to the Parliamentary vote for his re-election on 16 September 2009, Barroso argued for 'a much stronger focus on the social dimension in Europe at all levels of the decision-making process'.³ To representatives in the Parliament, Barroso's speech and the subsequent insertion of the poverty target within Europe 2020 was his attempt to appease the different interests (Commission, 2010c: 11-12).⁴ Furthermore, in the run-up to Parliament's approval of the Commission, the European Anti-Poverty Network (EAPN) spent the summer of 2009 lobbying both the Parliament and Barroso, calling for a strong commitment 'to make a decisive impact on the eradication of poverty'.⁵ The EAPN's actions included open letters to both the Commission and the Parliament, position papers, cross-party committee meetings in the Parliament and a publicity campaign under the banner of 'A New Vision: An EU we can trust' (EAPN, 2009).

A second, and significant, factor in the Commission's change of heart was the influence exerted by a small group of Member States in the Council that called for a strengthening of the social component in Europe 2020. The position papers of Austria, Belgium, Cyprus, France, Italy, Portugal and Spain all argued that the achievement of the Internal Market should not be considered as an end in itself. Rather, progress in economic growth and jobs should go hand-in-hand with the preservation and strengthening of the ESD. These seven Member States lobbied the Commission for the inclusion of a social component to Europe 2020 and Spain used its strategic position, as President of the Council of the EU in the first half of 2010, to

put Social Europe on the Agenda, both with respect to Europe 2020 and the broader process of European integration (Spanish Presidency, 2010).⁶ A further source of support for this position came from the new President of the European Council, Herman Van Rompuy, who had been given the specific task of formulating Europe 2020 and who was himself committed to a strong social dimension. Van Rompuy argued that governments should adhere to a limited number of guidelines (five), of which a specific target should be set to reduce poverty.⁷

The result of this activity was a proposal within the initial draft of Europe 2020 for the EU's first quantitative target in the area of poverty and social exclusion. But as analysed below, the proposal was hugely contentious and political divisions regarding the poverty target (as well as the education target) delayed the agreement on Europe 2020 (EurActiv, 2010b).

Poverty and social exclusion and the clash of capitalisms

There are diverse normative constructions of poverty (causes, consequences and solutions) and thereby different policy frameworks at the national level. Nevertheless, within the spectrum that is European Welfare States and poverty policy, there are those that favour a redistribution of income and the minimisation of inequality (such as some Northern and Mediterranean countries) and those that believe in minimal redistribution and higher levels of inequality (such as the UK and Ireland, as well as the majority of the Central and Eastern European states). At the EU level a problem with this division is that poverty and social exclusion has more

than often been discussed with reference to the Subsidiarity Principle. While Northern European Members have the most egalitarian welfare states within the EU, they have often been hugely resistant to EU involvement in redistribution policy (in particular Sweden) fearing that any agreement that fell short of their own standards could undermine domestic welfare policy. During the negotiations of the poverty target it is expected that political divisions will be in accordance with the clash of capitalisms political constellations. The liberal coalition is expected to favour either no target, or where a target is agreed, it to be as flexible as possible with minimal obligation for both any form of redistribution at the national level and political engagement at the EU level. In contrast, it is expected that the regulatory coalition is supportive of a quantitative target to reduce poverty and social exclusion and that it will favour an approach in which redistributive policy is key. Furthermore it is also expected that the latter coalition will be supportive of a governance mechanism in which Member States are obliged to participate, rather than the target being merely voluntary.

II: Negotiating the Poverty Target

The release of the initial proposal

The Commission's initial proposal to reduce the number of individuals living in poverty by 25% caused something of a storm. While the Council was able to agree on the fundamentals of Europe 2020 in March 2010, the negotiations surrounding

the poverty target (and education) resulted in a stalemate during the meeting and the launch of the strategy was postponed until after the June Council meeting (Council of the European, 2010: 2). The proposal had represented an internal political compromise within the Commission - initially, with the support of the newly appointed President of the European Council, Herman Van Rompuy, DG EMPL Commissioner László Andor had proposed a reduction in poverty of one third. This objective was deemed realistic by many, including the social NGOs, who usually advocate a 50 per cent reduction (EurActiv, 2010b). However, internal discussions between DG EMPL and the Secretariat-General reduced the target to 25 per cent for fear that such an ambitious proposal would not gain the broad support of the Member States.⁸ Clearly the political context of negotiations within the ESD during the first Barosso Commission were influential in this decision. The Commission proposed that the calculation of poverty should be done via one single measure of 'at-risk-of-poverty' (i.e. people living on less than 60% of national median equivalised income). The poverty and social exclusion target was to form part of five quantified targets within Europe 2020 along with employment; spending on research and innovation; climate change and energy use; early school leaving and participation in tertiary education. In a second tier, the programme consists of 10 integrated guidelines containing both the Broad Economic Policy Guidelines (BEPG) and those relating to Europe 2020. One of the latter guidelines, located under the heading of employment, relates to the poverty and social exclusion domain and commits the EU to *"promoting social inclusion and combating poverty, clearly supporting income security for vulnerable groups, social economy, social innovation, gender equality, and the poverty headline target"*.⁹ At a third level, there were to be the Flagship

Initiatives which, jointly undertaken by EU and national actors and steered by the European Commission, centre on thematic priorities intended to support the achievement of the five EU-level targets. One of the seven Flagship Initiatives was to be devoted to poverty and social exclusion known as 'the European Platform against Poverty and Social Exclusion'.¹⁰ This would have the task of raising awareness of people experiencing poverty and social exclusion and transforming and strengthening 'the Open Method of Coordination on social exclusion and social protection into a platform for cooperation, peer review and exchange of good practice,' (Commission, 2010a: 19).

Despite the initial target being internally watered down, the Commission's proposal was ambitious: the target not only represented the first EU quantitative target to reduce poverty and social exclusion, but Member States were also expected to converge upon one single measurement of poverty – that of at-risk-of-poverty, rather than the very diverse official measurements of poverty that were in place at the national level. This classic relative poverty measurement (being below a 60 % cut-off of median income) is based on how one's income compares to the societal average. As an approach to social policy it calls for either income redistribution (if poverty is seen in terms of falling below a relative income threshold) or the guaranteeing of a basic or minimum income threshold below which no one should fall (if an absolute approach is taken). To give some idea of the scale of the ambition of this initial proposal, over the course of the eight years of relative growth in Europe (2000-2008), the prevalence of relative income poverty in the EU as a whole remained more or less unchanged (Cantillon, 2011).

