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How Social is European Integration?*

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Abstract

The social dimension of the internal market or of the EU more generally has recently been under quite fundamental attack. Calls for 'Europe' to be 'more social' have been heard repeatedly. Witness the polarized debates about the services directive, the anxieties concerning several ECJ cases about what limitations of the free movement of workers (posted or not) are justified or the assertion of a 'neo-liberal agenda' in Brussels disregarding or eroding the social dimension.

This BEEP Briefing paper takes an analytical approach to these issues and to the possible 'framing' involved. Such an analysis reveals a very different picture than the negative framing in such debates has it: there is nothing particular 'a-social' about the internal market or the EU at large. This overall conclusion is reached following five steps. First, several 'preliminaries' of the social dimension have to be kept in mind (including the two-tier regulatory & expenditure structure of what is too loosely called 'social Europe') and this is only too rarely done or at best in partial, hence misleading, ways. Second, the social acquis at EU and Member States' levels is spelled out, broken down into four aspects (social spending; labour market regulation; industrial relations; free movements & establishment). Assessing the EU acquis in the light of the two levels of powers shows clearly that it is the combination of the two levels which matters. Member States and e.g. labour unions do not want the EU level to become deeply involved (with some exceptions) and the actual impact of free movement and establishment is throttled by far-reaching host-country control and the requirement of a 'high level of social protection' in the treaty. Third, six anxieties about the social dimension of the internal market are discussed and few arguments are found which are attributable to the EU or its weakening social dimension. Fourth, another six anxieties are discussed emerging from the socio-economic context of the social dimension of the EU at large. The analysis demonstrates that, even if these anxieties ought to be taken serious, the EU is hardly or not the culprit. Fifth, all this is complemented by a number of other facts or arguments strengthening the case that the EU social dimension is fine.

Keywords: social policies, EU, European integration, 'social Europe'.

JEL codes: I31, O52, F15.

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1. Introduction and purpose

The social dimension of the internal market, or of the EU more generally, has recently been under quite fundamental attack. Calls for 'Europe' to be 'more social' have been heard repeatedly. The battle in the European Parliament about the services directive and the turmoil around it led to sharp, at times ideological, debates about the undermining of the social dimension or of 'social Europe' by providing too much scope for anti-social regulatory competition under the 'origin principle' and a too radical erosion of the autonomy of national social regimes. Amongst the labour unions, there is great anxiety about several European Court cases dealing with the meaning and justified limitations of free movement (of workers, posted or not) and establishment. In some member States, specific 'social' aspects or suspected consequences of the internal market or, allegedly, of EMU have aroused sensitivities and e.g. in France, the 'NO' against the European constitutional treaty was preceded by a public debate in which the EU was attacked by some parties as following 'a neo-liberal agenda', disregarding or eroding the social dimension.

It is important to professional students of European integration and other interested observers, not to take these allegations too lightly, while, at the same time, identifying where and to what extent 'political framing' of the social dimension is employed as a political tactic in times of uncertainty and rapid change. The political framing of these debates – both constructively, e.g. in Social Summits, and negatively in turning the EU into a culprit - must be confronted with sober analysis and an overall view of the facts. Political framing may seek to *enhance* political legitimacy of the EU, both in the Brussels circuit and at home, by emphasizing the social dimension in highly ambitious but vague terms. Negative political framing, in speculating about a neo-liberal agenda reducing or damaging 'Social Europe', hopes to rally voters behind certain parties or coalitions for short-run political gains.

Such framing responds to certain social anxieties in Europe and to fears of prospective losers, in particular, relatively low-skilled workers or employees from industries subject to threats of relocation. Political framing is therefore not 'irrational' but, more often than not, suffers from a lack of detached analysis. Indeed, there is little receptiveness for sobering analysis, for the simple reason that it is unattractive for the media and far-too-complex for political debate dominated by sound-bites, popularity polls and the occasional (a)social incident.

Taking a careful look at the social dimension of European integration, not least in the internal market, reveals a very different picture than such negative political framing has it. In assuming an analytical approach, *the message of the present contribution is that there is nothing particularly 'a-social' about the internal market or the EU at large !*

The structure of this essay is as follows. Section 2 summarizes a few important 'preliminaries' for studying the social dimension. Already here, much of the political debate and media presentations lose out, as they usually ignore such preliminaries and, in so doing, perpetuate misunderstandings. The discussion is staccato, for reasons of space. Section 3 captures, again in staccato, the current 'social acquis' of the EU. This acquis is modest, but it ought to be noted that this modesty is exactly what is wanted by Member States *and* the social partners (in wherewithal of their warm generalisations of Europe's social ambitions). Moreover, the European Union is a two-level government structure and, therefore, the social acquis has to be assessed together with the national social 'models' which have largely developed autonomously. Section 4 zooms in on the social dimension of the internal market. Section 5 moves beyond the internal market to the EU more generally and the wider socio-economic context of European integration. Section 6 complements the many points in Sections 4 and 5 with several other arguments and key facts demonstrating that recent political framing about a 'forgotten' or reduced social dimension is simply false. Section 7 concludes.

2. Preliminaries of the European 'social dimension'

There is a powerful tendency in debates all over the European Union to avoid precision when coining or employing labels such as "Social Europe' or 'the' social dimension. Accusations are often made in general slogans such as a 'neo-liberal agenda', the image of the 'plombier polonais' or 'social dumping', whilst constructivist approaches employ 'warm' words, yet carefully stick to non-committal language. This is one important reason why one should spell out the contours of the EU social acquis and its meaning, as Section 3 intends to do.

Part of the ambiguous language employed by stakeholders in the social debate can be explained by the (lopsided) structure of the EU social acquis and the great political sensitivities underlying it. A major example of the ambivalence in the debate about European social policy can be found in the Social Protocol, attached to the Maastricht treaty. Hailed as an important addition to the social acquis, the Protocol is actually modest at best, but acquired a symbolic political meaning when the British (after first having watered it down in negotiations) refused to accept it. When the Blair government signed it in 1997 and the protocol became part of the regular treaty text, very little substantive change in EU social legislation was witnessed subsequently. From an analytical point of view this is not surprising since the social acquis was only marginally strengthened by the protocol. It was the political symbolism that made it seem crucial. The initial British refusal concealed the unwillingness of *other* Member States to support significant additions to the social acquis.

