A Europeanization of Governance Patterns in Smaller European Democracies?

by

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1. Introduction

The European nation states typically have deeply rooted systems of public–private interaction that characterize their respective processes of public policy making. These ideal typical processes are extremely diverse, stretching from one end of the continuum to the other within the realm of the European Union. It therefore seems a pressing question to ask if increasing internationalization and/or, more specifically, Europeanization, will bring about more similarity on that level: Are the national systems of public–private interaction affected by the process of European integration? If so, how? This paper extends the study of Europeanization from the realm of policy contents to that of policy-making patterns, which is a much less researched field so far.[1]

The focus of our empirical study is the *implementation of EU/EC*[2] *Directives*. The rationale is that one should expect any changes to primarily occur in the 'Europeanized' part of the national political systems, i.e. those connected to European policies and their trickling down within the multi-level system. The empirical focus of this paper is *labor law*. This is a major field of traditional national corporatism. At the same time, it is the policy area where quasi-corporatist patterns were formally established even at the EU-level (Falkner 1998).

Our results stem from a collaborative project at the Max Planck Institute for the Study of Societies entitled *"'New Governance' and Social Europe: Theory and Practice of Minimum Harmonization and Soft Law in the European Multilevel System"*.[3] In this project, the implementation of the main EU Directives of the 1990's concerning labor law (on the subjects of work contracts, working time, protection of young workers, protection of pregnant workers, parental leave, and part-time work) were examined in all 15 EU member states. Besides the evaluation of press reports and legal documents, the study, for the most part, is based on semi-structured expert interviews. During the time of September 2000 to March 2001 about 150 interviews were carried out in the member states with ministry officials, representatives of interest associations and national enforcement agencies. This extensive empirical data contains information about the adaptation caused by the Directives and about their political processing in the EU member states. Inter alia, it allows conclusions to be drawn about special aspects of interest intermediation in the multilevel system of EU social policy.

In this paper, we shall first explain why expecting a certain degree of Europeanization of national governance patterns is not implausible (2. below). We will then (3. below) outline a

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1 But see e.g. Héritier (2001) and Lehmkuhl (1999; 2000) on transport policy; Schmidt (1996; 1999a) on economic governance more generally and Green-Cowles (2001) in the field of the Transatlantic Business Dialogue.

2 We shall refer to the more general notion 'EU' (European Union) in many places since this has become a common term in everyday usage, but shall employ the more specific notion 'EC' where we speak about the European Community's specific social policy or labor law.

3 For details and texts please visit http://www.mpi-fg-koeln.mpg.de/socialeurope/.

typology of public-private interaction patterns in public policy-making suitable for detecting major changes, and a framework of factors that mediate domestic adaptation to Europeanization pressures. The latter can be of help in studying effects below the threshold of inter-ideal type changes. This leads us (4. below) to summarizing four country studies on Europeanization of governance patterns in smaller European democracies, i.e. Austria, Denmark, Luxembourg and Sweden. The conclusions (5. below) discuss if there is a convergence of public-private interaction patterns as a result of Europeanization.

2. Why expect an Europeanization of Governance Patterns? Forms of top-down influence

'Europeanization' can refer to a number of slightly different phenomena on at least four different levels. First, it is at times used to refer to the EU-level development of policies and/or policy networks (e.g. Risse et al. 2001). Second, it can mean the reactions in domestic systems to top-down influences from the EU-level, be they directly induced by EC law or indirectly by European policies such as the Maastricht convergence criteria (e.g. Ladrech 1994). Third, Europeanization is used to point out changes at the national level induced by transnational influences (Kohler-Koch 2000a). Finally, some authors take a very broad view and include the sum of all of these notions/levels in their understanding of Europeanization (e.g. Börzel 1999). For the purpose of this paper, we shall adopt the top-down perspective as referred to by Robert Ladrech, and we will try to isolate, as much as possible, the effects stemming from EU's politics and (social) policy from other aspects included in the further above-mentioned concepts.

There are a number of different ways in which the EU may exert top-down influence on the public–private interactions in policy-making at the national level:

1. *The upward shift of competencies impinges on the (potential) scope of national corporatism*: The EU has taken on board a number of competencies so that respective issue areas are withdrawn from the national political arena. Actors, in particular the social partners (when they play a major role), may experience this as a loss of influence vis-à-vis the government. That the EU increases its legislative and other powers can potentially limit the *national* room for corporatist deals. The latter may certainly be replaced by EU-level corporatist deals (as has been the case in social policy recently). In that case, national actors again play a role as members in Euro-federations of interest groups, but that is a different story which does not necessarily directly counterweigh the loss of influence on the national level.
2. The *EC-Treaty invites member states to have their social partners implement EC-Directives* (Art. 137, Par. 4 ECT). The member states are explicitly allowed to "entrust

management and labor, at their joint request, with the implementation of Directives" adopted under that heading.[4] This provision was initiated by the Danish Commissioner Henning Christoffersen (Hartenberger 2001: 146) who wanted to protect the Nordic model of labor law-making, which is based on a great deal of social partner autonomy, from potential Europeanization effects.[5]

3. Additionally, a number of *EC social Directives contain provisions that encourage national corporatism.* For instance, the part-time work[6] and parental leave Directives[7] state that the social partners are best suited for finding solutions fitting the needs of employers and employees and that therefore, they should be given a special role in implementation. Some Directives combine verbal encouragement with incentives such as longer transition periods or additional derogation. For example, the working time Directive[8] allows for derogation "by way of collective agreements or agreements concluded between the two sides of industry at the appropriate collective level". This means that even a national government that has no interest at all in co-operating with labor and industry on labor law matters, must now at least consult these societal actors if it wants to derogate from specific EC norms.

4. A further potential impact of European integration on national public-private interaction patterns is that the existence of a *'corporatist policy community'* in EU social affairs (Falkner 1998) *may be perceived as* a *best practice model* for national systems. There might be process diffusion in the sense that national actors will apply a logic of appropriateness and will follow the much-quoted EU model. The role of framing and of diffusion of policy paradigms and ideas has recently found increasing attention in European integration studies (Kohler-Koch 2000b; Kohler-Koch/Edler 1998). In the case of social partnership (or corporatism, which we consider as synonymous here), note that we are talking about a national paradigm that is a long-standing tradition in many EU countries, but which now has attained some currency at the supranational level and might therefore again feed back into the member states (be it into the same ones that have already been practicing social partnership, or into others).[9]

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4 Governments have, at the same time, to ensure that management and labor introduce the necessary measures by agreement no later than the date on which a Directive must be transposed. Otherwise, the member states are required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that Directive (Art. 137, Par. 4 EC-Treaty).