Opposition to the Commission's proposal soon gathered momentum. Sweden, the UK, Ireland and Malta, along with the CEE states of the Baltics, Bulgaria, the Czech Republic, Poland, Romania and Slovakia, all opposed the target and situated themselves at the centre of the liberal coalition. Actors such as BusinessEurope were also opposed to the target, but given that the proposed target would not directly affect EU businesses, it was less involved in the negotiation of the poverty target and focused its effects on other policy negotiations in Europe 2020, such as those to promote growth and innovation. The liberal coalition aimed to remove the target from Europe 2020, or at the very minimum to gain a political compromise in which the target was significantly weakened. The coalition argued that Europe 2020 should prioritise policies concerning economic growth and jobs, particularly given the impact of the Eurozone crisis on the European economy.

However, opposition to the target per se within the liberal coalition was for different reasons. Sweden, with its relatively low level of poverty, took a strong position on job creation as the primary tool for tackling social exclusion and favoured reducing poverty via an increase in employment.¹¹ This reflects the Swedish political economy which provides comparatively high levels of public services based on high rates of female employment which tend to crowd-out low paid service sector jobs (and poverty traps) (Esping-Andersen, 1990; Steinmo, 2003). Evidence from neoliberal political economies (such as the UK), with a large low paid and low skilled service sector, demonstrates that under different political economy conditions, employment participation does not automatically lead to a reduction in poverty (Hills, 2004;

Kenworthy, 2008). Rather, employment in the low-paid service sector can encounter poverty traps. In the latter situation individuals can find themselves in a situation whereby following a period in which state welfare has been received, a return to work and thereby an increase in income results in a loss of benefits so that the individual is no better off. Alternatively, individuals who simultaneously claim benefits and work (usually through an income top-up scheme) can find that an increase in the hours worked results in no overall change to their net income.

The other opposing Member States in the liberal coalition marshalled a different set of arguments and their positions were determined more by ideological, rather than practical purposes. A problem pointed out by these Member States focused on poverty measurement, and a reliance on relative income - if real income in the economy increases, but income distribution remains constant, the rate of relative poverty also remains constant. Within the majority of the CEE states, the argument against benefit dependency had gained ground during the transition process (King, 2007; King and Sznajder, 2006). Furthermore, the CEE states were mindful of the financial costs to them of measures agreed at EU level, and pointed to the instability of the Mediterranean countries and the Eurozone crisis as an example of excessive government spending and its consequences.¹² While welfare spending as a percentage of GDP is much lower in CEE compared to EU-15, the Eurozone crisis was providing further justification that welfare spending should only be increased, if necessary, in the region once levels of economic growth 'had caught up with the west'. Following the release of the Commission's proposal for Europe 2020, Poland,

via its Permanent Representation in Brussels, coordinated opposition to the poverty target with its counterparts in Permanent Representations of the liberal coalition.

Despite the different reasons for their opposition to the proposal, the unholy alliance between Sweden (a social democratic welfare that is often perceived to be a supporter of progress within EU employment and social policy, but has also proved itself on occasion to be a staunch opponent – see page ??) and the other more ideologically liberal minded states within the coalition held fast during the negotiations. The liberal coalition argued that the Commission had failed to consult the Member States on the proposed target and that the use of one signal indicator to measure poverty demonstrated that the Commission had given little thought to the issue. In the interviews carried out for this monograph the view was expressed that it had been inserted during last minute preparations to appease 'social lovers'.¹³ Since 2000 the EU has developed quite a complex and diverse set of indicators associated with the Open Method of Coordination in Social Protection and Social Inclusion, thereby recognising Member State social policy diversity and allowing Member States some flexibility in conceiving of the issues involved (Daly, 2010). The question then was why depart from this practice and adopt a unidimensional approach? Secondly, the liberal coalition also shared concerns about the poverty target as part of the governance mechanism of Europe 2020. In its draft proposal, the Commission argued that Europe 2020 required 'a strong governance framework that harnesses the instruments at its disposal to ensure timely and effective implementation' (Commission, 2010a: 27). The Commission was to be responsible for country surveillance and could issue Country Specific Recommendations for the

Broad Economic Policy Guidelines (under Article 121.2) and employment guidelines (under Article 145-150). In its draft proposal the Commission had incorporated the poverty target into the employment pillar which under Articles 145-150 (TFEU), gives the EU its competence within the Employment Strategy - including the requirement for Member States to submit annual progress reports and upon review of such reports by the Commission, the issuing of Country Specific Recommendations (CSRs) in areas where more progress could be made. Articles 151-153 (TFEU) concern the EU's competence in social policy, but do not prescribe an OMC-type governance procedure similar to that in Employment. While the Commission had made no reference in its draft proposal to the issuing of (CSRs) for the poverty target, Member States in the liberal coalition shared a concern about the possibility of such 'top-down imposition' on the part of the Commission.¹⁴ In other words, the poverty target and its incorporation into the mainstream governance of Europe 2020 was perceived as an attempt to strengthen the EU's mandate within social policy via the back door.¹⁵

In support of the proposal the regulatory coalition consisted of the governments of Austria, Belgium, Cyprus, France, Italy, Portugal and Spain. Their position papers for Europe 2020 all argued that the achievement of the Internal Market should not be considered as an end in itself. Rather, progress in economic growth and jobs should go hand-in-hand with the preservation and strengthening of social Europe. A further source of support for the coalition came from the new President of the European Council, Herman Van Rompuy, who had been given the specific task of formulating Europe 2020 and who was himself committed to a strong social dimension. He

argued that governments should adhere to a limited number of guidelines (five), of which a specific target should be set to reduce poverty.¹⁶ These seven Member States and Van Rompuy, along with the social NGOs and the Socialists in the Parliament, had lobbied the Commission for the inclusion of a social component to Europe 2020 and Spain used its strategic position, as President of the Council of the EU in the first half of 2010, to put Social Europe on the Agenda, both with respect to Europe 2020 and the broader process of European integration (Spanish Presidency, 2010).¹⁷ The Spanish Presidency also coincided with the launch of the EU's Year for Combating Poverty and Social Exclusion, launched on 20 January 2010, and this further helped to maintain the profile of social Europe. Within the regulatory coalition the Year for combating Poverty and Social Inclusion provided a further incentive to produce policy commitment in the field, as it would symbolise that substantive progress could be made during the 12-month programme of events.¹⁸ A further strategy of the regulatory coalition was to highlight the progress and importance of the Social Protection Committee over the last decade and thereby the importance of balancing economic growth with progress in Social Europe.

