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IS THE EUROPEAN SEMESTER REALLY BEING SOCIALISED?

Rethinking the European Union's new economic governance regime and labour politics

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Abstract: One of the key responses from the European Union (EU) to the global financial and sovereign debt crises has been to overhaul its economic governance regime. The former Commission President, Jose Manuel Barroso, went even as far as to label the shift to the EU's New Economic Governance (NEG) regime a 'silent revolution'. In this paper, we propose a new approach for the analysis of NEG and examine the question whether we are really witnessing a progressive socialisation of its policy content, as an emerging literature claims.

We do this through three key steps. The first step is to offer a new way of thinking about the institutional structure of the NEG regime, especially the so-called European Semester, which, thus far, has primarily reflected the EU's own understanding of it across various academic literatures. The second step is to propose a methodological innovation in how to evaluate the policy orientations and prescriptions stemming from the NEG regime. Whereas most studies about the EU's Country Specific Recommendations (CSRs) treat each prescription as equal, as if they exist in an institutional vacuum, we instead take into account the varying degrees of constraint that are attributable to NEG prescriptions as they relate to the broader institutional structure they are embedded within. Hence, the more precise and enforceable a NEG prescription is the more significant it becomes. Furthermore, our analysis also accounts for the location member states find themselves in across the uneven but deeply integrated European political economy, as otherwise similar NEG policy prescriptions can take on very different meanings from differentiated positions within this structured environment.

This allows us, in a third step, to apply our conceptual and methodological innovations to a contextualised analysis of close to 100 NEG documents issued between 2009-2018 for the Eurozone as a whole, Germany, Italy, Ireland and Romania, i.e. for different locations of the EU's uneven but deeply integrated political economy. Focusing on policy areas affecting labour politics, including wages, labour markets and collective bargaining, our findings demonstrate that there has not been a progressive socialisation of the Semester. Instead, a pro-business policy paradigm is still dominant over any social(ising) considerations. We therefore conclude our paper with some reflections that problematise these dissonances and discuss possible future (research) orientations on the EU's NEG regime and labour politics.

Introduction

While European industrial relations may well be a multilevel configuration, most industrial relations scholars agreed until recently that it ‘is evidentially not a vertically integrated system’ (Leisink and Hyman, 2005: 281; Marginson and Sisson, 2004). On the eve of the financial crisis even European social partners perceived “the sole fact that public authorities and academics showed interest in industrial relations under the banner of governance... as too much intervention” (Léonard, Erne, Smismans, and Marginson, 2007: 7). However, only three years later, the response of the European Union (EU) to the crisis proved wrong those who argued that the gridlocks ingrained into the EU Treaties would prevent ‘the reconstruction of a system of economic regulation at the level of the larger unit’ (Scharpf, 1999: 45). When EU business and political leaders realised that the “invisible hand” behind market integration created threatening imbalances rather than economic convergence, their take on EU governance shifted dramatically. Thus, the single market regime, which shaped the political strategy for uniting Europe since 1985 (Jabko, 2006), was replaced by a new economic ‘governance’ regime (Erne, 2012, 2018).

The crisis led to an emergency in which ‘the impending catastrophe empowers and even forces the Europe builders to exploit legal loopholes so as to open the door to changes’ (Beck, 2013: 26-27). As a result, the institutional gridlocks described by Scharpf as preventing further political integration were shaken off (Joerges, 2013). First, the European Commission approved massive bank bailouts, which were at odds with ‘ordoliberal’ EU Treaty provisions that were arguably meant to prevent state aid for private corporations as well as excessive budget deficits (Storey, 2019). Subsequently, the Commission, European Parliament and Council used a latent (Maastricht) Treaty clause – “The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, may adopt detailed rules for the *multilateral surveillance*” (TFEU, Art. 121 [6], emphasis added) – in order to set up a new, much more intrusive economic governance regime (Erne, 2012, 2015). This led to the adoption of the ‘Six Pack’ by the European Parliament and Council, which gave the Commission wide-ranging policy intervention and sanctioning powers, not only in order to counter ‘excessive’ budget deficits of EU member states, but also to ensure the ‘*proper functioning* of economic and monetary union’ (Regulation No 1176/2011, Art. 2 emphasis added).