5 We shall point out below that, due to earlier European case law (as outlined under point five), which restricts this treaty article in a particular way, for Denmark this did not actually work out.

6 Directive 97/81/EC, 15 December 1997, OJ 98/L 014/9: General Considerations, point 8.

7 Directive 96/34/EC, 3 June 1996, OJ 96/L 145/4: General Considerations, point 13.

8 Directive 93/104/EC, 23 November 1993, OJ 93/L 307/18: Art. 17, Par. 3.

9 We avoid bringing in 'learning effects' here, for there is no clear indication that corporatist co-operation in policy making will always result in better solutions. Therefore, learning in the sense of cause-and-effect

5. At the same time, however, from the perspective of EU case law, there are certain conditions that must be fulfilled when it comes to national public-private interactions concerning the implementation of European Directives. Most importantly, implementation via corporatist deals has to secure *full* coverage of the workforce.[10] Not all forms of national corporatism are therefore acceptable any longer when it comes to national public-private interactions that relate to European affairs. The *European Court of Justice may declare unlawful implementation via corporatist deals* that do not comply with its criteria of appropriateness.

Table 1: Potential Europeanization effects on national corporatism

Direction of EU-generated stimuli:		**source:**	**transmission mechanism:**
restriction	on *scope*	EC competencies	*hard*: binding law
	on *form*	ECJ authority	*hard*: binding law
encouragement	*explicit*: for corporatism in implementation of EU law	in EC Treaty	*soft*: up to the member states if take-up or not
	explicit: for corporatist public-private co-operation	in Directives	*soft*: take-up left to the member states
	implicit	in recent EC practice: corporatist policy community might spread	*very soft*: best practice diffusion

3. Operationalizing Europeanization effects on governance patterns

For this paper, we are going to look at four smaller European democracies. Denmark, Sweden, Luxembourg and Austria are all particularly interesting cases in this context since they are often considered to be rather 'corporatist' countries. Note, however, that the academic literature on 'corporatism versus pluralism and statism' is far from uniform in categorizing

relationships cannot be expected to always lead to more national public-private co-operation. National actors may as well 'learn' that exiting from corporatist patterns can at times lead to more policy innovation or even to better solutions (although the opposite may certainly also be true, it all depends on the specific national conditions).

10 See e.g. Judgment of the Court of 30 January 1985. Commission of the European Communities v. Kingdom of Denmark. Equal pay for men and women. Case 143/83. For an overview of relevant cases regarding the implementation of social policy Directives via collective agreements see Adinolfi (1988).

individual countries. In fact, there is *no single authoritative classification of the EU member states* with regard to their patterns of interest politics, and comparative studies do not always draw the same conclusion.[11] Recent Europeanist papers, for example, regarded France, Italy and Spain as statist polities while Austria, Germany and the Netherlands are usually considered corporatist – notwithstanding partly differing definitions (V. A. Schmidt 1999b; Streeck/Schmitter 1994: 215; Lenschow 1999: 16). No agreement exists in the case of the UK: Green Cowles (2001: 165) speaks of pluralist government–business relations while Schmidt (1999b: 1) takes the UK as a statist example. Interestingly, pluralist systems in Europe are hardly explicitly named but rather exist as a residual category, while the US is chosen as the textbook example of pluralism even in the context of discussing EU countries (e.g. V. A. Schmidt 1997: 135).

These diverse positions are at least in part due to conceptual differences between individual authors or projects. There are different definitions of 'corporatism' and 'pluralism' even in recent writings on European integration. Vivien Schmidt, for example, defines 'corporatism' as a situation where interests have privileged access to both decision-making and implementation, and 'pluralism' as one where there is a large set of interests involved in decision-making but where interests have no impact in implementation since a regulatory approach prevails here. Finally, she defines 'statism' as a situation where societal interests are not involved in decision-making at all but only accommodated during the policy implementation phase (V. A. Schmidt 1996; 1997). Beate Kohler-Koch, by contrast, developed another definition of corporatism for the macro level of political systems. Her typology of 'modes of governance' is based on the two categories 'organizing principle of political relations' (majority rule versus consociation) and 'constitutive logic of a polity' (politics as investment in common identity versus reconciliation of competing self-interests). Corporatist governance in her view captures, first, the pursuit of a common interest and, second, the search for consensus instead of majority voting (Kohler-Koch 1999: 26ff). Andersen and Eliassen, in turn, implicitly defined as 'a corporatist structure', one in which bodies consisting of both interest organizations and Community institutions are decisive (Andersen/Eliassen 1991: 17f.).

Confronted with this somewhat disparate state of affairs,[12] *we chose to develop our own typology.* This is even more important taking into account that we are focusing on a particular policy area, i.e. labor law. Therefore, the national patterns of relevance may, to us, differ somewhat from the archetypal national patterns assumed in the classic corporatism versus pluralism debate which has not paid proper attention to meso-level variance. In an earlier

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11 For various rankings of countries in terms of 'corporatism', see e.g. Schmitter (1981), Lehmbruch (1985) and more recently Crepaz/Lijphart (1995), and the country studies in Lehmbruch/Schmitter (1982), Schmitter/Lehmbruch (1979) and Kleinfeld/Luthardt (1993) all with further references.

12 See already Falkner (2000).

paper, Gerda Falkner suggested putting more emphasis on differences between policy areas when analyzing public–private interactions (Falkner 2000). Her typology aimed at reconciling the two political science debates on, first, corporatism versus pluralism and, second, on policy networks. It incorporated a corporatist ideal type as well as a statist one in the well-known issue network/policy community dichotomy advanced by the British policy networks school.[13] Since our ongoing study focuses on a selected number of individual recent decision-making processes rather than following the development of a particular policy network over time, our typology for this paper can be even slimmer. Only the dimension of interest group involvement shall be taken into consideration (i.e. the process, not the structural, dimension). At the same time, a further differentiation is needed for our purpose. This is to account for the specifically 'Nordic model' of autonomous social partner regulation without any state involvement, and for the new EU-level model of 'complementary legislation' where the Council of Ministers adopts Directives that make the agreements binding concluded by EU-level representatives of management and labor.[14]

[13] On the basis of earlier work by authors such as Jordan and Richardson (1983), David Marsh and R.A.W. Rhodes elaborated the dominant typology (Marsh/Rhodes 1992; Rhodes/Marsh 1992) that distinguishes closed and stable policy communities from loose and open issue networks as the two polar ends of a multi-dimensional continuum (the term 'policy network' is thus a generic one encompassing all types).

[14] Three such collective agreements (on parental leave, December 1995; on part-time work, June 1997; and on fixed-term work, March 1999) were implemented by Directives adopted in the Council of Ministers. The most recent agreement on telework (May 2002) shall be implemented by the national interest groups autonomously. For the fate of various Euro-collective negotiations see Falkner (2003a).