Ambivalence of language, general references to high principles and lack of commitment to (further) action at EU level is not the only veil through which one has to gaze before appreciating the debate about the social dimension. At least as important, and interdependent with the former point, is the loose application of the term '*European*', deliberate or not. However, such looseness is likely to cause confusion and can be – and sometimes is – strategically misused to convey biased messages. Speaking about Social Europe refers to two levels of government (or, as the case may be, encompassing agreements between the social partners): the EU level and that of the Member States. Focusing on one without the other can be seriously misleading. Thus, if the EU undertakes a major initiative deepening the internal market (say, EC-1992 between 1986 and the end of 1992), it does not follow automatically that the EU ought to have an equally ambitious social programme. This conclusion should hinge on the interaction between that deepened internal market and the national social accomplishments, diverse as they are between Member States. If that interaction remains selective and moderate, the EU social dimension could well remain modest, too, and yet be fully appropriate. After all, the diversity and autonomy of national social models is quasi sacrosanct in the Union, for historical, political, social, cultural, legal and sentimental reasons. Therefore, the policy response to EC-1992 at EU level only consisted of (i) a general commitment to a 'high level of social protection' (a political response to fears of Thatcherite downgrading of entitlements), (ii) a few sets of minimum rules at a low level of commonality preempting a 'race to the bottom' (see Section 3.), (iii) the institutionalisation of a Social Dialogue, with limited regulatory features between Social Partners at EU level and (iv) an

increase in the (relatively small) means of the Social Fund. Note that item (ii) consists of two elements : a response to enhanced competition in *goods* markets by regulating occupational health & safety rules for workers (influencing unit labour costs of goods), which was done extensively, and a response to greater (indirect) competition in domestic *labour* markets¹, which was done minimally (so as not to undermine diversity and national social autonomy). The deepening of the internal market at the time was selective (despite the rhetoric to the contrary): services liberalisation was limited to some sectors only (finance & transport mainly) and next to nothing was done about restrictions to the free movement of workers and/or accompanying harmonisation for that purpose. This selectivity is explained by taboos at the EU level: the national regimes prevail, even if that implies 'holes' in the internal market fabric.

The strong emphasis on the national social models also forms an incentive to search for cooperation among Member States which does *not* legally constrain national autonomy, yet does facilitate responses to all kinds of pressures which occur EU-wide but are not due to European integration stricto-sensu. This subtlety is exceedingly hard to get across beyond experts and specialized officials. The Lisbon process and its predecessors (e.g. the Luxembourg process for employment strategies) *would seem* to be at the EU-level; indeed, even the same leaders show up and the Commission is involved and publicly so. Nevertheless, the EU has no formal powers or responsibility other than a vague underpinning of 'coordination' (e.g. art. 99, EC). It is the *collection of Member States* which is in charge and the measures at stake are national, highly diverse and yet 'coordinated' (but without any stick or other credibility trigger). This unclear and splintered set-up, without much political 'ownership' at the domestic political levels, is nonetheless presented as 'Europe'. It is tempting for political leaders to make glamorous social statements in summits but it is far-fetched to call this an EU process which would be part and parcel of its social dimension. Unless, of course, one is prepared to identify the diverse national social regimes as part of the EU and, in so doing, deny the two-level character of European integration. The problem, hence the ambiguity, is that political and social actors are often not clear about the true consequences of the social elements of 'Lisbon' and suggest that it is part of 'social Europe', even if it is decidedly *not* the EU social dimension. In fact, it amounts to a kind of OECD-plus, EU-style, of national social modernization and gradual adaptation, without much, if any,

¹ Such indirect competition is prompted by mergers & acquisitions, restructuring, possible relocation and fears of excessive cost cutting for inefficient firms or due to new entrants.

substantial addition to the EU social dimension. However, in the press and public political debates these subtleties get lost and confusion reigns.

3. What is in the EU social acquis today ?

Table 1 specifies the contours of the EU social acquis of today. The text should largely speak for itself and the annotations may help the reader. An elaboration of the various elements is not possible for reasons of space constraints.² But some key conclusions can be drawn.

First, broadly spoken, it is misleading to assert that the free movements and free establishment have prompted a race to the bottom or are a permanent menace to social achievements in EU countries. This is not to deny that specific sensitivities can arise (see further). Suggestions about the a-social bias of the internal market (allegedly caused by a 'neo-liberal agenda') are hard to substantiate when the EU has a self-imposed obligation to maintain a high level of social protection, when the free movement of workers is severely curtailed (reducing competitive pressures in domestic labour markets, in particular in countries with high labour costs), when migration in the Union is subject to host country control (which takes away the competitive pressure for local wages), when posted workers also enjoy host country control for key aspects including wages, and when EU labour market regulation ensures a minimum level of social protection and, as to gender rights and occupational health & safety, entails far-reaching rules which have greatly improved these areas for many workers and beneficiaries. Besides, the Social Dialogue and the Lisbon process have supported social modernization and offered consultative frameworks, with some concrete outcomes in the margin.

Second, where the EU is largely or entirely absent (e.g. social spending), this is an expression of what Member States and social partners want. As noted, this has to do with profound solidarity notions of voters and is enhanced by the lock-in of workers and other beneficiaries from the national welfare states, including path dependencies and engrained expectations. Nothing in the last two decades suggests that the national welfare states (including regulatory aspects) are on the way out, even if they have been cleansed from excesses and even if reforms of some entitlements like pensions have proved to be inevitable.

² See Pelkmans, 2006, Chapter 15 as well as the literature quoted there.

Table 1: EU Social Acquis

	EU	Member States	Annotations
social spending	none, for equity; tiny, for adaptation & capacity building (Soc. Fund; Globalisation. Fund)	huge redistributive transfers + social insurance (hovering around 25 % of GNP)	political, social, financial and tax solidarity is typically based on nationhood & cultural affinity; EU level very unlikely
labour market regulation	<p><u>ambitious regulation</u>:</p> <p>→ occupational health & safety for workers</p> <p>→ equal treatment men/women</p> <p><u>minimum rules</u>:</p> <p>→ modest min. rules for e.g working time, atypical workers, maternity leave and part-timers</p> <p>→ posted workers' rights</p>	<p>the overwhelming part of labour market regulation is <u>national</u> and autonomous (i.e. unconstrained) above EU minimum rules and the 2 instances of ambitious harmonization;</p> <p>thus, heterogeneity between EU countries is strong ;</p> <p>powerful and complex links with local welfare states</p>	<p>note that wage harmonisation is excluded explicitly in the treaty ; regulating employment protection (e.g. for 'insiders') as well as social security & protection at EU level is under veto; the many links with the local welfare states create a powerful 'lock-in' at the national level;</p> <p>different traditions and heterogeneity of rules / practices as well as lock-in cause significant and robust fragmentation of the EU labour market (i.o.w. EU rules might pre-empt a race to the bottom, they do not really support an internal market for labour)</p>
industrial relations	<p><u>Social Dialogue</u></p> <p>→ sectoral (techn.) agreements</p> <p>→ 6 specialized social directives</p> <p>Work Councils for large EU firms</p>	<p>industrial relations remain essentially national; roles Social Partners very diverse; in some countries, specific laws are even substituted by collective agreements; socio-economic Councils exist in about half of the Member States and few have prominent status</p>	
Free movements & establishment	<p>the 'free movement of workers' (art. 39, EC) is basically "<u>residual</u>";</p> <p>no detailed liberalization was ever undertaken until a 2001 COM proposal ; litany of problems for frontier workers and migrants;</p> <p>portability of certain accumulated social rights for migrants now works well ;</p> <p>ECJ has reduced discrimination, yet also shielded a large discretion for national restrictive rules ;</p> <p>3 out of 6 enlargements prompted temporary migration bans</p>	<p>numerous restrictions and subtle constraints or discouragements of intra-EU cross-border migration remain ;</p> <p>the national application of the posted workers dir. has become more restrictive over time</p> <p>the cardinal issue is '<u>host country control</u>'</p>	<p>apart from legal and practical barriers to the 'free' movement of workers, the major hindrance for workers to exploit the free movement opportunities consists of 'host country control';</p> <p>in the presence of large wage gaps, this principle has a very protectionist effect;</p> <p>for posted workers, host country control is included except for social charges but the presumption is that the country has minimum wage legislation ; if it has not, the issue is whether collective agreements can be the basis for host country control, which would render the principle even more restrictive (ECJ cases Laval & Viking awaited);</p> <p>independents or one-man companies offering temporary services can get around host country control (but this is hardly a sustainable strategy for such workers)</p>