Whereas earlier EU directives in the area of social and labour policy left member states considerable scope for interpretation and adaptation, EU policy prescriptions issued based on

the Six-Pack (2011), the Two-Pack (2013) and subsequent regulations on economic governance, have left member states much less room for manoeuvre. As really existing markets failed to bring about the desired convergence of economic policies, the new EU economic governance regime aims to implement ‘proper’ economic governance by fiat. Tellingly, in 2012, an official from DG Economics and Finance stated that the Commission lost its faith in self-governing markets, which would explain why the Commission had to intervene politically.¹

Since 2010, the economic governance of the EU has thus undergone what the former Commission President, José Manuel Barroso, labelled a ‘silent revolution’ (ANSA, 2010). Specifically, he was referring to the new Six Pack of EU laws mentioned previously, which strengthen the enforcement procedures of the Stability and Growth Pact (SGP) to control member states’ public finances and introduced a new Macroeconomic Imbalance Procedure (MIP) attempting to prevent and correct macroeconomic imbalances. These measures came on top of the Europe 2020 strategy – replacing the Lisbon Strategy in 2010 – with its agenda of pursuing ‘smart, sustainable and inclusive growth’ through a European coordination of national social and economic policies. As all three faces of this new regime are policy interdependent, the EU introduced the European Semester (the Semester, hereafter), a yearly cycle of country-specific recommendations, surveillance and enforcement that is integrating all EU interventions relating to the SGP, the MIP and the Europe 2020 strategy in one document.

There is now a growing body of literature that traces the evolving policy content of the Semester, especially the Council Recommendations on National Reform Programmes (Country-Specific Recommendations [CSRs], hereafter), which the Commission proposes in May and the Council adopts in July every year. Cohering around what we label ‘the socialisation debate’, several social policy scholars detect a partial but persistent ‘socialisation’ of the Semester, especially since a more ‘political’ Commission (Juncker, 2014) took over from the previous administration headed by Barroso. But whereas Jean Claude Juncker’s candidacy speech included strong statements that aimed at countering the growing popular discontent caused by the EU’s emergency interventions,² our analysis of the EU’s new economic interventions in the area of labour and industrial relations policy lead us to conclusions that contradict the ‘socialisation’ thesis.

Our contrasting findings result from a different research design that addresses serious limitations present within the analysis of the socialisation literature. These limitations are: 1) a problematic conceptual reflection on what the Semester actually is; 2) a failure to take account of the different legal status of CSRs that emanate from the new economic governance regime;

3) a lack of analysis that situates the CSRs in the context of the receiving country's position in the EU's uneven but nonetheless integrated political economy. Our aim is to address these issues, making important conceptual, methodological and empirical contributions. In doing so, our main conclusion is that the EU's substantive policy interventions in the area of industrial relations and labour market regulation continue to be dominated by a liberalisation agenda, ultimately leading to the further commodification of labour. Even so, our contextualised analysis also enables us to detect contradictions that could provide the European labour movement opportunities to pursue countervailing action, which we discuss at the end of the paper.

To substantiate our main argument, the structure of the paper is as follows: the next section will discuss the 'socialisation debate' literature. The second section will outline and justify our alternative conceptual and methodological framework. The third section will apply our framework and provide a primary analysis of EU-level documentation for the countries and policy areas mentioned. The fourth section summarises the arguments of the paper, before finally discussing the implications of our findings for labour movements and the European integration process.

The Socialisation Debate and its Analytical Limits

Since the introduction of the Semester in 2010, there has grown a body of EU studies literature that is concerned with analysing the processes and outcomes of policy formation and recommendation. This literature relates especially to so-called CSRs which are drafted by the Commission and adopted by the Council (of finance ministers) every July. The dominant thread of this literature is focused on analysing whether this yearly cycle has been 'socialised' (Bekker, 2015; Zeitlin and Vanhercke, 2014, 2017). This literature, thus far, argues that since 2010 we have unequivocally witnessed the 'partial but progressive socialisation of the Semester, both in terms of its substantive content and its governance procedures' (Zeitlin and Vanhercke, 2017: 4). Socialisation in the terms of these authors is most importantly constituted by the argument that there has been a significant growth of 'social objectives in the Semester's policy orientations and messages' (Zeitlin and Vanhercke, 2017: 4).

This central 'socialisation' argument has been challenged by others who are less optimistic about the social content of EU economic governance policy prescriptions, especially CSRs (Copeland and Daly, 2015, 2018; Crespy and Vanheuverzwijn, 2017; Erne, 2015; Maricut and Puetter, 2017). For instance, even when excluding CSRs predominantly focusing