The remaining Member States (Denmark, Finland, Hungary, Slovenia, Germany, Luxembourg, the Netherlands) declared that they were flexible on the proposed target and did not attach themselves to either coalition. At the European Council meeting on 26 March 2010 the division between the coalitions resulted in no agreement being reached on the poverty target. In fact, in light of the time restrictions on reaching an agreement on Europe 2020 (i.e. summer 2010), the polarised division within the Council gave rise to speculation that the target may be

dropped altogether. In light of the promise made by to the European Parliament by President Barosso, the Commission became reluctant to withdraw the proposed target and expressed its commitment to the objective. Furthermore, the regulatory coalition (in particular the European Anti Poverty Network) lobbied both the Commission and the European Council / Council of Ministers to maintain the target and without such broader support within the EU's political space, the poverty target may have disappeared from Europe 2020 altogether. The result was that the Member States agreed a willingness to tackle poverty and social exclusion as part of the Europe 2020 programme. However, the existence of a quantified target, its definition, and constituent elements, were to be opened-up for negotiation.

Continued Liberal Coalition objections to the Target

The European Commission and the Spanish Presidency had decided that, given the time constraints for negotiation, the best solution to reach an agreement was for individual bilateral negotiations between the Secretariat General and via their Permanent Representations in Brussels, the governments of the Member States. Members of the liberal coalition decided that a coordinated response during the bilateral negotiations would have the best possible impact on outcomes.¹⁹ Representatives from the permanent representations of the Baltic States, the Czech Republic, the Netherlands, Slovakia, Sweden, Poland and the UK established regular contact, such as phone calls and emails, to defend their position. Coordination between the group was also organised through the existing communication channels of the Social Protection Committee, which includes representatives (normally civil

servants) from the national administrations. However, in light of the publicity and general support that the creation of poverty target had already attracted from the regulatory coalition (particularly in the European Parliament), the general consensus within the liberal coalition was that the removal of target would be near impossible to achieve; the best possible outcome for the liberal coalition was to ensure that any agreement on the target remained flexible (particularly with respect to defining poverty and social exclusion) for the Member States with only voluntary obligations.²⁰

What particular contribution were the CEE Member States making to the negotiations? It should first be noted that the majority were initially opposed to the poverty target – the Baltic States, Bulgaria, the Czech Republic, Poland, Romania and Slovakia. Only Hungary and Slovenia remained outside of the liberal coalition, but importantly they did not formally join the regulatory coalition. When representatives from the two latter Member States were questioned on this position, they commented that they did not have a problem with an EU target that was ‘flexible and non-obligatory’.²¹ Second, the 8 CEE Member States that were opposed to the target, all were vocal about their opposition. Czech Minister for European Affairs, Juraj Chmiel, said of Europe 2020: ‘the biggest problem for us was the poverty target because it did not have any other explanatory value and it was not clear where the goal came from’. While Richard Kadlčák, from the government’s European Policies Coordination Department, said: ‘Poverty will be automatically reduced by fulfilling other objectives of the strategy’ (EurActiv, 2010b). High-level representatives from other Central and Eastern European Member States, including Romanian President

Traian Basescu and Slovak Prime Minister Robert Fico, publically expressed their opposition to the target. Such a position, as expressed by Eastern Member States in the liberal coalition is in accordance with the liberal argument that improvements in the social condition of individuals can be achieved via the spillover effects of economic growth. Finally, Poland used its position, as the largest new Member State, to coordinate opposition to the target between the old and new Member States within the liberal coalition (EurActiv, 2010b).²²

The first tactic of the liberal coalition was to raise the issue of the EU's legal competence in the area of inclusion and social protection, and to question the consequences of including a quantified target to reduce poverty within the governance area of employment. During their individual bilateral meetings with the Commission and the Spanish Presidency, governments of the liberal coalition asked for clarification on this issue and repeated the argument that the EU had no legal mandate for such a proposal and that the target was a 'competence creep' on behalf of the Commission.²³ A second tactic was to push for a greater flexibility in defining poverty, rather than the use of one definition - 'at-risk-of-poverty' - stipulated within the initial proposal. In pushing for greater flexibility, the liberal coalition argued for the inclusion of a 'jobless-household' definition and that of 'severe material deprivation'. Defining poverty in terms of 'jobless-households' is relatively new and emerged first in the neo-liberal countries in the 1990s (especially Australia and New Zealand). The problematisation of jobless households is driven by the possibility that joblessness may be a characteristic of particular types of families, the values they hold, the behaviours that they engage in (especially as parents) and the apparent

corrosive effects of worklessness on people and their families, children especially. In this sense it is a cultural term, a comment on micro (individual) behaviour magnified to a more meso (household and family) level. It links closely to the activation thrust of contemporary social policy and gives some security to those who fear that a focus on income poverty alone would lead automatically to redistributive policies. But the concept also has other resonances and roots and is larger than unemployment or worklessness. As a comment on labour market developments, it picks up on the possibility of growing polarisation of labour markets, especially as regards having a job at all and the quality of that job (Gregg and Wadsworth, 1998; Kenworthy, 2008). It also prioritises economic discourses of social exclusion. 'Jobless households' therefore cover a range of potential 'problems' and appeals, if not across the entire political spectrum, then at least to more than one constituency within the EU. Measuring poverty as jobless households had a particular appeal for the Netherlands, Sweden and the UK, as well as the CEE states. As numerous interviewees from CEE commented: 'low skilled work is better than nothing' and 'work gets you out of poverty'.

Measuring poverty with respect to 'material deprivation' also had a particular appeal to the CEE Members of the liberal coalition. Material deprivation measures poverty as being without at least four items out of a nine-item list of 'deprivations' and is meant to pick up on lifestyle and access to the customary standard and style of living.²⁴ The measurement is a relatively new in the social policy constellation at the national and EU levels and it took 9 years of debate and contestation before Member States could agree on a set of deprivation indicators under the Lisbon

Strategy. The particular appeal of this measurement is that government strategies required to reduce poverty do not necessarily demand specific anti-poverty policies – and thereby increases in spending on reducing poverty. Typically, Member States with comparatively low per capita GDP can make considerable progress towards meeting a poverty target as a direct consequence of securing economic growth anticipated through the overall 2020 strategy (although measures might be required to prevent new wealth from being too highly concentrated leading to little or no improvement in the real value of below averages incomes) (Walker, 2010: 7). Substantial falls in poverty as measured by ‘material deprivation’ can therefore be achieved within Eastern Europe by no significant increases within overall welfare spending and relying on progress within other, namely macroeconomic, microeconomic and employment developments.