Welfare states' reforms are driven by issues of (financial) sustainability and fairness between generations, *not* in and by itself by European integration. It is unlikely that EMU has been decisive either (see further). This also goes for industrial relations. The present, prudent but moderately productive Social Dialogue should not be dismissed too easily, because the member associations making up the European social partners certainly do not wish to cede power, so prominent at national level, to fragile European processes, for reasons of history, diversity and lack of EU-level responsiveness to local issues and political processes.

Third, lest it be forgotten, the free movements are too rarely presented as an opportunity, even though that was and is the spirit of the EC treaty! Especially the offering of cross-border temporary services via the posting of workers amounts to a boon for the workers involved, if properly contracted. The free movement of workers (i.e. not posted but for 'normal' jobs), when contracted in another EU country, equally amounts almost invariably to a major boost in incomes for such migrants. The free movements are therefore supporting a higher standard of living in areas of the Union where prosperity is still wanting. Certain politicians and labour unions portray the free movements as a threat, as 'a-social' because they would pit workers from different EU countries against one another. A mere glance at Table 1 shows that this assertion cannot have much substance in the light of retained restrictions *and* host country control. It is true that unrestrained wage competition in (say) the EU-15 countries has not been accepted since the 1950s (if not much before) and an influx of workers (both posted and more permanent) from low-wage EU countries will therefore cause anxiety and fears, unless host-country control succeeds to reduce it to a trickle. But that is exactly what the EU social acquis does for a long time already. From this point of view, the EU acquis is surely not 'a-social'.

Nevertheless, when thinking in terms of opportunities for migrants inside the EU, the word 'social' might sound a little one-sided. If the term 'social' is meant to refer to a protection or uplifting of the (relatively) *poor* workers in the EU, and not solely the protection of the relatively rich workers in (say) the EU-15, isn't it correct to regard the restrictions introduced on the occasion of no less than 3 enlargements as well as host country control as distinctly *a-social*? Both features rob the workers from poor EU regions from attractive opportunities seemingly provided by the internal market and eagerly awaited by them.³ Even if one,

³ The reader will immediately understand this for the restrictions, but might wonder why this would hold for host country control. As a simple analytical graph can clarify (Pelkmans, 2006-b, p. 198), host country control

understandably, wishes to stick to a degree of protection for the workers from the EU-15, why is this interest not balanced against the interests of workers from cohesion countries, for example, by at least allowing some flexibility in host country control and/or disciplining the restrictions in enlargement negotiations? Such a balance would restore some scope for opportunities of relatively poor workers seeking an improvement of their standards of living by migrating inside the internal market. And seeking a balance in this regard should apply to all Member States, including the three EU countries not having minimum wage legislation, because the issue may work out in an extremely unfavourable fashion for the poor EU workers.⁴

Fourth, Table 1 does not include the European employment strategy mentioned in the treaty since 1997. One can take the position that it belongs to the social dimension (after all, it is in the treaty) but its process is a blend of intergovernmentalism and consultations with the social partners, whilst the measures are essentially national (except for a minor influence of the Social Fund). Again, it is a Europeanized OECD-plus, most useful for agenda setting, reforms of domestic labour markets and modernized social protection systems, but it is exceedingly hard to detect a firm addition to the EU social acquis.

in the presence of significant wage gaps between EU countries has the effect of *drying up the effective demand* for migrants from (say) EU cohesion countries. Thus, rather than realizing the seemingly honorable idea of equal wages for all workers on the same workplace (while formally allowing free movement), what it does in actual practice is to pre-empt such migrants from being in demand, unless there is a true shortage of labour supply in the sector. Hence, with host country control, attractive opportunities for relatively poor workers in the internal market are foregone.

⁴ These three countries are : Sweden , Denmark and Germany. The idea behind the absence of minimum wage laws is that it is only up to the social partners (not the government or legislature) to set wages in collective agreements. Such practices tend to pre-empt minimum wages for general social reasons, common in most EU countries, where wages in collective agreements are usually higher. Such a wedge provides at least some scope for practical flexibility in applying 'host country control'., hence at least some opportunities for workers from poor EU regions. For Sweden, Denmark and Germany, the *dichotomy* is between complete imposition of collectively agreed wages, also for migrants or posted workers, and severe undercutting of collective wages by migrants or posted workers, if cleverly (yet, legally) contracted under the free movement of workers or of services (possibly constrained by the posted workers directive, dependent on the laws of their home countries). This dichotomy is bad on both sides of the equation: full imposition of collective agreements is an extreme form of host-country-control, even beyond what other EU countries maintain, removing *any* possible opportunity for poor EU workers to exploit their advantages in the internal market ; severe undercutting of wages, on the other hand, discredits the EU as being 'a-social', even if the root of the problem is the domestic unwillingness to enact minimum wage legislation as a fall-back option in case of EU migration or posted workers. In the Laval case (C-341/05) [see ECJ, 2007, par. 309] Advocate-General Mengozzi struggled with this dilemma, but his legal opinion ignores the opportunities for poor EU workers – it is all about "the" social protection of workers (he clearly means local Swedish workers only !) and the fight against social dumping (ignoring that, with collective agreements, anything less is then tantamount to social dumping, again taking away any scope for opportunities for (here) Estonian workers).