on budgeting and fiscal governance, Copeland and Daly conclude ‘EU social policy as enunciated through the CSRs is much more oriented to supporting market development than its it to correcting for market failures’ (2018: 2). Considering their exclusions meant that there were only 290 of the 656 CSRs issued left to analyse, they are right to recognise that ‘the scale of the exclusions is itself indicative of the focus of the CSRs on areas of policy that are not social’ (Copeland and Daly, 2018: 5). Therefore, any interpreted socialisation of the Semester should not exclude fiscal or macroeconomic CSRs *a priori*. For this reason, we have chosen an analytical focus on concrete topics, including wages, employment protection legislation, and collective bargaining institutions, rather than a predefined social policy field. This allows us to include CSRs into our analysis that may not fall into social policy *per se* but may nonetheless affect wage developments like the fiscal CSRs that affect the public sector wage bill. Furthermore, Crespy and Vanheuverzwijn point out that although ‘social investment is more represented in the CSRs in proportion to social retrenchment [the latter primarily indicating budget cuts], it remains that the latter often relies on more solid legal foundations’ (Crespy and Vanheuverzwijn, 2017: 15). This is an important point about equivalent weighting being given to binding and non-binding CSRs in much of the socialisation thesis as it stands, something we also address in more detail below.

Whilst we recognise the advances that the socialisation literature has provided to our understanding of the functioning of the Semester, there are still limitations present that require attention. The first limitation is the lack of conceptual reflection on what the Semester is. As it stands, the socialisation literature seems to accept the EU’s own understanding of the Semester without critical engagement. This is problematic, as whilst the Semester is clearly the main framework for controlling national fiscal and economic policy, the narrow focus only on CSR documents within this does not recognise the more encompassing regime of governance instruments available to manage economic and fiscal policy. For instance, when an EU member state is subject to a Memorandum of Understanding (MoU), the CSRs for this country simply state that the programme should be implemented. The 2011 Council Recommendation for Ireland, for example, simply states, ‘Implement the measures laid down in Implementing Decision 2011/77/EU, as amended by Implementing Decision 2011/326/EU, and further specified in the MoU of 16 December 2010 and its update of 18 May 2011’. This is Ireland’s only CSR for 2011. As this CSR was SGP- and MIP-relevant, both the Commission and the Council would have been able to issue financial sanctions for Ireland in case of non-compliance. The more obvious threat for Ireland, however, was the EU, IMF and ECB’s ability to withhold the Troika’s emergency funding. Whilst creating a parallel process of policy

prescription and implementation, Ireland's MoU with the Troika was nevertheless firmly rooted in the institutional framework of the Semester (Marginson, 2015: 109).

At present, the socialisation literature does not incorporate the policy conditionality of the programmes into their analysis. This is an important omission as it avoids dealing with the problem of how to analyse the NEG regime as a multi-faceted but inter-related whole. Can we confidently say that the MoUs on Financial Assistance and the corresponding Economic Adjustment Programmes (EAP) are a thing of the past? If so, it would perhaps be justifiable not to include an analysis of the various MoUs as part of this debate to their context-specific manifestation. However, we would argue that the Union Financial Assistance programmes were not some ad-hoc arrangement that will ultimately give way to relying on the Semester instruments that the socialisation debate authors focus on. With the development of the European Stability Mechanism (ESM), alongside continuing strengthening of additional crisis-fighting tools of the EU³, we must take seriously the need to account for the already broader institutional and legal remit of the Semester that scholars, or even the EU itself, have yet to come to terms with. In addition, it is also worth mentioning that all post-programme countries are subject to a special surveillance programme that will last until at least 75% of the money received has been repaid. Furthermore, all countries that received support from the ECB's bond buying programme, such as Italy, also continue to be subject of the informal, but nevertheless strong conditionalities exercised by the ECB (Sacchi, 2015).

The second, but related, issue is that scholars have given equal weighting to policy prescriptions that rest on different legal bases. For instance, there is no differentiation made between the non-binding CSRs that relate to the EU's *Europe 2020 strategy* on and the binding CSRs that relate either to the SGP or the MIP, which can be enforced by financial sanctions or the withdrawal of EU Structural and Investment funding. The importance of this point is only exacerbated if we include broader instruments of the NEG regime, such as MoU conditionality. In the analysis below, we therefore do not treat distinct policy prescriptions as the equal of all others. Instead, we analyse the varied levels of constraint that accompany EU prescriptions over each Semester cycle. This will include a focus on the instrument that a prescription is related to, i.e. the SGP or MIP, as well as to the level of supervision that a specific state finds itself under, i.e. the quarterly reviews regarding an MoU or the in-depth reviews regarding an excessive deficit or macroeconomic imbalance. This is just one of the advantages of focusing on only four countries in this paper, as there is the opportunity to explore in greater depth than would otherwise be possible the degree to which specific states are subject to more stringent

constraints when policy prescriptions are made. We will discuss and justify our own approach in detail in the next section.