Table 2: Forms of interest group involvement in labor law decision-making

Model	Interest group involvement
1. No or insignificant involvement (statism)	absent or not heard
2. consultation (pluralism)	accepted only as lobbyists
3. tripartite concertation (corporatism type a)	joint process of decision-making
4. complementary legislation[15] (corporatism type b)	social partners negotiate, then the state legislates/ implements
5. autonomous corporatism (corporatism type c)	labor and industry decide and implement on their own

On the basis of this typology of national public-private interaction patterns in public policy-making, we are going to analyze the implementation of six labor law Directives in the smaller European democracies named above. Note that in hardly any country, all relevant decision processes follow the very same pattern. Therefore, we integrate each country in the category with the typical labor law pattern (or, where there are several common patterns, according to the form of corporatism that gives labor and industry most far-reaching powers).This should allow us to be more specific than earlier studies in detecting and categorizing Europeanization effects on the politics level. At the same time, it should be pointed out that only quite dramatic change will be apparent against this background. Exclusively in exceptional cases, however, can a national system be expected to move from one box into another.

What we need, in addition, is therefore an instrument to grasp potential effects in even more detail. Consider, for instance, effects that are relevant *within* the same ideal type of interest group involvement but that do not actually shift a country into another box. In addition, there may be situations where an internal development made the country move towards one end of

[15] This is also the model practiced in the 'corporatist policy community' at EU level.

the 'continuum within one box, so that – without Europeanization – a move between types would have occurred. In such a case, the Europeanization effect could be exactly that there is *no* move, after all (which would not be visible on the basis of the above typology).

In other words, we need to conceptualize that any stimulus coming from the EU-level meets national factors that are also – potentially – dynamic. This follows the reasoning of Adrienne Héritier who stresses the 'parallelism' between national and European developments that "intersect and have a reciprocally reinforcing, counteracting, or neutralizing impact" (Héritier 2001: 2). She and her collaborators therefore look at the stage of the domestic policy reform process (pre-reform, reform, post-reform) in terms of the state of national liberalization of transport. Whilst this seems a powerful approach in the field of Europeanization in the transport policy area, we need to go beyond it. Our field of social affairs, in particular labor law, does not allow for such a handy distinction of stages with a generally uniform process of change. Rather, we are finding countries currently undergoing liberalization processes (e.g. the southern member states which had extremely rigid labor law systems as an inheritance of their authoritarian systems) but also EU member states that have rather re-regulated very recently, after having had a period of vigorous liberalization during the 1980s (most importantly, the UK). Additionally, there are several parallel streams of potential policy innovation. For example, a country may regulate more intensively on issues of non-discrimination on grounds of gender or race, while at the same time liberalizing working time regulation.

Since we are looking, at the same time, for a framework as parsimonious as possible in order to conceptualize the many factors co-determining national Europeanization effects, we shall refer, where useful, also to the *national policy stream* (Kingdon 1984). We use a wide notion here that includes the relevant discourse.[16] Just like longstanding institutions of both the narrow (formal systems of rules that structure the courses of actions that a set of actors may choose) and the wider sense (informal cultures), the existing national policy discourse can counteract or reinforce EU-made impulses for change. The same is true for the domestic policy stream, at large. In addition to the relevant policy discourse, the latter covers a content-related dimension (i.e. recent measures adopted in the relevant area[17]) and a process-related one (i.e. recent patterns of policy-making in the field, which may somewhat differ from the national ideal-type model[18]). This accounts for the fact that even longstanding national ways of doing may have experienced a period of gradual change (i.e. variation within the realms of

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16 The latter encompasses the ideas and communicative actions that can potentially drive, within institutional interactions, change in perceptions, preferences, and strategies (V. A. Schmidt 2003: 32). It also includes parts of what Kingdon captured as the political stream (interest group campaigns) and problem stream (for a problem exists not 'as such' but must be brought to attention in a discourse).

17 As long as they do not represent a fundamental reform of the regime.

18 See previous footnote.

the same ideal-typical pattern) when they meet the top-down impulse for change, and this may account for a different response than if the same impetus came down on a similar long-term rule system that has not seen any recent challenges. From a reform probability perspective, policy streams stand on middle ground: a pure focus on institutions will often overstress continuity, and the concentration on strategic action (the third level of interest here) may overemphasize change, since policy entrepreneurs[19] can react quite flexibly. They may, if they detect a promising benefit in terms of their self-interest in the impulse coming from the EU-level, seize the opportunity and advocate change.

In other words, we shall in this paper look at signs for potential Europeanization effects in the field of governance patterns on three levels: *types of corporatism or pluralism* that are deeply institutionalized in a country; recent *policy streams* (including policy measures, public-private interaction in their decision patterns, and discourses) that may after all somewhat deviate from the formal and informal rule systems; and finally *strategic action* (in our case, that covers agency by individual interest groups or groups thereof which may potentially affect, at least at a later point in time, both policy streams and – even – deeply-rooted institutions such as the type of corporatism).[20] Institutions, policy streams, and actor strategies also matter here as a kind of yardstick against which to measure change, and as reminders for different levels on which change or stability may actually occur. This is more crucial than it first seems, for continuity on the most visible level (in our context, deeply-rooted national welfare and labor law regimes) may actually hide change on lower levels (such as dominant policy streams and/or discourse, and case-related strategies of political actors).

Paying attention to, first, national patterns of corporatism in the labor law field; second, the discourse about governance patterns and their recent success in policy-making; and, third, the social partners as strategic actors in the multi-level system, we will now look at specific cases of Europeanization of national interest intermediation patterns. Our cases are countries since we have tried to take the sum of developments of a number of implementation processes, all in the area of EU labor law. The reason for this light aggregation is to give a more realistic impression beyond eclectic individual processes where factors of minor interest and potentially without general significance may play a dominant role. We shall certainly bring in individual examples where useful.

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19 "Policy entrepreneurs, people who are willing to invest their resources in pushing their pet proposals or problems, are responsible not only for prompting important people to pay attention, but also for coupling solutions to problems and for coupling both problems and solutions to politics." (Kingdon 1984: 21)

20 Note that by differentiating between institutions, policy streams and discourses, and actor strategies we accommodate *all major theoretical anchors of recent political science reasoning*. Following the tradition of actor-centered institutionalism (Mayntz/Scharpf 1995; Scharpf 2000; Mayntz/Streeck 2003), we see no reason to simply discard a potential explanatory power of any of them.