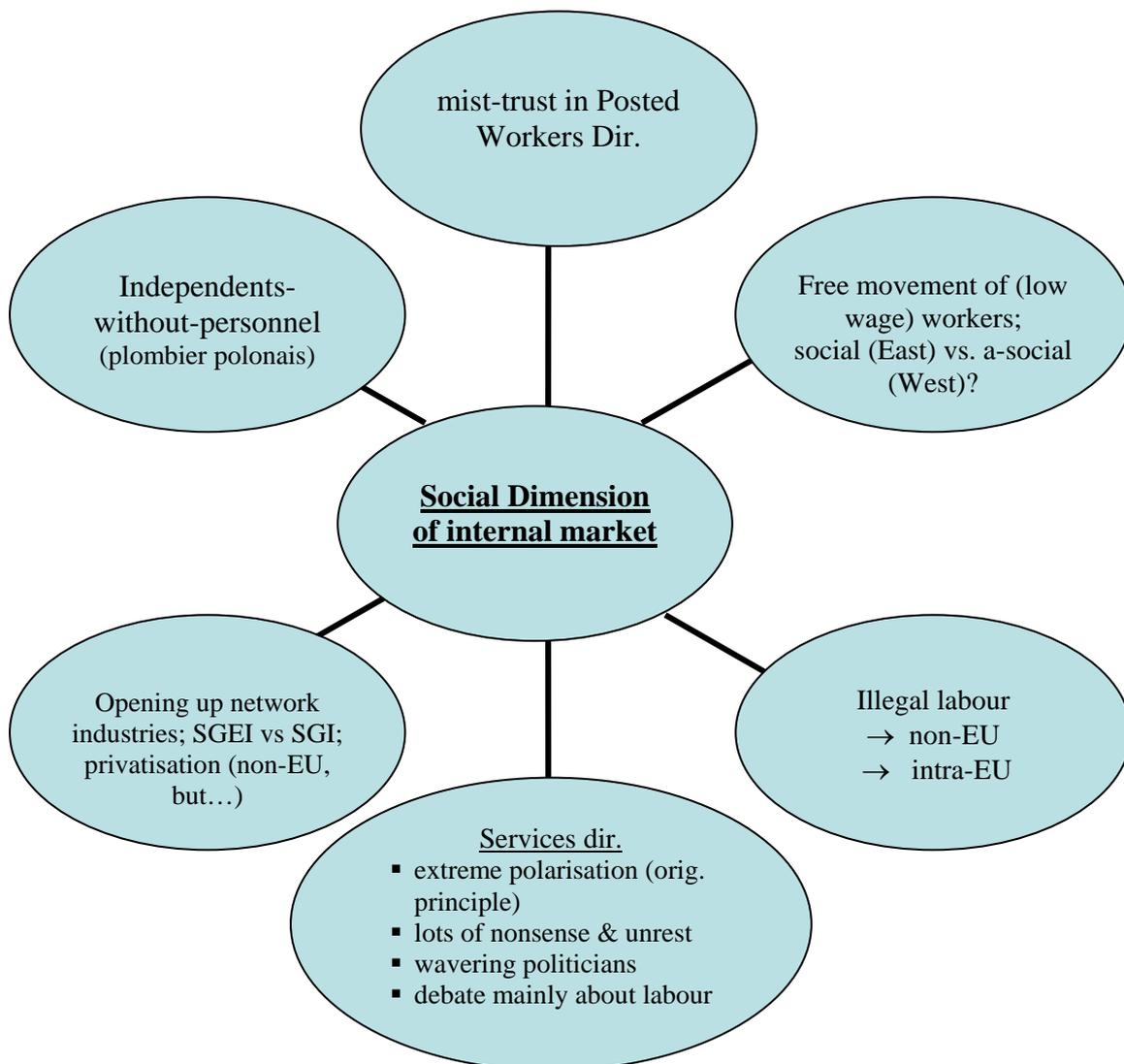
4. Anxieties about the social dimension of the internal market

Section 3 shows that the internal market and the social dimension are finely balanced, sometimes via (permitted) restrictions to shield national social arrangements, sometimes on the basis of tested derogations via case-law of the European Court of Justice and sometimes by EU-level regulation, consultations and/or subsidies. This fine balance has to be understood in the context of a two-level system of national and EU complementarity, with the bulk of substantive social protection remaining at the Member State level. This overall state of social affairs has not changed notably in the last few years. It prompts the question why political and social debates in several countries and sometimes also in e.g. the European Parliament have demonstrated a degree of disenchantment with the internal market or, rather, with the alleged failure of the EU to accompany the deepening of the internal market with flanking social measures or conditions.

An attempt to address this point is made with the help of Figure 1. The idea is to identify six key issues having potentially important social repercussions which might have discredited the internal market in the eyes of some. One of these anxieties is plainly *national*, yet is more often than not perceived as a result of *European* integration: illegal labour due to the sloppy enforcement of national labour law by national authorities. The reason that it is linked with Europe in some vague sense, is due to the fact that illegal workers are non-national, be they from EU countries (but evading host country control and/or restrictions) or third countries. Clearly, the EU social acquis has nothing to do with bad enforcement of national law but in the eyes of many workers an emotional connection is made. A massive inflow of illegal Polish building workers in Berlin (before Polish entry) undermined the credibility of the social dimension, no matter how solid this might appear on paper. It also confirmed the sentiments of unemployed building workers that they were the first losers of enlargement.

The other five anxieties are directly linked to aspects of the internal market. Four of these are about free movements, one (network industries) is far more complicated by nature.

A first couple is free movement of workers and the infamous 'plombier polonais'. There can be little doubt that the free movement of workers has been a sensitive issue ever since the Greek and Iberian enlargement (1981 and 1986, respectively).

Figure 1: Anxieties about the social dimension of the internal market

It is important to separate facts and rules from perceptions in the minds of workers and the public at large. As to facts, migration flows from the EU-South have remained limited (despite initial wage gaps), partly due to the unemployment in Western Europe during the 1980s, followed by modest return- migration recently. During the first seven years after Greece and after Spain & Portugal became EU members, migration was restricted under the accession treaties. Wage effects of this migration have been minimal or absent (possibly, due to host country control). Nevertheless, the perception when Eastern enlargement was due, was not influenced by the rules and previous experience but by fears. With restrictions up to seven years (both in 2004 and again for Romania and Bulgaria, in 2007) *and* host country control, it is not easy to understand such anxieties. Strictly, the 2003 wage gaps being larger than e.g. in

1985 for Spain and Portugal matters little if host country control is properly imposed. The restrictions applied all over continental EU (not in Great Britain and Ireland, as far as the 2004 enlargement is concerned). One is driven to the inference that, somehow, the EU formal social dimension was not sufficiently credible in the EU-15 in the eyes of the public or, more specifically, in the eyes of low-skilled workers or others fearing to lose out from an inflow of eastern EU workers.