The third important issue is that the socialisation literature's analysis of Semester recommendations is wholly dis-embedded from where the receiving state is situated within the EU's political economy. As it stands, there is simply no attempt to understand, let alone explain, why a specific set of policy prescriptions may be targeted at a specific member state at a given point in time, in relation to both their national and the broader European political economic context, and therefore how this should be factored into our assessment of whether the Semester is becoming socialised or not. Therefore, below, we analyse Semester policy recommendations only in relation to a set of four member states as opposed to all 28. This set includes two larger countries, Germany and Italy, as well as two smaller ones, Ireland and Romania. We use these as proxies for the relative power of larger/smaller respectively richer/poorer states in the EU.

Collectively, the issues present the need to develop an innovative conceptual and methodological framework to be able to evaluate whether the NEG regime has become progressively socialised since its introduction during 2010 and 2011. The paper now turns to detailing our own approach to analysing the Semester prescriptions.

Studying the European Semester. An Alternative Analytical Approach

Having discussed various conceptual and methodological limitations present across the socialisation debate literature, the paper now turns to outlining and justifying an alternative approach. Applying this approach will then also allow us to demonstrate its strengths, whilst providing an original primary analysis of the NEG regime. This analysis will focus on policy prescriptions that are directly relevant for industrial relations, i.e. wages, employment protection legislation, and collective bargaining institutions. The countries of focus include Germany, Ireland, Italy and Romania, as well as a focus on Euro Area wide documentation. There are several pillars to our analytical approach, which, in turn, address each limitation discussed above.

The first limitation discussed above – the lack of conceptual reflection on what the Semester is – is overcome by also including the various MoUs on conditional financial assistance into the analysis, given their inclusion into the NEG process as outlined above. It is important to ensure that there is an accurate reflection of how the Semester functions as a yearly cycle of agenda setting, surveillance, reporting, policy prescription and implementation. The

analysis that has been conducted so far within the socialisation debate has left a significant sample of data outside of the remit of its analysis.

The second limitation discussed above – equal legal and institutional weighting being given to all policy prescriptions – is addressed two-fold. First, when analysing specific policy recommendations, we situate each country in relation to its status within the broader NEG regime. This is just one of the advantages of selecting a smaller cohort of countries to focus on, as the various constraints faced by a member state can be taken account of, providing a depth and nuance to our analysis below, which surpasses what has been achieved in other parts of the socialisation debate literature thus far.

[INSERT TABLE 1 HERE]

Table 1 above shows the status each country under study was experiencing within the EU's NEG regime between 2009 and 2017. To clarify, there are three constraining EU processes. The first is the SGP, where member states can either be within the specified fiscal and debt boundaries that have been approved, or at least on a numerical trajectory towards them, in a Significant Deviation Procedure (SDP) which is a preventative mechanism, or in an Excessive Deficit Procedure (EDP) which is a corrective mechanism. The second NEG process is the MIP. Again, member states are either considered to not be experiencing any form of macroeconomic imbalance, which is assessed against a set of macroeconomic indicators, e.g. nominal labour unit cost, as well as in-depth reviews conducted by the Commission, if deemed necessary (Erne, 2012). Member states may experience 'no imbalances', 'imbalances' (IMB), 'excessive imbalances' (Ex-IMB), or even being placed in a corrective 'excessive imbalance procedure' (EIP). Finally, member states may be subject to complying with a Memorandum of Understanding on Financial Assistance (MoU), which includes full MoU status whereby conditional support is being provided, or a Precautionary MoU (P-MoU) status, whereby financial support is available if required but is not actually being drawn upon. As mentioned above, member states may also receive CSRs in relation to the *Europe 2020 strategy* on smart, sustainable, inclusive growth. Any non-implementation of Europe 2020-related CSRs, however, does not affect a member state's status in EU's NEG policy enforcement regime.

The level of constraints a member state is facing within the NEG regime primarily depends on its status in the three NEG enforcement processes, as outlined in Table 1 above. However, a second step is required to understand how institutional and legal hierarchies are present. Table 2 below outlines our attempt to produce such a hierarchy. Column 1 focuses on

the origin of different policy prescriptions. Across the three rows we can see all the various processes that are part of our own definition of what the Semester is. These procedures are then distinguished in such a way that reflects the severity of the possible enforcement mechanisms (columns 2 and 3). For instance, the financial support offered through MoUs can be withdrawn, preventing a member state from being able to finance its debt. This is a ‘very significant’ constraint, as a lack of access to alternative funding on financial markets leaves states with few other options than to comply with the programme parameters. On the other extreme, Europe 2020 CSRs can only be enforced by peer pressures caused by naming and shaming or ‘mutual learning’ exercises that may convince officials from non-compliant member states to change policy (Zeitlin, 2016).