4. Four smaller European democracies in practice

Section four of our paper will discuss the Europeanization of governance patterns in four smaller EU democracies, i.e. Austria (a), Luxembourg (b), Denmark (c), and Sweden (d).

a) Austria: Europeanization stabilizes corporatism in the social realm

In *Austria*, both the structural (interest group set up) and the procedural dimensions (involvement in policy-making) of corporatism are extremely well-developed. There are a number of quite hierarchically organized 'chambers' (for business, labor, agriculture etc.), i.e. interest groups set up by Austrian law where membership is obligatory. The classic social partner institutions in Austria are thus the Chamber of Business (*Wirtschaftskammer Österreich*), the Chamber of Labor (*Bundesarbeitskammer*), the Conference of Presidents of the Chambers of Agriculture (PRÄKO) and the encompassing Austrian trade union confederation (ÖGB). These pillars of 'social partnership' co-operate formally (e.g. in a plethora of working groups) and informally with the other political institutions, on a daily basis. It is not uncommon that draft legislation is negotiated between the social partners and/or the relevant ministry before being 'rubber-stamped' in parliament. Austria is therefore a classic case of our variant a) of corporatism, i.e. of tripartite concertation with joint processes of decision-making encompassing both government/administration and a small group of privileged private actors (i.e. unions and employer federations).

EU adhesion was expected to change this pattern of corporatism in a "substantial and speedy" way (Tálos 1994: 179). As a *direct* effect of membership, the issues prone to joint decision-making by the Austrian social partners and 'the state' would be less numerous since decisions would be shifted to the EU level. The major interest groups feared that 'significant parts' of their powers in national policy-making would be transferred to Brussels (Sozialpartnerstellungnahme 1989: 157, translation by the author). This has indeed taken place, but there were some counter steering measures designed which aimed at having the social partner organizations agree to the membership negotiations and to have them campaign for a 'yes' in the popular referendum. Not in the least case because of this tactic, the latter resulted in 66.6% of the Austrian electorate backing EU membership in 1994. The 1994 'Europe Agreement' between the Austrian coalition parties allocated specific participation rights at the European and the domestic[21] levels to the four social partner institutions. The four major associations were even promised 'equal' participation in the various EU decision-making bodies and committees.[22] Soon after the Austrian adhesion, however, the government

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21 During the preparation of Austrian EU positions, the social partner associations participate in relevant meetings, which are organized at the sub-ministerial, departmental and cross-ministerial levels (Kittel 2000; Tálos/Kittel 2001).

22 "[G]leichberechtigte Teilnahme an der österreichischen Entscheidungsvorbereitung und Entscheidungsfindung im Rahmen der EU" (pt. 13a).

qualified its concession. It argued that, according to EU rules, only government representatives are officially part of national delegations. For special cases, the responsible Minister nevertheless agreed to include social partner representatives in the national delegation, although without the right to speak (Karlhofer/Tálos 1996: 141). Despite of this, the social partners were rather content with their role in the shaping of Austrian positions for the EU Council during the early years of EU membership (Falkner 1999: 231f.).

A direct Europeanization effect on Austrian corporatism stemming from legal misfit, e.g. with ECJ conditions for proper implementation of EU Directives (such as in the Danish case, see below), was neither expected nor experienced, for the Austrian model of tripartite concertation (corporatism type a) is not in conflict with EU law. As an *indirect* effect, however, pluralist patterns of interest group behavior at the European level ('lobbying') were expected to trickle down into the Austrian system. A study comparing the social versus the environmental policy networks during the years after Austrian EU membership actually found a number of signs to that effect, plus on domestic actor socialization at the EU-level (Falkner et al. 1999: 512). In both networks, there were tendencies to exploit the new rules of the game and to move a bit in the direction of pluralist pressure politics, even if that meant to somewhat undermine the old corporatist balance. Focusing on the labor law area which is in the center of this study, however, the somewhat more long-term perspective actually shows that Europeanization does not necessarily destabilize longstanding national corporatism. Rather, the effect may be area-specific.[23] The relevant context is that recently, differences between policy areas have further increased. Social affairs is the field with best practice from the economic interest groups' point of view, contrary to finance and agriculture (Kittel/Tálos 1999).

Most importantly though, the concertation-adverse center-right government 2000-2002 affected Austrian social partnership (Tálos/Kittel 2001). This kind of domestic 'policy stream', however, came at the same time when (at least in EU-level social policy), pro-corporatist stimuli were distributed from the EU-level. While in other areas the extensive consultations and tripartite negotiations known from the heydays of national corporatism were significantly cut back under the Austrian center-right government, this was much less so in the social and labor law field (interview A4: 25-70). The implementation of EU Directives, in particular, has recently been the area where public–private co-operation has been comparatively the most intense (interviews A1: 167-254, A2: 1743-1777). In this case, the Europeanization effect is hence a *conserving* one. Europeanization contributed to the fact that (at least in the field of labor law), there is no change in ideal typical pattern. While the EU's impetus in that field was a rather pro-concertation one, recent national developments pointed

[23] On the importance of policy-specific analysis, see Falkner (2000), and for Austria specifically Falkner (1999) or Tálos/Kittel (2001).

into the opposite direction. The sum of these forces was, after all, stability. This example underlines how important it is to look below the level of dramatic change in the study of Europeanization effects.

On the – typically more short-term flexible – level of agency, there is an interesting story to be told about the potentials of multi-level politics for individual interest groups. In the case of the EC's parental leave regulation (which is based on a Euro-collective agreement between the three major federations of labor and industry), the Austrian worker federation *Österreichischer Gewerkschaftsbund* was successful in promoting the *individual* right of all workers to go on parental leave. This had not been possible on the domestic level before and was celebrated as a victory on the employee side, in particular the women's department (interview A1: 126-161). This is one example how playing across levels can be a good strategy in the EU's multi-level system, even for actors who would in former days have been but one partner in a broader corporatist policy network at national level. Clearly, a change in the type of the deeply rooted institution of corporatism will not easily result from such a small-scale event. However, there could potentially be a longer-term effect *if* many such single-case actor strategies in sum undermine the basis of mutual trust in jointly negotiated solutions. This is why we think that such examples should be included in a thorough analysis of Europeanization effects even if they do not (yet) result in easily visible change.

b) Luxembourg: experimenting with a new model

Up till now, the small country Luxembourg has only rarely been included in comparative studies classifying countries with regard to their degree of corporatism, respectively pluralism.[24] In the few studies where this has been the case, Luxembourg can be found approximately in the middle of these two poles (see e.g. Lijphart 1999: 177; M. G. Schmidt 1982: 135).