Political compromise and the creation of a multi-dimensional poverty target

Between April and June 2010, the Spanish EU Presidency worked alongside the Commission to address the fears and objections of the liberal coalition. The regulatory coalition opposed a multi-dimensional poverty target in which poverty could be measured in several different ways. Its objection centred on the argument that increases in economic growth and employment *per se* do not necessarily reduce poverty in accordance with either the ‘at-risk-of-poverty measure’ or ‘jobless household’ definitions. The problem for the regulatory coalition was that the liberal coalition was unprepared to support a target unless it provided flexibility in terms of both measuring poverty and its governance. Given the time constraints for the

negotiations and a realisation that the liberal coalition could potentially be blocking the broader Europe 2020 negotiations scheduled for agreement at the June 2010 European Council meeting, the Spanish Presidency of the Council dropped the Commission's proposal of having one measurement of poverty – at-risk-of-poverty - for all EU Member States. Bilateral meetings were held between the Commission and the Member States to produce a target and a mode of measurement that would gain broad support in the Council.²⁵ What mattered above all, though, was that during the bilateral negotiations, there emerged what might be called a 'gentleman's agreement' on Country Specific Recommendations whereby Member States were reassured that the poverty target within Europe 2020 would not feature Country Specific Recommendations, rather any recommendations would be merely guidelines with no obligation for Member States to respond at the national level.²⁶

On 17-18 June 2010 the European Council agreed to 'lift at least 20 million people out of the risk of poverty and exclusion' (European Council, 2010: 12). The agreed target consists of lowering by 20 million the number of people who are defined poor by one of the following three definitions: at risk of poverty; severe material deprivation; and people living in jobless households. It was agreed that Member States would be able to choose one, two or a union of all three measurements. They could also suggest their own measurement, although if they chose to do so, they would need to demonstrate the link between their selection and the EU target. Member States were to set their own national target, rather than being allocated a specific target by the Commission or the Council, although governments were to be encouraged by the Commission to set the maximum possible national target. The

target and the broader aims of the poverty and social exclusion objective within Europe 2020 are supported by European Platform Against Poverty and Social Exclusion. The term 'platform' is meant to refer to a hub or host of initiatives oriented to bringing about social and territorial cohesion. Five areas of action have been identified for the Platform including: making EU funds deliver on the social inclusion and social cohesion objectives; promoting evidence-based social innovation; promoting a partnership approach and the social economy; and stepping up policy coordination between the Member States. (European Commission, 2010b, 2010c).

By extending the number of measurements that can be used within the target, there is a substantial increase in the target population from 80 to 120 million. The Commission's initial aim was to reduce the numbers poor by 25% of a target population of 80 million, but with the newly agreed measurements and the subsequent increase in the target population, the aim to reduce poverty and social by 20 million now represents a 16 %b reduction. While the target can be conceived as a step forward for developments within the ESD, the necessary political compromise required to achieve the agreement has resulted in a lack of clarity surrounding the objective. In terms of policy approach, what seems like a coherent set of indicators actually digs deeply into diverse philosophies of welfare and views about the best approach to combat poverty and social exclusion. Research suggests that, while there is a strong relationship between income poverty and material deprivation, joblessness as a characteristic of households is a very different kind of phenomenon and one that is poorly correlated with either poverty or material

deprivation (de Graaf-Zijl and Nolan, 2011). Nolan and Whelan (2011: 16- 18) argue that joblessness might be better thought of as a factor leading to income poverty or material deprivation rather than as an indicator of poverty *per se*, as individuals living in jobless households may not necessarily be poor. In addition to this argument, the idea that once in employment an individual is lifted out of poverty is questionable. A further concern is that 14 Member States have opted to measure poverty via a combination of the three measurements implicit within the target. How these Member States intend to provide national policy coherence to reduce poverty, particularly given the ideological differences of the measurements which require competing policy responses, remains unclear. The three measurements of poverty implicit within the target are associated with normatively very different types of poverty that require contrasting, and potentially incompatible, policy responses from governments. The danger here is that governments have not committed themselves to a particular measurement of poverty, rather their incentive has been to use the flexibility within the target to ensure that the reporting of progress and data maximises the perceived progress towards the EU target at the national level. In other words, national level data will be fitted into the different measurements to maximise the perception that Member States are making progress, rather than the other way around.

Conclusion

Following a very short period of negotiations, the EU's new economic reform programme includes the specific aim of removing at least 20 million individuals from

living in poverty or social exclusion by 2020. Member States are able to define poverty by one of three definitions: at risk of poverty; severe material deprivation; and people living in jobless households (increasing the target population from 80 million to 120 million). They are also able to use a mixture of the three definitions and can even use their own definition if sufficient justification can be made. However, the target should best be seen as another EU compromise in which all of the actors involved were required to change their position at some point. The Commission's initial proposal was to reduce the numbers poor across the EU by 25 % as measured as being 'at-risk-of-poverty' (20 million of a measured 80 million) and this approach gained broad support within the regulatory coalition. But opposition to the use of a single measurement of poverty by the liberal coalition has resulted in a more flexible and ideologically inconsistent target. Given that the three measurements of poverty implicit in the target have very different normative foundations, the target represents an uncertain compromise between those countries who prefer redistributive policies to address the situation for Europe's most vulnerable and those which emphasise a job as the route out of poverty and social and exclusion. Member States are also able to choose their own national target and estimates available to date point to a shortfall in the EU target of between 5 and 8 million people.²⁷ The uncertainty surrounding this shortfall results from the difficulties posed by using the variety of poverty measurements in national calculations. Therefore, while the Member States were able to reach an agreement on the poverty target, it remains questionable how seriously it will be taken forward (Copeland and Daly, 2013).

As with the previous case studies, the majority of the CEE states joined the liberal coalition. The exceptions are Hungary and Slovenia who did not attach themselves to the liberal coalition, but interestingly, had no particular desire to defend the Commission's proposal and join the regulatory coalition either. Compared to the CEE states, as well as the other members of the liberal coalition, the position of Hungary and Slovenia reflected a different perception of the poverty target. Given the weak legal foundation of the target, both governments believed it to have few significant implications or burdens at the national level. Nevertheless, the remaining 8 CEE states proved to be crucial for the strength of the liberal coalition which, although unsuccessful in its ultimate aim to remove the target from Europe 2020, was successful in ensuring that the target was watered down and made as flexible as possible. While the position and contribution of the CEE states is one of several factors contributing to this outcome, they nevertheless proved themselves to be significant to the final outcome.

¹ Interviews 33, Representative from the European Commission (10 November, 2010); 34, Representative from the European Commission (23 November, 2010).

² Interview 35, Member of the European Parliament (1 December, 2010).

³ Speech given by José Manuel Durão Barroso President of the European Commission 'Passion and responsibility: Strengthening Europe in a Time of Change', European Parliament Plenary Strasbourg, 15 September 2009.