This lack of credibility has several sources, one being illegal labour (see above). But a non-trivial contribution sapping credibility was the *porous*, actual protection from the formal EU social dimension, that is, from the combination of host country control and restrictions. In some sectors or countries, the posted workers' rules (about temporary cross-border service provision, say, in building repairs or industrial cleaning, etc.) were not seriously enforced, adding further to the cynicism about European integration among the 'losers'. In yet other instances, evasive constructions emerged, prompted by the lucrative nature of such arrangements, thereby bolstering the belief that host country control exists only on paper. One such construction (especially in building & repairs) is to have a chain of subcontractors or other intermediaries, concealed by a general contractor acting strictly according to the rules but not doing the work. The subcontractors or intermediaries often enjoy a de facto discretion to act as temporary service providers on a very short run basis (and in so doing avoiding the host country wages). The fly-by-night character of such arrangements or the channeling via dubious instead of bonafide employment agencies create serious obstacles for enforcement. One interpretation of the 'plombier polonais' consists of these practices. A more prominent and fully legal evasion of the social protection in EU rules is that individual workers (say, a Polish plumber) starts a company under (here) Polish law but attracts no personnel – he acts alone. Lawyers in the new Member States quickly spotted this hole in the EU-15 social fortress. The *company* of the plumber can now contract a service task for a total sum of euros, but that estimated total is not bound by wages of the host country⁵, implying that the *plumber* will work for wages somewhere in between Polish and Western wages, that is, below host country wages. Most probably, that construction has given rise to the "plombier polonais" image in France but also in a range of other EU-15 countries. Admittedly, this construction only works for minor works or a modest combination of minor tasks. Nevertheless, the failure of the EU to ensure at least some conditionality for such firms without personnel so as

⁵ Incidentally, that would also be true for individuals from the EU-15, even if - for them – this is hardly attractive, of course.

to minimize evasion, has damaged the image of the EU social dimension precisely with low skilled workers and building workers having been confronted with such competition.

A second couple is the mistrust in the posted workers' directive and the further liberalization of services in the internal market. The former has already been addressed: lack of enforcement in some cases and the relative ease of finding ways around the directive. The latter - the Bolkestein draft directive - led to a great many anxieties, some justified, most of them not. The present essay cannot possibly do justice to the entire debate about the draft directive, given its complexity as a framework, its reliance on complicated ECJ case law, its many derogations, the simultaneity of the free movement of services and that of establishment of service firms and the various tactics of numerous lobbies including labour unions, political groups and indeed also EU countries (see Pelkmans, 2007, for a short overview). Anxieties were greatly heightened by almost 'nuclear' tactics of some public service unions and others against the origin principle, or, rather, against a caricature of the free movement part of the draft based on the origin principle. Initial demonstrations carried banners stating that the posted workers would suffer (incorrect) or that services of general economic interest (the former public utilities) would be liberalized though this backdoor (incorrect).

What worried many EU workers, if not citizens at large, was the mere idea that a service provider would only have to apply his domestic laws elsewhere in the Union. Some feared, understandably, that providing firms would tend to drift to low-quality EU countries and act from there ; others believed (wrongly, except for the evasive constructions, see above) that wage levels would be subject to the origin principle. The entire debate was conducted in terms of anxieties, hardly or not in terms of its purpose, namely, to overcome numerous unjustified or disproportionate barriers to services provision in other Member States! Many services sectors presenting no problems to the typical low-skilled potential losers were nevertheless severely hindered in their EU-wide business strategies; these sectors and the gains they could enjoy received no attention whatsoever. The free establishment part of the directive (a significant step forward for the internal market), where the origin principle plays no role, was hardly mentioned, let alone appreciated for its merits. Indeed, the anxieties can be nicely captured by the observation that the socio-political debate about the services directive was hardly about services but mostly about labour aspects and about a long queue of lobbies trying to obtain derogations (until even the taxi drivers got one). Anxieties led to curious bedfellows such as the communist CGT with the Swedish and Danish labour unions (because

in the latter two countries, the refusal of the social partners to have a minimum wage law – they prefer collective agreements at all times - creates great anxiety about the combination of the posted workers directive and the origin principle in the draft). Other anxieties related e.g. to the lack of clarity about health services and education. Add to all this the bigger and smaller (genuine) weaknesses of the draft, and one has a recipe for a social debate risking to undermine benign perceptions about the social dimension.

Nevertheless, it should give food for thought to the reader that one can approach services liberalization constructively and not so suspiciously, if not destructively. This was convincingly demonstrated by the Dutch Socio-Economic Council (SER, consisting of the social partners and independent experts). The SER (2005) wrote a very detailed explanatory report about the draft, how to read and not read it, correcting misleading debates, attempting to repair all the weaknesses or unclear articles in the draft in such a way that the final proposal for an amended directive was unanimously (!) adopted by both social partners and the independents. Note that the origin principle has been retained in the SER version, be it that certain safeguards were introduced. The SER report on the Bolkestein directive would have been an excellent basis for the European Parliament to proceed and would have prevented or unmasked a lot of the negative or unjustified framing about the Commission draft. Nobody can seriously argue that the Dutch SER would not wish to balance carefully the social dimension with the desirable and long overdue services liberalization in the internal market. It shows that much of the anxiety around Bolkestein was unnecessary or artificially inflated.

The last anxiety in Figure 1 is about the opening up of network industries. As is clear from the annual Commission reports about the internal market of network industries ⁶ and the overall approach taken since the late 1980s (Pelkmans, 2001), the introduction of competition, proportionate and justified regulation as well as independent regulators have radically changed these sectors. Broadly spoken, this transformation has brought economic gains for customers, consumers and indeed the former monopolies themselves. Greater responsiveness to demands from customers and consumers and (in most sectors, except in gas & electricity since a few years) downward pressures on prices have been found. The social aspect here has to do with the overall shift away from monopoly and the implications for workers of those former public utilities, but also with the social consequences for vulnerable or peripheral