With a particular view to public-private relations in the field of labor law, however, a considerable degree of interest group involvement, up to tripartite concertation, can be found in Luxembourg. On the employees' side there are two main trade union confederations with national representative status: the socialist OGB-L[25] and the confederation of Christian unions LCGB[26]. On the employers' side, the Federation of Industrialists (FEDIL[27]) was the dominant association for a long amount of time. In the middle of 2000 though, a new general

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24 In the 23 Rankings that Siarroff (1999: 180) compares, Luxembourg is e.g. only considered once.

25 Onofhängege Gewerkschafts-Bond Letzebuerg.

26 Letzebuerger Chreschtleche Gewerkschafts-Bond.

27 Fédération des Industriels Luxembourgeois.

employers' confederation was founded, the *Union des Entreprises Luxembourgeois* (UEL). This new umbrella organization now includes various associations as well as the chambers of commerce, of handicraft, and of agriculture (Feyereisen 2000). This is due to the fact that besides the organization of management and labor under private law, in Luxembourg there is a system of so called professional chambers under public law with compulsory membership for the professional groups. Apart from the already mentioned employers' chambers this system also includes three employees' chambers: the chamber of labor, of private employees, and of civil servants (Schroen 2001: 254-258).

The dialogue between government and interest groups in this field is mainly based on three institutions: the chamber system, the Economic and Social Council, and the Tripartite Coordination Committee (*Tripartite*). The chambers in Luxembourg are legally entitled to issue an expert opinion on each piece of upcoming legislation. Very often they are also consulted by the government in the pre-parliamentary stage already (Schroen 2001: 259). The Economic and Social Council was founded in 1966 and is used as a consultative body for the government in economic, financial, or social matters. It is composed of 14 employers' representatives, 14 unions' representatives, and seven ‚independent' officials representing the government administration. The government is expected to consult this council whenever draft laws of general social or economic interest are under preparation (Tunsch 1999: 354). The *Tripartite* emerged from the steal crisis in 1977 and is composed of four representatives each from the government, the employers, and the unions. At first, the Tripartite Coordination Committee served as a political forum for socioeconomic concertation in crisis situations. In the meantime though, it has developed into a platform for regular social dialogue between the government and the social partners. (Feyereisen 2001).

In sum, in the field of labor law there is already in the pre-parliamentary stage an intensive exchange between the government and privileged interest groups. Concretely, it turns out that in the small country this dialogue is carried out by a small functional elite, where basically the same people meet in varying institutional settings (Schroen 2001: 259). The range of public-private interaction therefore reaches from consultation up to tripartite concertation.

Due to the fact that parts of the regulation in the field of labor law were shifted to the European level, a certain loss of influence can be observed for the interest groups in Luxembourg. As described above, in the national legislative process, the chambers as well as the main union and employers' confederations are very often already consulted for the preparation of a draft law. This is not the case, however, when it comes to the preparation of the EU decision making-process in the Council, e.g. when Luxembourg's national position towards a European Directive is elaborated (interview Lux1: 868-897).

Nonetheless, throughout the implementation of the parental leave Directive an attempt to stray from the usual procedure of interest involvement was made. For the implementation of the parental leave Directive, the fact that the Directive originated from a European social partner

agreement was now taken as a reason for also wanting to base the national implementation procedure on an agreement between the largest employers' and unions' associations. The ministry therefore did not make any proposals of its own, but rather left it to the social partners to agree upon a regulation (interview Lux9: 573-625). However, the negotiations between unions and employers quickly faced constitutional problems. It had to be acknowledged that there was no legal base in Luxembourg for a procedure that would have made it possible to make the social partner agreement generally binding for all employees.[28] Therefore, this attempt failed, the talks were broken off, and the Directive was later implemented via 'usual' legislation (interview Lux7: 204-258, Feyereisen 1998).

Despite of this, the topic ‚social partner agreement as basis for the implementation of Directives' is not inevitably taken off the agenda yet. A proposal to change the legal rules and to introduce an erga-omnes possibility for collective agreements was at least a matter of discussion (interviews Lux7: 204-258, Lux1: 903-917). And as far as the above mentioned loss of social partner influence is concerned (caused by the shift of regulatory competencies to the European level), there might be *compensatory reforms* yet to come. End of 2000 the Social and Economic Council presented a reform proposal for its own area of responsibility. This proposal foresees that in the future this council shall play an 'institutionalized role' in the supervision of supranational influence (in particular stemming from European regulation) on Luxembourg. In addition, it proposes the creation of a framework for social dialogue, which is explicitly taking the European example as a role model (Feyereisen 2001). These are clear signs, on the level of discourse, for a potential top-down diffusion of corporatist patterns in Luxembourg.

At the moment, the effects of the European (labor law) Directives upon public private interaction in Luxembourg are not definitely foreseeable. One can assume though, that in the long run there will be a compensation for the shift of competence towards Europe, e.g. by systematically strengthening the role of the Economic and Social Council in the preparation of Council decision making at EU level. In addition, it can be considered particularly interesting that the European pattern of social partner involvement *(complementary legislation)* has created a role model effect for the national level. This was very clearly visible in the first attempt of transposing the parental leave Directive as outlined above. If, in the long run, there really will be a change from one category (*tripartite concertation*) to another (*complementary legislation*) remains to be seen.

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[28] In Luxembourg, there is a general possibility, to conclude collective agreements between employers' and employees' organizations with representative status (Tunsch 1999: 351). These agreements, however, are only legally binding to their members. It is not possible to give them an erga-omnes effect.

c) Denmark: towards a new "dual method" of implementation

Denmark is usually classified as a country with strong corporatist traditions (see e.g. Siaroff 1999: 180). When looking at public-private relations in the field of labor law it can be noted that they are based on three main categories: a high degree of associational organization, ‚administrative corporatism' (Christiansen et al. 2001: 61), and collective agreements as a central instrument of regulation.

The degree of union organization in Denmark lies with about 80 percent at a very high level. The dominating trade union confederation is the *Landsorganisation* (LO). Next to that there are the *Funktionaerernes og Tjenestemaendenes Faellesråd* (FTF) as an organization of civil servants and salaried employees and the Central Organization of Academics (*Akademikernes Centralorganisation*, AC). The largest umbrella association on the employers' side is the *Dansk Arbejdsgiverforening* (DA). What characterizes the ‚Danish model' is the fact that a considerable amount of autonomy is given to these social partners in labor law regulation. Where there is existing law, e.g. in the area of health and safety at the workplace, the social partners are included via firmly institutionalized committees in which tripartite consultations with the ministerial administration take place. A great amount of the working conditions though, is part of autonomous negotiations between the social partners without any governmental intervention (Arbejdsministeriet 1996). The high degree of organization in Denmark is a prerequisite for this. In contrast to other countries where the social partners also play an important role, minimum legislation concerning employees who are not covered by collective agreements is unusual in most areas of labor law.