⁴ Interviews: 35, Member of the European Parliament (1 December, 2010); 36, Member of the European Parliament (26 November, 2010); 37, Member of the European Parliament (12 November, 2010).

⁵ See: 'An EAPN letter to Barroso and chairs of the political groups', EP 10 July 2009 available at:

http://www.eapn.eu/index.php?option=com_content&view=article&id=1068%3Abarrosos-speech-fails-to-convince-where-the-ambitious-commitment-to-a-social-and-sustainable-eu-&catid=46&Itemid=77&lang=en – accessed 18/10/2011.

⁶ Interview 38, Representative from the European Commission (13 December, 2010).

⁷ Interviews: 39, Representative from a Permanent Representation to the European Union (21 November, 2010); and 33, Representative from the European Commission (23 November, 2010).

⁸ Interview 40, Representative from the European Commission (3 December, 2010).

⁹ The other three employment guidelines relate to increasing labour market participation and reducing structural unemployment, developing a skilled workforce, and improving the performance of education and training systems and increasing tertiary education participation (European Commission, 2010a).

¹⁰ Along with poverty and social exclusion, the other Flagship Initiatives relate to: a digital agenda, innovation, youth employment and mobility, sustainable development, industrial policy, employment

¹¹ Interview 41, Representative from a Permanent Representation to the European Union (29 November, 2010).

¹² Interviews: 41, Representative from a Permanent Representation to the European Union (29 November, 2010); 42 Representative from a Permanent Representation to the European Union (1 December, 2010); and 43, Representative from a Permanent Representation to the European Union (7 December, 2010).

¹³ Interview 42, Representative from a Permanent Representation to the European Union (07 December, 2010).

¹⁴ Interview 33, Representative from a Permanent Representation to the European Union (06 December, 2010).

¹⁵ Interview 36 Representative from a Permanent Representation to the European Union (25 November, 2010).

¹⁶ Interviews: 39, Representative from a Permanent Representation to the European Union (21 November, 2010); and 33, representative from the European Commission (10 November, 2010).

¹⁷ Interview 38, Representative from the European Commission (13 December, 2010). The ETUC took a hardline position on the all of the constituents of Europe 2020 and did not explicitly support the poverty target.

¹⁸ Interview 44, Representative of a Permanent Representation to the European Union (17 November, 2010).

¹⁹ Interview 34, Representative from a Permanent Representation to the European Union (07 December, 2010).

²⁰ Interview 46, Representative from a Permanent Representation to the European Union (12 December, 2010).

²¹ Interviews: 43, representative from a Permanent Representation to the European Union (10 November, 2010); and 37, representative from a Permanent Representation to the European Union (9 December, 2010).

²² Interview 39, Representative from a Permanent Representation to the European Union (21 November, 2010).

²³ Interview 34, Representative from a Permanent Representation to the European Union (07 December, 2010).

²⁴ The definition of severe material deprivation is the proportion of the population living in households lacking at least four items among the following nine: (1) the capacity to face unexpected expenses; (2) 1-week annual holiday away from home; (3) pay arrears (mortgage or rent, utility bills or hire purchase instalments); (4) have a meal with meat, chicken or fish every second day; (5) keep home adequately warm; (6) a washing machine; (7) a colour TV; (8) a telephone; (9) a personal car.

²⁵ Interview 37, Representative from a Permanent Representation to the European Union (12 December, 2010).

²⁶ Interview 40, Representative from the European Commission (3 December, 2010).

²⁷ See: http://ec.europa.eu/europe2020/reaching-the-goals/monitoring-progress/recommendations-2011/index_en.htm - accessed 13/07/2012.

6: Conclusion - the European social dimension and the clash of capitalisms in a post 2004 EU

The monograph has assessed the impact of the 2004 and 2007 EU enlargements upon the political economy of European integration. At the heart of the European integration process is the political economy debate over whether the EU should be a market-making project, or if it should combine this with integration in employment and social policy. It is in the context of this political debate that the research has analyzed the impact of the two rounds of enlargement by focusing on developments within the European social dimension (ESD). Debates concerning the varieties of capitalism within the Central and Eastern European (CEE) states have remained inconclusive: for King (2007), King and Szelényi (2005), King and Sznajder (2006) and Vaughan-Whitehead (2003), the CEE states represent a neoliberal bloc of countries; but for Keune (2006), Bohle and Greskovits (2006; 2007a; 2007b) and Feldmann (2006, 2007) there remain significant differences between the CEE states and claims of a neoliberal bloc are too simplistic. In this respect, the 2004 and 2007 enlargements were conceived to have either little impact on the political economy of European integration, as the CEE states will join the different political coalitions during policy negotiations and will have little overall impact on the EU's political space, or the CEE states will predominantly join one particular political coalition and this will either strengthen or undermine the ESD.

To analyse the impact of the influence of the CEE, the previous three chapters have analysed their policy positions and contributions during three policy negotiations surrounding the ESD. The three case studies each relate to a different aspect of the ESD: norms and values (the Services Directive); hard law (the Working Time Directive); and soft law (the Europe 2020 Poverty Target). To guide the analysis the research has been situated in the clash of capitalisms approach to European integration and applied a modified version of Stone Sweet's and Sandholtz's (1997, 1998) supranational governance approach to the process of European integration. EU policy negotiations are conducted within a transnational political space, and as well as governments of the Member States, transnational actors are capable of exerting their influence during the process. During policy negotiations governments of the Member States and the broader set of EU actors (European Commission, European Parliament, social partners, interests groups) divide into the regulatory and liberal coalitions. The two broadly defined coalitions are relatively loose groupings and as a result, no one social bloc has been able to dominate and impose its interests across all the relevant regulatory sub-spheres of the European political economy (Callaghan, 2008).

In this conclusion it is argued that the 2004 and 2007 enlargements have had a profound impact on the clash of capitalisms surrounding the ESD. With few exceptions the CEE states joined the liberal coalition during the three case study negotiations. The outcome has been a strengthening of the liberal coalition, which has made policy outcomes of a more substantive nature for EU employment and social policy more difficult to achieve. The second section considers why the CEE

states are supportive of the liberal coalition and the final part of the chapter explores the future of the ESD in the context of enlargement and the EU's current political climate.