⁶ European Commission, 2007, Evaluation of the performance of network industries providing services of General Economic Interest, 2006 report, SEC (2007) 1024 of 17 July 2007

consumers. Initial fears about the quality and/or universality of public services in peripheral regions or for the poor have been addressed by allowing considerable discretion at the Member States' level, beyond minimum PSO/USO obligations at EU level which differ between sectors (e.g. quite detailed in the postal sector), plus monitoring and reporting about them. Anxieties have therefore reduced considerably compared to, say, a decade ago. But of course, some social aspects can be regarded as possibly painful, such as labour shedding from overmanned incumbents which is often concentrated in low-skilled manpower. Nevertheless, this unavoidable correction has been pursued gradually. Also, exceptionally good pension rights have remained protected for existing personnel (e.g. by special funds earmarked for that purpose). The anxieties have not been fully removed, however, due to (ill-considered or clumsy) privatization or typical sequencing problems of liberalization and infrastructural investments (e.g. in electricity, for cross-border interconnectors; in rail, for safety upgrading or new track for freight). Privatization is *not* an EU legal competence⁷ but this subtlety gets lost in debates about public services. There is also some anxiety about public services outside network industries which are often non-economic in nature - some groups insist that the demarcation between economic and non-economic is unclear or arbitrary and that it ought to be regulated in an EC directive, whereas a majority in the EP (and the Council) sees more risks than benefits in such a directive. The split in the EP has political reasons: a different appreciation of the (de)merits of rigid demarcation - it appears far-fetched to discern a 'neo-liberal' agenda in the refusal to enact a directive because of trust in the case law.

The conclusion from the discussion of Figure 1 is that the EU has to get accustomed to fierce social debates - as has been so long the case at the national level - but this is no excuse to attribute social anxieties to EU accomplishments or policies, rather than to other factors, as an easy scapegoat. The EU social dimension is getting more important and this phenomenon will not go away. However, if one zooms in on the merits of the arguments or perceptions as set out in Figure 1, only some points seem to have validity at the EU level. As far as these anxieties are concerned, the EU level could have done much better in seriously engaging in social debates and in proper explanation, without woolly, warm but overly ambitious words. This lesson should be kept in mind. At the same time, it is hard to escape the impression that the intensity of most anxieties cannot be explained by EU actions or powers but would seem to spring from the *wider socio-economic context*.

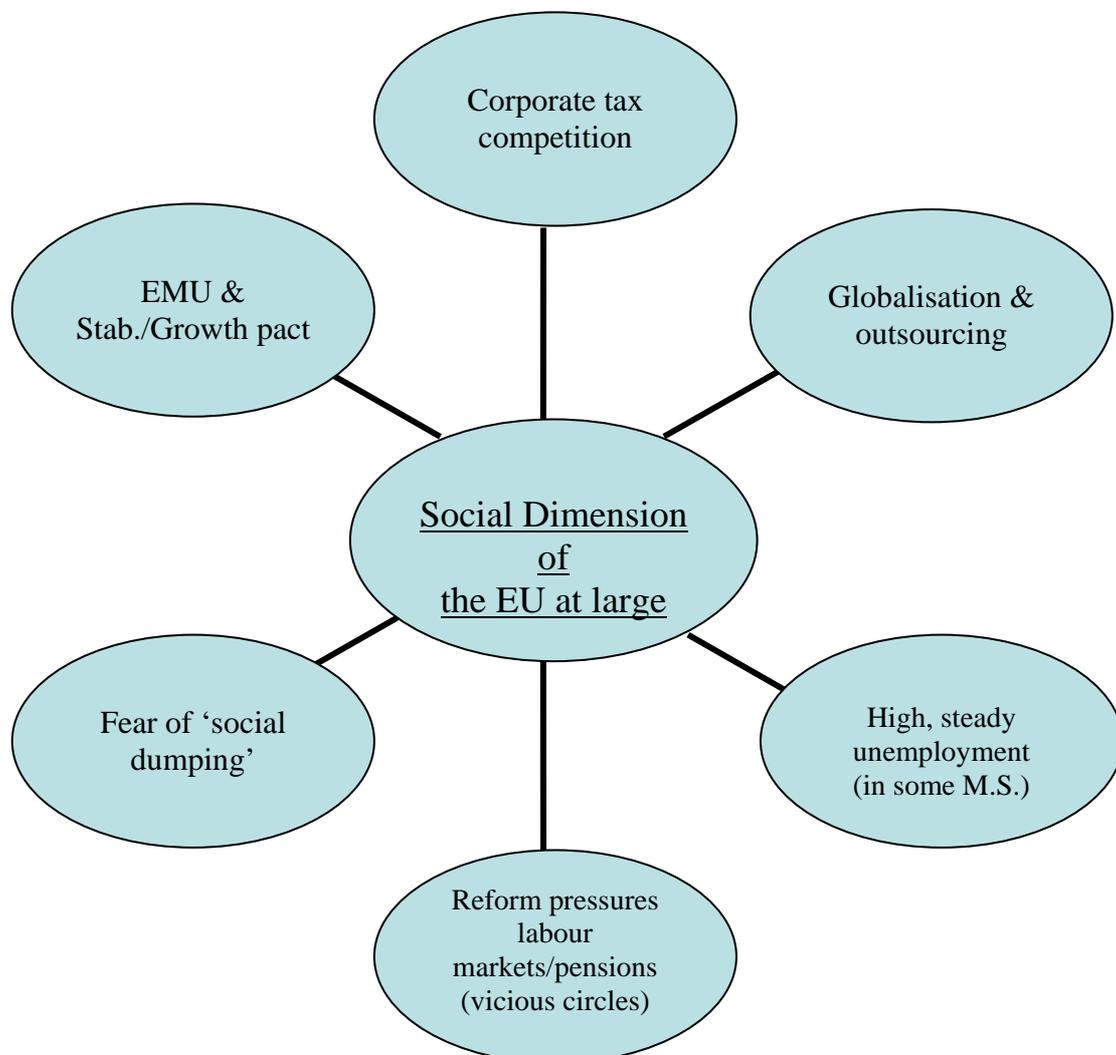
⁷ What matters for the proper functioning of the internal market is a competitive environment in the presence of appropriate regulation, not the ownership itself.

5. How the wider EU context exacerbates anxieties

Figure 2 attempts to sketch the wider socio-economic context of the EU in order to explore whether and how other background factors or trends might exacerbate anxieties. None of the six elements identified in Figure 2 are normally seen as part and parcel of the social dimension of the internal market, yet they might fuel perceptions about it or heighten sensitivities.

Figure 2

How the wider socio-economic context exacerbates social anxieties in Europe



Unlike Section 4, a detailed discussion of all the elements of Figure 2 seems hardly necessary for the central points to be made. The deepening of the internal market since the late 1990s has taken place in a turbulent socio-economic context.

For national policy makers the budgetary constraints of EMU and the Stability & Growth Pact (=SGP) force choices upon them that create domestic political risks and that is perhaps even more the case with the reform of labour markets (some flexibilities and active policies for the unemployed) and of pensions. Increasing corporate tax competition in Europe, where no 'federal' minimum rate or 'common' tax base exists (unlike for corporate taxes in the US, for instance), similarly increases pressures on the revenue and expenditure side. All such constraints are easily misused as reasons to blame 'Europe' (the eurozone, Lisbon and the EU as such, respectively) and voters and some opinion leaders might uncritically join the chorus. Thus, there is a current in some quarters holding that the fiscal discipline of the Stability & Growth Pact would weaken the national welfare states in Euroland.