In those fields that in Denmark are traditionally covered by law, no disadvantages have emerged for social partner participation out of the partial shifting of regulatory competencies to the European level. The tripartite coordination of the Danish position in EU-decision-making became firmly institutionalized in Denmark in permanent committees which are linked to the different ministries (interview DK7: 659-689). In regard to EU Directives though, exactly those areas traditionally covered *solely* by collective agreements pose a special problem.

When the first EU Directives on labor law were to be implemented, they did not greatly touch upon the autonomous competencies of the social partners, since they were mostly about topics which were not considered to be of much importance. The normal procedure was that a law was drafted and then opening clauses were included for the social partners. This meant that if they wanted to, they could come to different regulations by way of collective agreements. Those workers who were not covered by the collective agreements could refer to the law. Then, the implementation of the working time Directive for the first time concerned a topic that was of central importance to the social partners: The regulation of maximum weekly working hours. The implementation of this Directive became a test in which the Danish

government, in accordance with the social partners, for the first time tried to implement a Directive solely through collective agreements (interview DK3: 558-599).

As a reaction to that, however, the European Commission criticized that even after the implementation via collective agreements Denmark could not guarantee coverage for the *total* work force (Madsen 2000). Danish collective agreements can basically provide coverage of about 75 to 80 percent of all workers, but not 100 percent, as the European Court of Justice (ECJ) demands in decisive case law.[29] After the European Commission had sent a reasoned opinion[30] to Denmark, threatening to bring the case to the ECJ, the Danish government, at the beginning of 2002, finally complied. Even though neither the government nor the social partners[31] found this solution satisfactory, it was decided that the Directive should be implemented by complementary legislation (EIRR 2002). A similar situation occurred again when the Directive on part-time work had to be incorporated into Danish law. Here collective agreements could also not guarantee sufficient coverage (i.e., for the whole work force) and so the Directive had to be implemented via complementary legislation as well (EIRR 2001).

Compared to autonomous implementation, this does not restrict the freedom of the social partners in substantive terms. They are still able to negotiate about the contents without state interference, the legislation is only responsible for the erga-omnes effect. In particular the trade unions, though are afraid of losing organizational importance (e.g. by a decrease in their membership) if they are no longer exclusively responsible for the regulation of certain important working conditions. Additionally there is the worry that the well functioning 'Danish model' might topple if more and more employers refer to the minimum legislation and do not enter into negotiations on theses topics anymore (interview DK3: 861-903). In Denmark this "new dual method" (Jørgensen 2001) - i.e., the social partners negotiate first, and then the state gives an erga-onmes effect for all workers not covered by the agreements via legislation - of implementing Directives is therefore looked at with skepticism.

This case of transposing the working time Directive in Denmark is also of interest from another point of view. Like the Austrian parental leave case, it illustrates the potentials of multi-level politics for individual interest groups. When the opinion was advocated towards the European Commission by the Danish government and social partners that the coverage via collective agreements in Denmark would be sufficient to fulfil the European requirements, not all the trade unions stood firmly behind this (Madsen 2000). Opposition was mainly raised by smaller unions or union confederations, which thought that legislation would serve the interests of their membership better.

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29 See footnote 10.

30 The first formal stage of an infringement procedure.

31 With certain exceptions as will be outlined below.

The starting point was the fact that Danish employers entered into a kind of goal conflict while implementing the Directive. On the one hand, they wanted to rely on the successful ‚Danish Model'. On the other hand, they were generally not willing to conclude collective agreements with certain union organizations like e.g. the Danish Academics Organization (AC). Since in businesses, academics usually have positions close to management, the employers' side rather prefers to employ academics on an individual contract basis than on the basis of collective agreements (Interview DK1: 153-307). The DA has thus not concluded any corresponding agreements with the AC, and for this reason the AC refused to sign a letter of the government together with the LO, DA, and FTF addressed to the European Commission, confirming sufficient coverage (EIRR 2002). The other social partner organizations have greatly criticized the AC for thus endangering the ‚Danish Model' (EIRR 2000). Other opponents, e.g. the independent union *Firma-funktionaerernes Fagforening*, together with the Christian Union (*Den Kristelige Fagforening*, DKF) have even filed explicit complaint with the European Commission about the insufficient coverage (Petersen 1998).

Most likely, the complaints and the refusal to sign the letter to the Commission have not been the only factors influencing the Commission's attitude not to accept the Danish implementation of the working time Directive. The requirements of the ECJ case law certainly contributed to that as well.[32] Nevertheless, the smaller unions could use the multi-level system for their purposes. With the help of the high European coverage demands they first wanted to put pressure on the Danish employers to also conclude working time agreements with their members. As this did not work out, they now have at least achieved a coverage of their members via legislation.

To sum up, in this case the transposition via autonomous social partner action is not compatible with the European legal requirement of a total coverage of the workforce. Denmark was forced to use complementary legislation, where there was autonomous social partner regulation before. For the „Europeanized" parts of labor regulation one can therefore speak of a change of categories from *autonomous corporatism* to *complementary legislation*.[33] The Danish Academics Organization (AC) and the other smaller unions could make use of the multi-level system for their purposes. On Danish level only, they were too small to force the

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[32] Even though it is interesting to mention that obviously at an earlier stage, the Commission must have given less weight to these ECJ decisions, which are already stemming from the time before the working time Directive was even adopted. Because at the beginning of the transposition process the Social and Employment Commissioner at that time, Padraig Flynn, had informally given his yes towards the Danish way of implementation (interview S3: 350-392, Knudsen/Lind 1999).

[33] Against the background of the above mentioned Christoffersen clause this is a rather paradoxical situation. Originally, the clause was intended to protect the Danish model. Now it might offer incentives for a strengthening of social partnership in other member states (in case these countries possess an erga-omes option for collective agreements). Denmark itself, however, is forced on the basis of ECJ case law to change its model into the adverse direction than intended - towards less social partner autonomy.

employers concluding agreements with them. Now they have found an alternative way of securing their members' rights via law.

d) Sweden: fear of re-centralization

The Swedish corporatist model is similar to Denmark, but it has a few crucial differences, particularly in the field of labor law. Like in Denmark, there is a high degree of organization on employees' and employers' side. The main union confederations are LO (*Landsorganisationen i Severige*), TCO (*Tjänstemännens Centralorganisation*) and SACO/ SR (*Sveriges adkademikers centralorganisation/ Statstjänstemännens riksforbund*). The main employers' confederation for a long time was the Swedish Employers' Confederation (SAF/ *Svenska Arbetsgivareförening*), which was recently dissolved due to a merger of the SAF and the Federation of Swedish Industries (*Industriförbund*). Since 29 March 2001 the new organisation is called Confederation of Swedish Enterprise (*Svenskt Näringsliv*)[34].