I: The clash of capitalisms in the European social dimension and the impact of the 2004 and 2007 EU enlargements

Historically, different rounds of EU enlargement have had different political impacts on the process of European integration. For example, the 1995 enlargement (in which membership was extended to Austria, Finland and Sweden) is credited with creating a more expansive role for the EU in the areas of employment and social policy, particularly with respect to the formation of the European Employment Strategy (Velluti, 2010). With respect to the 2004 and 2007 rounds of EU enlargement, the CEE states were predicted to have either a sizeable impact on negotiations, with the majority joining the liberal or regulatory coalition, or given the perceived heterogeneity of the region, to split between the liberal and regulatory coalitions during negotiations and thereby have a negligible impact on the EU's clash of capitalisms and the ESD. However, during EU policy negotiations Member State positions can be influenced by a variety of factors including the 'goodness-of-fit' of a proposed policy within their domestic situation, the parameters of the domestic variety of capitalism, the possibility to use EU policy as a political opportunity structure to change the domestic status quo, deals with other Member States in which governments will trade their support or opposition to a particular policy in return for support elsewhere, or government changes at the national level. To

minimize the uncertainty of the multitude of reasons that contribute to government positions during the negotiation of EU policy, the three case studies cover a six year period between 2004-2010 and this enables the research to observe the political tendencies of the CEE states over time. In the CEE states there were a variety of governments in power during the period of analysis: Bulgaria, Estonia and Latvia had centre-right governments; while Hungary, Lithuania, Slovakia and Slovenia all had centre-left governments; The Czech Republic, Poland, each had two or more governments during the period, with at least one government from the centre-left and one from the centre-right. And between EU accession in 2007 and 2008 Romania had a centre right coalition government followed by a grand coalition between the main centre-left and centre right parties.

In all three case studies the majority of the CEE states joined the liberal coalition. The result of this has been to strengthen the liberal coalition within the EU's political space; make policy agreements within the ESD more difficult; render further integration within the employment and social policy fields increasing unlikely; and to situate the process of European integration much closer to being a mere market-making process, rather than one in which economic integration is simultaneously combined with the aim to provide citizens with an adequate level of employment and social protection.

During the negotiations of the Services Directive all of the CEE states joined the liberal coalition. While the proposed Directive aimed to liberalization services across the EU and thereby was concerned with the Single European Market (SEM), the

ensuring debate focused on the effects it would have on employment regulations and welfare standards across the EU. During the negotiations two factors were central to the position of the CEE states. First the restrictions placed on the free movement of workers from east to west post-2004 which were considered unfair by all of the new Member States and the proposed Services Directive, it was argued, was just another attempt by some EU-15 Member States to maintain restrictions on the free movement of workers. Second, the domestic politics of reform within the region was also significant, as the proposed directive was perceived to complement the reform process of the previous 15 years and would provide an opportunity to boost domestic growth and jobs, particularly given the associated low costs of the region. By joining the liberal coalition the CEE governments demonstrated that they had little regard for the more extensive systems of employment regulation and social protection found within some the EU's Member States. For CEE, the idea that the proposal would undermine social Europe was considered to be merely protectionists and against the principles of the SEM.

Throughout the negotiations of the revision of the WTD, the CEE states also joined the liberal coalition. Over the five-year negotiations the liberal coalition, spearheaded by UK, was for the first time in the history of the ESD in a majority position. The 1993 Directive contained an opt-out whereby employees are able to work beyond the 48-hour weekly limited and this had been included to gain the initial support of the UK. It was intended that over time the UK would move away from its long-hours working culture and so the directive contained a clause whereby the opt-out was to be reviewed 10 years after its implementation. However by the

time of the revision, the UK, which has traditionally been in a minority position on the issue of the opt-out, was able to defend its removal. The UK had reached an agreement with Germany and was able to draw on the broad support of the CEE states (with the exception of Hungary) to argue that the opt-out should remain. Following five years of negotiations, no agreement could be made on the revision of the directive and the opt-out remains. The only CEE state not to join the liberal coalition during the negotiations was Hungary. Its position was influenced by the goodness-of-fit of its domestic policy on working time - the Hungarian labour code sets a maximum working limit of 48-hours a week per employee - as a result there was little appetite at the domestic level to re-open discussion and reform working time.

Finally, during the negotiations of the Europe 2020 poverty target, with the exception of Hungary and Slovenia, once again all of the CEE states joined the liberal coalition. As part of the EU's new economic reform strategy, the European Commission initially proposed to reduce the number of people living in poverty by 25% - 20 million of an 80 million target population as measured as being 'at-risk-of-poverty (the classic relative poverty measurement), but this proposal was significantly watered down. The Commission's proposal gained broad support within the regulatory coalition, but opposition to the use of a single measurement of poverty by the liberal coalition resulted in a more flexible and ideologically inconsistent target. In the agreed target Member States have committed themselves to reducing poverty by 20 million to be calculated by one of three measurements: at risk of poverty; severe material deprivation; and people living in jobless households.

They are also able to use a mixture of the three measurements and can even use their own definition if sufficient justification can be made. This has increased the target population from 80 million to 120 million with the result being that the 20 million reduction in the numbers poor represents a fall of some 16.5 %, rather than the initial target of 25 %. As discussed in chapter 5, given that the target represents an uncertain compromise and draws on very different normative foundations of poverty and its reduction, it remains unclear how much progress will be made towards the agreed aim. Although Hungary and Slovenia did not join the liberal coalition, they did not formally attach themselves to the regulatory coalition either. Their position was formed from the belief that any agreement surrounding poverty and social exclusion would remain flexible as a result of the EU's limited legal mandate in the field. In this respect, both governments saw little value in opposing a non-binding agreement.

Of the few occasions where the CEE states have not joined the liberal coalition (Hungary during the WTD and Hungary and Slovenia during the negotiations of the Europe 2020 poverty target), the case studies illustrate that the particular positions have been formed, not from a deep-rooted belief that European integration should feature a social dimension with the convergence and harmonisation of employment and social policy across the EU, rather the positions have been formed by the particular circumstances of the negotiations. For Hungary, the 1993 WTD had a 'goodness-of-fit' with domestic policy and there was little appetite to re-open the political debate at home, while during the negotiations of the Europe 2020 poverty target, both Hungary and Slovenia did not oppose the target because it was

perceived to be very flexible and thereby did not pose a threat to sovereignty in the field.

At the European level, the CEE states are more sympathetic to the liberal coalition and its arguments for the promotion of market integration and free trade. Although the liberal coalition is not always able to achieve its desired objectives during negotiations, as illustrated in chapter 3 during the negotiations of the Services Directive, enlargement has shifted the regulatory coalition, particularly within the Council, to a minority position. The 2004 and 2007 EU enlargements have therefore had a profound impact upon the EU's political space. Given the historical difficulties of reaching agreements at the EU level in employment and social policy even during periods when the regulatory coalition has been able to secure a majority the Council,, the post-2004 political environment is causing a stalemate during policy negotiations and this is gradually changing attitudes at the European level as to the desirability of further integration in the field. As such, future policy within the ESD may be incapable of moving beyond a basic measure of cooperation within the framework of existing policies and legal provisions. In this respect, EU enlargement has made the regulatory coalition's aim to move the process of European integration beyond mere economic integration appeared to be both increasingly difficult and unlikely.