Ignoring the details of how to best reform the SGP, how big a swing in budgets deficits (beyond the automatic stabilizers) would be permissible; would just about any constraint not be too strict given the inevitable vested interests? Given that cross-border fiscal spill-overs are very small for low deficits, what about ever piling up state debt from higher deficits; would that not squeeze the room for welfare states even more in the light of the heavy interest burden, not to speak of the looming risk of exercising pressure on the ECB to allow higher inflation (and so reducing the real burden). Similarly, domestic reforms as advocated in the Lisbon process have their own merits and make good sense, irrespective of Lisbon. Pensions systems in many EU countries are unsustainable and this intergenerational problem is of great concern for EMU and economic performance; but the root of the problem is not the EU and how 'social' it is. It hinges first of all on what generation one is part of. Labour market reform is understandably sensitive but some (especially several big) EU countries have not seen unemployment figures move below 7 % for decades (not to speak of youth unemployment), whether in boom or recession. There is no escape from the inference that the macro environment, though it matters, cannot cure the disease; market reforms have to alter incentive structures of ("insider") workers and this is bound to be painful. A number of smaller EU economies have successfully reformed, irrespective of their political colour.

In the case of corporate taxation, a striking fact is that the actual revenue received by national authorities (at least, in the EU-15) has not gone down for decades.⁸ A focus on the falling tax rates without noting that the tax base is widened, creates fears which are unjustified. This is not to say that tax competition has no drawbacks: while exerting discipline on revenue-hungry governments, the (always changing) heterogeneity in tax bases causes costly distortions and, if tax rates would keep on declining, revenues would *eventually* reduce, and a collective action problem between 27 governments will have to be solved. There is a case for corporate tax base harmonisation, perhaps complemented by a low minimum rate, so that a degree of tax competition can remain without companies avoiding to foot the bill. The presence of veto power in the Council is the core problem here. So far, however, the revenue impact is moderate or absent.

The flexibility and mobility features of multinationals also prompt other fears which shape perceptions. Social dumping –although purposely ill-defined, it refers to the 'dumping' of good social laws for inferior ones - is an evergreen which arouses anxieties with respect to strict environmental or social regulation or charges. It used to be a recurrent complaint before enlargement, supposedly explaining relocation of companies, and, nowadays, re-appears when discussing the origin principle (see Section 4) or globalization. Surely, aberrations do occur if one holds a too naive (neo-liberal ?) view of market functioning. But if vested interests are affected by entrants or import competition, and if laws or wages are quite distinct, when is it social dumping and when not ? When (e.g. in the 1980s and early 1990s) the EU still had large flows of 'outward processing traffic' in clothing, with tariff exemptions upon return of the goods, was that social dumping ? Is global outsourcing a form of social dumping ? With persistent questions like these and occasional lay-offs due to restructuring or globalization, anxieties tend to become almost permanent and this is likely to be particularly the case amongst the prospective losers of market integration and globalization. One can therefore understand the socio-political motives behind the EU Globalization Fund which intends to reach out to losers and help them adapt. The socio-economic case of some form of lump-sum compensation of losers, when society at large clearly gains, is strong. Unfortunately, this most recent addition to the EU social dimension suffers from an

⁸ In an authoritative survey by Devereux & Sorensen, 2006, their Figure 9 (p. 60) shows that corporation tax revenue as a % of GDP has hovered between 3 % and 3 ½ % for 40 years since 1965. As a % of total tax revenue (Figure 11. p. 62), the GDP weighted average has come down between 1965 and 1983 from 13.5 % to 9 % and fluctuates around 10 % since. However, the median and the unweighted average has moved between 7 % and 9 % until 1993 and moved up to a little above 10 % until 2004. These facts are crucial when observing that statutory corporate tax rates have declined by at least 40 % (EU wide) since 1982 and that both effective marginal and effective average corporate tax rates have also fallen considerably.

unconvincing incentive structure, with the risk of backfiring in a few years from now [see Wasmer & von Weiszacker, 2007].

The anxieties spelled out here matter for social and political leaders and they have to address them, even if measures would not be taken at the EU level. The EU should remain most attentive about social perceptions, in particular when such perceptions are mistaken or exaggerated. Just dismissing, even if correct, is not good enough.. The perverse incentives of national politicians in the Union consist of too swiftly blaming the EU for alleged failures, not least social ones – although, paradoxically, most national politicians would also resist a deeper and more ambitious social dimension at EU level - while improperly claiming the EU benefits as consequences of their own policies. It turns out time and again that the exploitation of such perverse incentives works in domestic politics of most Member States. As far as Figure 2 is concerned, the anxieties shape a very different social context for the internal market than in the 1960s or the second half of the 1980s when much deepening was achieved, and these sensitivities were absent or small while a sense of (social) certainty was widely felt. Nevertheless, the analysis of the context sketched in Figure 2 leads us to conclude that the EU is hardly the culprit.

6. The EU social dimension is basically fine

One can also find confirmations of the view that today's social dimension is basically fine via other routes or facts. I shall briefly mention four.

First, rather than via factual observation or a political 'reading' of the EU social scene, the application of a functional subsidiarity test would lead to pretty much the same result (Pelkmans, 2006-a ; Ederveen, Gelauff & Pelkmans, 2006). The case for social expenditure at EU level in the absence of large potential or actual flows of migrants is non-existent. The link between labour market regulation and the welfare states, and the underlying (e.g. equity and financing solidarity) preferences, imply that such a case will not arise any time soon. A similar preference set can be relevant for industrial relations, be it that the impact of both the European goods and services markets and the incipient EU labour migration play a role, too, and may create a case for limited and selective industrial relations under the Social Dialogue. It is gets more complicated with EU labour market regulation. Under the functional subsidiarity test, the logic of market integration would require both constraints for national

regulation and some degree of (minimum) harmonisation in order to remove or pre-empt barriers to actual or potential labour migration. However, the reasoning here is not always so functional in actual practice for two reasons : (i) minimum harmonisation might be prompted by social preferences (e.g. no race to the bottom forced by regulatory competition) *rather than* by facilitating free movement of workers, but the queries then are 'at what level of ambition?' and 'what about free movement of workers?' ; (ii) labour market regulation is intimately linked with the functioning of the welfare state (including forms of insurance) and this link is broken when regulating at the EU level because there is no EU welfare state (see above). The very strong preferences of Member States and social leaders to retain far-reaching autonomy at the national level is itself a prominent reason to respect under subsidiarity⁹ and this powerful bias in preferences might even override functional considerations of 'completing market integration' (e.g. in services and labour). Progress in deepening market integration requires a balancing act between economic logic and its long-run gains (net of adjustment) and the costs of overriding deeply engrained preferences.