Historically, the "Swedish model" is rooted in the so-called agreement of Saltsjöbaden from 1938, where employers and unions committed themselves to regulating their conflicts autonomously without state intervention (Jahn 1999: 114; Hammerström/Nilsson 1998: 225-229). Autonomous social partner regulation therefore is also an important feature of the Swedish system. That is why during the EU accession negotiations there was the fear that membership might endanger the Swedish model. During these negotiations though, Sweden achieved that a clause was included into the accession treaty, which was intended to guarantee the maintenance of the autonomous model. This clause states: "In an exchange of letters between the Kingdom of Sweden and the Commission, annexed to the Summary of Conclusions of the 5th meeting of the Conference at Ministerial level ..., the Kingdom of Sweden received assurances with regard to Swedish practice in labor market matters and notably the system of determining conditions of work in collective agreements between the social partners."[35]

Besides the autonomous interaction, the Swedish social partners are also often involved when it comes to the preparation of draft laws which are of their concern. As regards the loss of competence for the Swedish social partners due to the partial shift of labor law regulation to the European level, like in Denmark, the Swedish social partners have been given "compensation" in a way. They now are also very regularly integrated into the preparation of

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34 See e.g. Berg (2001b).

35 Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, Final act - III. Other declarations - J. Declarations by the Kingdom of Sweden - 46. Declaration by the Kingdom of Sweden on social policy, *Official Journal C 241, 29/08/1994, p. 0397*

the Swedish decision-making in the EU Council (interview S12). Compared to only national matters before the Swedish EU accession, the social partner involvement may even have increased: "I think that we have more contact with the government now, since we joined the EU about the political process, because they weren't that cautious about discussing changes at national level at an early stage with us when it was about national issues" (interview S12).

When it comes to the implementation of these Directives in Sweden, *theoretically* the same problem which Denmark faces might appear once these Directives touch upon areas which are usually regulated through the social partners alone. An important difference to Denmark however, is that the scope of the social partner autonomy is not as encompassing as in their Scandinavian neighboring country. The central content of *completely autonomous* social partner regulation in Sweden is wages policy. In the field of labor law the social partners also play an important role since they negotiate in their agreements as well on working conditions, working time etc. Contrary to Denmark, however, legislation (which allows social partner agreements to derogate) is already a common instrument in this field. Therefore, e.g. the implementation of the working time Directive did not cause the same kind of implementation problems as in Denmark[36] because a working time law already existed.

So far, there has only been one labor law Directive which notably touched upon the autonomous social partner field in Sweden: the part-time Directive. This Directive was the first case where the government actually wanted to implement solely via collective agreements, because part-time work traditionally had not been regulated via legislation in Sweden. But in this case implementation via collective agreements failed due to an unwillingness of the employers to implement via this procedure.

The solution preferred by the Swedish government in this case would have been to implement the Directive through the social partners, by having them remove all parts of discrimination against part time workers from their existing collective agreements (interview S11: 142-175). Particularly since the beginning of the 1990s there is a very strong trend in Sweden towards decentralization of collective bargaining (see e.g. Thörnqvist 1999). Therefore, implementing the Directive would have meant a re-negotiation of all the different decentral agreements on the one hand. On the other hand, to reach sufficient workforce coverage,[37] in all probability, additional cross-sectoral agreements on central level would have been necessary. The unions agreed to this procedure. The employers' side for several reasons (which will be further outlined below) did not, but refused to conclude agreements in order to implement the Directive (interview S3: 851:872; interview S 12). The discussions about this between the

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36 The Swedish implementation of the working time Directive caused other particular problems though, but these would lead beyond the scope of this paper.

37 Which is an important criteria for the implementation of Directives as already outlined in the chapter on Denmark.

social partners could not reach an agreement even after lengthy negotiations, and so government finally used the instrument of law to end this situation (interview S11: 142-175, Berg 2001a; 2002). Also in this case the autonomy of the social partners was restricted, but not due to the European Commission and the European case law in the background (like in Denmark), but already at an earlier stage due to the employers' refusal to co-operate. This brings up the question of why the employers refused, must they not also have a great interest in the up-keeping of their autonomy?

There seem to be several reasons for the employers' behavior. First, they tried to argue that there was no need to implement the Directive in Sweden, referring to clause 4.1 of the Directive, which allows different treatment of part-time workers, if "justified on objective grounds" (interview S3: 851-872). The government and the unions, however, did not accept this. In addition, the employers stated, they were „not interested to introduce a non-discrimination clause in collective agreements, simply because a non-discrimination rule is not a natural part of the collective agreement" (interview S12). They did not want to include general individual rights into their agreements and to accept 'state-like' responsibility by doing so. One very interesting reason behind these arguments can be seen though in the strict reluctance of the employers to conclude any agreements on *central* level (interview S12). Moving towards decentralization is a tendency which has been notable in many European countries during the 1980s and 1990s, but particularly strong in Sweden (Thörnqvist 1999: 71-72) (Bruun 2002). On 2 February 1990, the Swedish Employers Confederation (SAF) announced that it would no longer take part in centralized collective bargaining. The Swedish employers have not changed this policy since. The implementation of the part-time Directive with great probability would have required to break with this intention. Therefore they rather accepted legislation, which in Sweden is anyhow not as unusual in the labor law field as in Denmark.

In sum, it is less likely that a European Directive touches upon social partner autonomy in Sweden than in Denmark. So far, there has only been one case where this has been seriously considered. In this case, the relevant question in terms of EU law did not even come to bear, i.e. whether implementation via collective agreement actually could provide sufficient coverage. This was prevented by the employers' opposition. If they had cooperated and the Directive had been transposed via agreements only, this would have been an interesting test case to prove if the Swedish accession treaty actually lifted obligations that would otherwise have resulted from earlier ECJ case law (although the accession treaty only refers to commitments made in "letters between the Kingdom of Sweden and the Commission"). If the employers had agreed to make a deal, the European Directive would have had a kind of counter-effect against the Swedish trend towards decentralized collective bargaining. There might, however, be further European Directives to come which do again interfere with Swedish social partner autonomy. One example is already discussed in Sweden, the potential

Directive on temporary agency work currently negotiated at the European level, which indirectly deals with wages. In addition, another *potential* Europeanization effect was illustrated here (even if in this case it actually did not come to bear yet). If social partners shall be involved into the implementation of the European Directives, this requires collective agreements or at least co-ordination between the central-level organization for practical and coverage reasons. These requirements then stand in contrast with decentralization trends in the national policy stream.