II: The appeal of the liberal coalition for the Central and Eastern European States

Why have the CEE states consistently joined the liberal coalition, particularly given that between 2004 and 2010 governments from different political persuasions were in office? Despite the differences between the CEE states highlighted by work of Bohle and Greskovits (2006; 2007a; 2007b), Feldmann (2006, 2007) and Keune (2006) political differences have little overall bearing on the political economy tendencies of the region at the European level. To fully understand the rationale behind the position taken by the CEE states it is important to refer back to King's and Szelényi's (2005) argument that neoliberalism has served as an ideological cement that united different class factions against the state-socialist system and provided a powerful narrative in which to frame the transition to a market economy. This has resulted in the promotion of a type of capitalism within CEE in which foreign direct investment has had an overwhelming dominance and influence. One result is that the political environment in CEE is one in which economic growth has become dependent on the investment strategy of particular multinational corporations, the lending decisions of foreign owned banks, and the ability to import industrial inputs and capital from, and export manufactured goods to, the core of the capitalist world economy (King and Szelényi, 2005: 219-220). The majority of the banking sector within CEE is under foreign control, and is one area 'where foreign penetration has reached record levels, almost unprecedented in other parts of Europe and the world' (Bohle and Greskovits, 2007: 93). Galgóczi (2009) estimates foreign ownership of the banking system in CEE to be on average 80%. The transition process has given foreign investors an unprecedented, albeit indirect, influence within CEE. International mobile capital has been attracted to the region as a result of its low costs and governments attempt to maintain, and attract further, foreign investment.

More recent research by Meardi (2012) suggests that the particular political economy trends of the region have continued within a logic of liberal dependency. In their governance of employment relations, multinational corporations use the threat of relocation, and workers, left without the institutional channels to voice their concerns, such as trade unions and social dialogue, have reacted by leaving their countries to work in the EU-15 Member States.

The pressures to maintain foreign direct investment in CEE and to attract further injections of capital requires states to create favourable economic environments which usually come in the form of low taxes and low wages, as well as labour market flexibility such as easy dismissal rules which overwhelmingly benefit employers at the expense of employees. A problem with this model is that foreign direct investment is predominantly short-term in its outlook and constructing CME institutions under these conditions is more difficult than LME institutions, since they require a longer term perspective (Hall and Soskice 2001) with higher taxes and wages, and the embedding of such institutions to create their own institutional comparative advantage. Hall and Soskice (2001: 63) argue that CMEs are more difficult to emulate than LMEs, even when the relevant institutions can be put into place. This is because market relations within LMEs do not require the same levels of common knowledge among actors - CMEs are underpinned by informal networks of cooperation, collaboration and the sharing of knowledge which take a long time to establish. The CEE states have therefore been faced with a dilemma: to postpone large scale foreign direct investment, with subsequent short term consequences for growth and jobs, in favour of the possible institutionalisation of a CME which could increase

overall prosperity and equality; or to increase growth and jobs in the short term by competing on costs and attracting high levels of foreign direct based, but subsequently constraining such states from moving beyond LME institutions in the long term. From the case studies discussed here, the 2004 and 2007 CEE states appear to have chosen the latter option. Incumbent governments aim to remain in office and with elections being held every four or five years, governments take the short-term option of maximizing growth and jobs by capitalizing on the comparative institutional advantage of low costs. In countries which feature some CME institutions, such as Slovenia, these institutions have not proved themselves to be particularly resilient. For example, in response to their marginalization by the then centre-right government, between 2005-2008 trade union density fell from 40% to 30% of the workforce (Stanojević and Matej Klarič, 2013)

The policy trajectory of the transition period has been reinforced by EU membership in two ways. First, EU accession preparations, with their emphasis on strengthening domestic institutions associated with the functioning of the Single European Market (SEM) and employment and social policy, effectively communicated to the region that the process of European integration was one of market-making, rather than one in which integration is also promoted within the social and employment spheres of policy. Accession preparations for all of the new Member States involved extensive surveillance with annual assessments by the European Commission and as a result, they are considered as being 'good students' in terms of their transposition and implementation of EU policy (Falkner and Treib, 2007: 9). But as Keune (2008) argues, despite the good transposition in CEE of the *social acquis*, not only is the

social acquis relatively small, but just as with EU-15 Member States, there is significant room for interpretation at the national level during their implementation. Therefore, while the transposition of the social acquis has in some cases led to a raising of standards, in others standards have declined or remained insufficient because of 'pro forma' transpositions. For Keune (ibid) there has been no 'exporting of the European social model' to the EU's newest members. With respect to the findings of this book, we can see that developments at the national level in CEE manifest themselves at the European level by the states giving very little support for a deepening of integration within the ESD.

Second, the economic integration of EU membership promotes a liberal dependent form of capitalism. European integration has opened up Member States to internal competition in the capital and product markets and simultaneously protected them through monetary integration and the Internal Market (Schmidt, 2002). The result is a reduction or elimination of certain macro-economic tools to govern and manipulate national economic policy (such as exchange rate devaluations or subsidies for specific sectors or industries). The reduced sovereignty and scope of macro-economic policies for the Member States, without the creation of a formalised federation (cf. Rosamond, 2002), constructs a competitive space in which Member States compete more fiercely to defend their comparative institutional advantage. As Strange (1998: 104) argued: 'because the EU is not a federation and because its national governments worry more about their national balance of payments and export earnings, their policies are often highly competitive with one another'. This results in a more pronounced form of the competition state whose

main focus, as defined by Cerny (2000: 136), becomes: 'the proactive promotion of economic activities, at home or abroad, that will make firms and sectors located within the territory of the state competitive in international [and/or European] markets'. The established CMEs of northern Europe can draw from their 'their resource endowments and strategic capacities' and can therefore resist some of the pressures associated with liberalization and deregulation (Humphreys and Simpson, 2008: 852). The institutionalisation of their 'infrastructure, education systems, workforce skills and quality of life amenities' (Cerny, 1997: 271) has been prior to the rise globalization and the constraints of European integration. But for the CEE states, all of which are required to join the European Monetary Union with preparations and membership requiring limits to government spending and budgetary constraints, competing within the EU as a low cost base for multinational corporations is one of the few policy tools they have left at their disposal.