Second, the European Convention of 2002 – 2003 formed a unique occasion to test how 'social' the constitutional treaty ought to be. Unique because the Convention comprised a (slight) majority of *national* parliamentarians, so that there would be no 'EU bias' and deep social preferences at the national level would receive the political attention they deserved. Working Group XI was formed and its conclusions are telling.¹⁰ The Working Party stated that the competences of the Union are 'adequate' and that extension of qualified majority voting (in particular, in art. 137) are very sensitive indeed. The passarelle of the Nice treaty (on the basis of a unanimous decision of the Council) to QMV for art. 137 d, f and g was to be maintained (thus, a pure status quo decision) and QMV for social security and employment relations turned out to be without consensus (hardly a surprise in the light of all the above).

Third, the European Council of 8 & 9 March 2007 speaks about reinforcing the European Social Model (whatever that means) and notes the following. "The European Council highlights the importance of the social dimension of the EU. [...]. In order to ensure the continuing support of European integration by the Union's citizens, it stresses that the common social objectives of Member States should be better taken into account within the

⁹ Remember, a subsidiarity test begins with the idea that policies ought to reflect preferences of voters, which are likely to comprise a significant local element, unless there are overriding reasons to act at a higher level ; the stronger voters are attached to certain preferences, the higher the cost of moving 'up'. See e.g. Pelkmans, 2006-a.

¹⁰ These conclusions are found in document CONV 516/03 of 4 Febr. 2003.

Lisbon agenda.". This sums up nicely the line of argument in this essay. Leaders are aware of the anxieties and of calls not to reduce the importance of the EU social dimension. They subsequently emphasize what the *EU already does* in terms of the social dimension (not quoted here, see Presidency conclusions) and end with ideas on the intergovernmental coordination in the Lisbon process which is based on *national* policies. Hence, a Social Europe is very much, though not entirely, a collection of social EU *countries*!

Fourth, one might study leading ideas and proposals to further the social dimension of European integration. By way of a prominent example, a recent book by a study group of the PES (the social democrats in the EP) led by Jacques Delors and former Danish Prime Minister Poul N. Rasmussen (Rasmussen & Delors, 2007) is markedly different in tone than some of the debates e.g. in France during the referendum or in certain circles in Europe, perceiving a 'neo-liberal agenda' driving the EU social dimension towards marginalization. Starting from a firm statement that the internal market and EMU 'have been of enormous importance', the authors take pride in the social accomplishments of 'Europe', meaning the two-level EU with the dominant assignments at the Member States' level. Nevertheless, they see every reason for striving after a 'new Social Europe' in the light of a number of weaknesses in the European societal fabric as well as the socio-economic challenges ahead, given globalization and global warming. Their 'new Social Europe' should be "green, with more and better jobs ; inclusive, learning, innovative, and cohesive.." (p. 17). This modernisation is based on ten principles¹¹ , to be applied at the two levels of government, and – as far as the national level is concerned – bound together and stimulated, if not 'coordinated', by Lisbon-type processes of agenda setting and mutual learning. This extremely rich book blends a political programme, based on PES ideals of today, with a host of concrete proposals and solid evidence of the EU social dimension as it now stands. The thrust of this approach is consistent with the main line of the present paper : the EU and its Member States have made well-considered choices about the level of government for the various elements of the social dimension, but, as a two-level system, there is little evidence that this social dimension has been weakening or marginalized. At the same time, the internal market and EMU form the foundation of our prosperity and efforts to deepen and widen market integration, open to the world, are both necessary and desirable. How to embed this approach in proper adjustment processes, and at what level of

¹¹ The ten principles are : 1. Rights and duties for all – the essence of cohesion ; 2. Full employment – the basis for the future ; 3. Investing in people ; 4. Inclusive societies ; 5. Universal child care ; 6. Equal rights for women and men ; 7. Social dialogue ; 8. Making diversity and integration our strength ; 9. Sustainable societies, tackling climate change ; 10. An active Europe for people.

government in what form, how to educate workers better for a future in high-performance services and innovation, how to combine modern social protection of the present and of the next generation with a sound incentive structure, all such questions need firm attention. These formidable tasks will largely remain the assignments of Member States' governments and to some degree of the social partners, but the EU and national levels will undoubtedly get more closely entangled so as to facilitate market integration and domestic reforms in an EMU context without undue neglect of temporary losers.

7. Conclusions

This essay has demonstrated that there is nothing particularly 'a-social' about the internal market in the wider sense or the EU at large. Indeed, it is neither necessary nor desirable to pretend that 'Europe' is following a neo-liberal agenda, which supposedly explains a distaste for or a rejection of the social dimension. It is unproductive and damaging to do so and – as the social EU acquis as well as other facts show – it is also unjustified. The social dimension is full of subtleties and nuances and its complexities, in particular a two-tier 'Social Europe', cause it to be vulnerable to populist simplifications and unfounded assertions. Yet, it is rich and finely balanced with 'economic' integration. The EU's social dimension is actually going quite far in respecting national social diversities and autonomy, sometimes even so far as to accept considerable fragmentation of the internal market.

However, this does not mean that one cannot appreciate a number of anxieties related to the internal market (see Figure 1) and, furthermore, yet another series of anxieties about the wider socio-economic context of European integration at large and globalization (see Figure 2). In addition, there are difficult and incisive modernization challenges ('reforms') which generate sensitivities between generations or with certain categories of workers. Undoubtedly, much of that can be addressed solely by each Member State and in its own way, embedded in its own domestic politics. The case that there are common European interests in these national processes is nevertheless a strong one, both for reason of strengthening the internal market and as a result of the great economic interdependence between Member States (and even more so, inside the eurozone). This sense of 'commonness' underpins the relentless processes of consultations, mutual persuasion and policy learning, whilst respecting social autonomy and diversity for most competences. The EU social dimension is therefore complex to 'read'. It simply cannot be adequately characterised by one-liners. That it happens nonetheless is due to

the unreceptiveness of domestic political debates for the sophistication and subtleties of 'the' EU social dimension under the pressure of a range of anxieties. It invites positive political framing by political and (some) social leaders about a woolly 'Social Europe' which remains purposely vague, as well as negative political framing of the kind discussed, notably during recessions. This is why a proper understanding of these complexities among political and social leaders (whose predecessors were at the roots of today's Social Europe) has to form the basis of responsible and constructive conduct for the good of European integration and for the social merits of national arrangements.

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