Concluding the four country studies, we present the findings in an overview:

Table 3: Summarizing our four cases at a glance

Country	*long-term institutional inheritance*	*current policy stream*	*special role of policy entrepreneurs?*
Austria	corporatism (type a: tripartite concertation) *effect*: –	dismantling of corporatism *effect*: conservative	*parental leave case*: unions successfully created "individual right" via supra-national level
Luxembourg	corporatism (type a: tripart. concertation) *effect*: experiment with type b: complementary legislation	compensation for lost social partner competence discussed *effect:* none (to date)	-
Denmark	corporatism (type c: autonomous) *effect:* move towards corporatism type b (for Europeanized labor law)	-	new strategic options for hitherto sidelined unions
Sweden	corporatism (type c: autonomous) *effect*: none (to date)	decentralization of negotiations *effect:* potential re-centralizing impact not realized to date	-

5. A convergence of national patterns?

This article is based, most importantly, on the implementation of six social policy Directives in the EU member states. We focused here on four smaller democracies within the EU, all of which have rather corporatist public-private interaction patterns in the making of public policy. In terms of our typology (see Table 2), they belong to corporatism type a (Austria and Luxembourg) or type c (Denmark and Sweden).

The strongest change due to Europeanization is to be witnessed in Denmark. This is because there is a legal incompatibility between autonomous social partner action in the implementation of Directives, on the one hand, and EU law as interpreted by the European Court of Justice, on the other hand – under the condition that the national federations of labor and industry do not cover all individuals that should be subject to the minimum rights as conferred by the relevant EC Directives. As far as the field of implementation of EU Directives is concerned, there is hence a change in type of corporatism resulting from Europeanization.

In other countries, the effects are much more subtle. Our framework (which builds on national institutions, policy streams including discourse, and finally on actor strategies, as factors mediating any EU-level impetus for domestic change) alerted us also to effects on lower levels than change of deeply-rooted national core institutions. For example, the Austrian case shows that Europeanization can have a stabilizing effect if national policy streams work in the direction of destabilization of the pre-existing national institution of corporatism. It also reveals an example for Europeanization leading to novel actor strategies, since Austrian unions can now use the EU-level social dialogue to pursue their policy options, instead of having to negotiate with their domestic counterpart. The same was the case in Denmark where the implementation of the working time Directive shows how the multi-level system creates new strategic options for hitherto sidelined unions. The Swedish example illustrates that Europeanization may exert a similar effect on interest groups which is claimed for state-actors, i.e. a strengthening of the central level. If, at the same time, there is a trend towards decentralization in the national policy stream, this tendency may either be counteracted, or - like it was the case with the part-time Directive in Sweden - the social partner involvement as such has to be reduced.

In sum, the observed changes in the four corporatist member states sum up to a *slightly convergent development* going in the direction of a moderate social partnership model of involvement of private interests in the making of social policy.[38] The development is only 'slightly convergent' because neither a homogenous model is resulting nor are all the member

[38] It is important to underline that the convergence we studied here only refers to the procedural aspect of corporatism, not to other aspects like for example the interest group setup itself.

states developing in this direction.[39] As far as tendencies or attempts of change in the individual countries are obvious, these are going (at least in sum) in the direction of a form of erga-omnes legislation like it has been practiced in EU level social policy since Maastricht. This means that the labor law standards which are negotiated on a social partnership basis are made generally binding by the state (or by the EU Council of Ministers, respectively) without adding any extra change in contents. In this mode, the social partners pre-negotiate agreements which are then molded into law or are made generally binding by way of an erga-omnes declaration. Or they work directly together in a tripartite modus with public actors in the drafting of laws. However, they cannot determine social policy regulations completely without state intervention anymore.

This means that countries with an extremely strong corporatist tradition moved towards the center. This refers notably to Denmark and (to a more limited extent) to Sweden, where such labor law norms were in earlier times always negotiated and implemented by the social partners independently. Denmark now in two cases had to use legislation to make the content of collective agreements binding for all citizens. From an optimistic viewpoint, this can be said to optimize the potentials of associative democracy: the interest groups unburden the state and add their specialist knowledge to agreed standards, yet at the same time all members of the political system (even those not member of the relevant associations) will profit from the protection offered by such collective deals. From a more critical perspective, however, this can be seen as an intrusion of European law into the member states. Even worse, an intrusion on the grounds of rather legalistic arguments, for the old system of autonomous labor law-making by the Danish and Swedish social partners seems to have worked quite well and, most importantly, without any significant number of complaints by citizens outside the agreements' (theoretical or practical) reach.

For a somewhat less intensively corporatist state, Luxembourg, there were at least efforts made to reform social partner involvement. It had originally varied between consultation and tripartite concertation, but always with a central role for government and parliament. It is now considered to introduce a kind of erga-omnes legislation were the social partners may negotiate their own bipartite agreement, which would subsequently made generally binding by legislation. In the Austrian case, finally, a tripartite-mode corporatism was stabilized through Europeanization effects, at least in the area of labor law (note that there are increasingly sector-specific divergences in corporatism/pluralism patterns in Austria, and we focus on social policy only).

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[39] We are still researching on the other member states and will reach an overall conclusion in summer 2003 (please visit our project website at http://www.mpi-fg-koeln.mpg.de/socialeurope/).

Overall, this results in a more convergent than divergent picture, in an empirical trend in the direction of 'convergence towards more moderate diversity'[40]. However, one has to be very careful not to over-generalize (notably in terms of policy-specificity, and in terms of number of member states studied here). The trend towards 'light convergence in the sense of moderate divergence' for now only refers to the part of semi 'Europeanized national social policy', where the member states become active in the frame of the implementation of EU Directives. The fact that this trend (ceteris paribus) could spread to the other part of member states' social policy, which is continuing to be a solely national matter, cannot be ruled out though. Such a broadening of the scope of convergence tendencies depends, *inter alia*, on specific internal constellations in the member states. Most importantly: are there further domestic challenges to the existing public–private relations that could reinforce the pressure for change induced by the EU?

In addition, any potential broadening of the trend described in this paper depends on the status of EU social policy in the years to come: in the absence of further binding EU social law to be implemented in the member states (i.e. if the method of open co-ordination should be the only EU activity to survive in the social realm), our findings could as well be short-lived even in the Europeanized parts of the national political systems. At least to date, however, the legislative activity in the field has not declined to any significant extent.[41]

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40 See already Falkner (2000) on an abstract argument in this direction.

41 By contrast, the year 2002 has seen four new EU social Directives, plus two reforms of older Directives. This makes it one the most active years in EU labor law regulation – only 1992 bringing more such decisions (see Falkner 2003b).

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