II: The future of the European social dimension in the context of an enlarged EU and the Eurozone crisis

The outbreak of the sovereign debt crisis in the Eurozone in 2010 plunged the EU into an unprecedented political and economic crisis. As the EU struggles to restore confidence and credibility in both its single currency and political institutions, there is a passionate debate regarding the future of the EU. Much attention has been directed to the structural inadequacies of the Economic and Monetary Union project and the EU's ultimate inability to police fiscal discipline amongst its Member States. The narrative of the EU political debate surrounding reform is one that sharply

contrasts the macroeconomic records of southern European 'sinners' to northern European 'prudes' (Papadimitriou, 2012: 1). Initially, it was believed that the European economy would be largely immune to the financial turbulence that began in the late summer of 2007 (Commission, 2009b: 8). Such perceptions dramatically changed in September 2008 with the rescue of the mortgage providers Fannie Mae and Freddy Mac, the bankruptcy of the investment bank Lehman Brothers and fears that the collapse of the insurance giant AIG would take down major US and EU financial institutions. Developments in the US also revealed the vulnerability of major European banks to the US (sub-prime) market. The summer of 2008 witnessed a number of European banks requiring bailouts from their respective governments, among them the UK's Halifax and Bank of Scotland (HBOS) and the Royal Bank of Scotland (RBS), Belgium's Fortis and Germany's Hypo Real Estate Group. As confidence mostly disappeared in the global financial market, the European financial system appeared increasingly fragile; market valuations of financial institutions evaporated and the interbank lending market practically ceased.¹ While the breakdown of the interbank lending market affected the whole EU banking system, it was the major European banks from EU-15 Member States that were the most vulnerable, owing to their investments in the US sub-prime market. The drying up of liquidity on the international market made the finances of a number of EU Member States appear increasingly fragile.

Before Greece floundered and the threats to the Eurozone emerged, from the autumn of 2008 three EU members that were not members of the Eurozone were confronted with balance of payments difficulties: first Hungary, then Latvia, and

finally Romania. To help these countries the EU reinforced its Balance of Payments facility, endowed with 50 million euros (Degryse, 2012: 20). Greek Parliamentary elections in October 2009 were to reveal that the economy was adrift. Following the PASOK victory the new Prime Minister announced that the government deficit was not 6% of GDP, but 15.4 %. The result of this announcement was a loss of confidence within the Eurozone, a downgrading of credit ratings for countries deemed to be risky, and an increase in the cost of government bonds on the international financial market. Greece was the first country to turn to the IMF for a bailout in May 2010, followed by Ireland (albeit for different reasons) in November 2010 and in May 2010, Portugal. In May 2013 Cyprus received its first IMF bailout (although it was given bilateral assistance in December 2011) and speculation also mounted that Italy and Spain would require bailouts. During the crisis much attention has focused on the Mediterranean Member States and the EU's (in)ability to resolve financial turmoil – but what has been happening in the CEE states?

During the early stages of the crisis, Raiffeisen, Erste, UniCredit and Swedbank, which dominate the banking sector in CEE, were all facing liquidity problems at home and became reluctant to transfer capital to their subsidiaries in CEE. Second, the drying up of the foreign investment in the region which had plugged current account deficits by providing a steady flow of hard foreign currency left many governments struggling to repay their international credit obligations. Credit ratings of state bonds were downgraded and country risk indicators deteriorated sharply. National currencies were shaken with devaluations of between 20-25 per cent for the Polish Zloty, the Hungarian Forint, the Czech Koruna and the Romanian Lei. This created

further problems because a significant proportion of mortgages and private sector loans in these states are in foreign currencies (58 % of Polish and 85 % of Hungarian mortgages). The devaluations increased the costs of such liabilities and concerns were raised that CEE would suffer from a debt shock and be unable to repay its foreign denominated loans (see: Galgóczi, 2009).

To resolve the effects of the financial crisis in CEE, governments have initiated a variety of policy responses. In the Baltic States and Hungary, governments have opted for internal devaluations to restore competitiveness (such as cutting wages). Despite not entering into recession Poland has nevertheless faced an increase in unemployment, particularly in the export driven sectors such as car manufacturing. To resolve some of these pressures, the Polish government has allowed the exchange rate in relation to the euro to devalue by some 20-30 per cent (Meardi and Trappmann, 2013: 1-3). Within CEE there have been political discussions focusing on the vulnerability of an economic model dependent on foreign investment and the economic cycles of other countries. However, this debate has focused on economic policy and has not spilt-over into the broader concerns of a liberal employment and social policy model. When employment policy has been discussed, it has been in relation to the vulnerability of employees under such an economic model, rather than concerns over the welfare of workers once they are actually in employment. In this respect, while economic policy in the region may witness some significant changes over the following decade, employment and social policy is likely to remain on its current trajectory given that since the onset of the

crisis, employment relations in the region have been further weakened (Meardi and Trappmann, 2013; Stanojević and Matej Klarič 2013).

The financial crisis has proved to be an 'exogenous shock' to the EU, yet rather than being one which alters the fundamental direction of European integration, such as a greater emphasis on combining economic growth with social cohesion as embodied in the first half of the Lisbon Strategy, it is very much 'business as usual' in so far as market integration remains the number one priority. As the EU has responded to the Eurozone crisis, there has been little mainstream discussion of expanding its role in employment and social policy and EU governance has continued to prioritise market integration. Member States who have received bailouts or who have been under severe financial pressure have implemented austerity programmes that cut spending, increased taxes and have attempted to deregulate and liberalise certain aspects of their economies, including making labour markets more flexible. But even if there was such a political momentum at the EU level for a more balanced process of European integration between economic policy in the one hand and employment and social policy on the other, the extent to which integration within the European social dimension can be extended is questionable. Since 2004 the regulatory coalition has been weakened and the UK and its allies in the liberal coalition have shifted from being in a minority position on issues relating the ESD, particularly within the Council, to being an equal and sometimes majority position. This is not to say that the liberal coalition is always capable of achieving its objectives, but it is at least capable of ensuring that policy outcomes remain flexible and are difficult to achieve. While the road to integration in the ESD has always been slow and fraught

with difficulties, the 2004 and 2007 enlargements have ensured that current agreement and policy outcomes are even more difficult to achieve. The evidence presented in the proceeding chapters points to a more liberal dominated period for the EU's clash of capitalisms and while the finger may be pointed at the Eurozone crisis as the factor behind the stalling of integration in the ESD, it is but one factor, given there was very little momentum to integrate in the years preceding the crisis. For those of us who aspire to something more than a mere free trade union on the European Continent, this is all disappointing news.

¹ For more in depth analysis see: Carmassi, Gros and Micossi (2009); Eichengreen et al (2009); Hodson and Quaglia (2009).

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