[INSERT TABLE 2 HERE]

In order to be able to assess the social trajectory of the NEG process, Table 3 distinguishes different policy trajectories based on NEG prescriptions commodifying or decommodifying content. For wage policy, there is a simple division between wage increases (W_INC) and wage restraints (W_RES). For labour market institutions, there is a focus on whether there is a call to increase (LM_IEP) or decrease workers’ employment protections (LM_DEP). For collective bargaining institutions, we distinguish between prescriptions that favour solidaristic (CB_SOL) or individualising (CB_IND) bargaining institutions. We define collective bargaining institutions as solidaristic if they are taking wages and working conditions out of competition through the setting of standards that apply to multiple employers. By contrast, collective bargaining policy recommendations are commodifying and individualising labour, if they call for a decentralisation of multi-employer collective bargaining agreements (Schulten, 2002; Stan & Erne, 2016).

[INSERT TABLE 3 HERE]

The third limitation discussed above – failing to account for member states’ position within the EU’s broader political economy – is addressed by conducting an incorporated comparison of extended case studies (Burawoy, Blum, George, Gille, and Thayer, 2000; McMichael, 1990). This approach ensures a more systematic understanding of why specific trajectories are cohering as a relational whole. Therefore, whilst our focus on *country-specific* recommendations is unavoidable, given the methodological nationalism of the Semester itself

(Erne, 2015), our use of the extended case study method allows us to examine how the Semester is connecting different national and supranational sites to each other by focusing on each policy domain first and foremost, collecting data from each set of national and EU documents to provide a detailed understanding of how EU policy prescriptions have evolved over time. If divergence exists between countries regarding the prescriptions they receive, then these will not be related back to some isolated national feature but by situating the country's development within the broader uneven but nonetheless integrated EU political economy.

Having detailed the methodological approach that this paper takes, the paper now turns to applying these considerations in the next section.

The EU's labour policy interventions in Germany, Italy, Ireland and Romania (2009-17)

In this section of the paper, we outline our findings from our documentary analysis, which covered over 90 documents, including the Commission's Country Reports, the Council Recommendations on National Reform Programmes (the 'CSRs') and the MoUs, including their attendant Economic Adjustment Programmes and Quarterly Reviews. We distinguish between documents with monitoring aims (Country Reports and Quarterly Reviews) and documents with prescribing aims (CSRs and MoUs). From the latter, we extracted the prescriptions on wages, employment protection legislation and collective bargaining for Ireland, Italy, Germany and Romania between 2009 and 2017, as documented in the Online Appendix for this paper.⁴ We begin in 2009, as Romania was forced to sign its first MoU in that year. Although the Romanian state was ironically the least indebted of all states under study (including Germany), its dependence on private foreign creditors (primarily European banks) forced it to enter into a bailout programme first. The results of our analysis are summarised in Table 4 below and presented in more detail in the Appendix.

Table 4 distinguishes between decommodifying and commodifying prescriptions, as outlined in Table 3 above. Furthermore, Table 4 also distinguishes between very significant (black), significant (grey) and weak (white) prescriptions, based on the different degrees of constraints of a particular NEG perception depending on its particular policy area, its timing, and the country position in the NEG regime, as operationalised in Tables 1 and 2 above.

[INSERT TABLE 4 HERE]

At first glance, Table 4 above implies that there was no socialisation of NEG prescriptions in three fields of labour policy across all four countries under investigation. In order to understand

the meaning of these prescriptions, we must assess them in more detail, taking their time- and country-specific meaning into account.

Wages

In the area of wages, there are two policy orientations that cohere during the period under study. The first are cuts to wages, particularly across the public sector and to the minimum wage, namely in Ireland and Romania. The second is advocating for an increase in wages across the German economy, particularly across manufacturing sectors. There are no prescriptions on wages for Italy. Instead, Italy received prescriptions on labour law and collective bargaining (see below) and on the need to ‘ensure that the general government debt is on a sufficient downward path’ (Council Recommendation 2014/C272/16), which also affected Italian wage developments in the public sector (Bach and Bordogna, 2013).

The most pertinent prescriptions on wage restraint fall within the timeframe of 2011-13, when the Euro crisis was acute and when Ireland and Romania were subject to MoU conditionality. The Irish government had already started to implement cuts to public sector wages in 2009, in what the IMF defined as one of the most severe austerity programmes in modern times (Whelan, 2014). In turn, the Commission’s DG ECFIN used the ‘determined policy action’ of the Irish government as an example for others, as the ‘substantial wage adjustment in the public sector in 2009 helped to initiate the necessary change in labour costs’ across all sectors (European Commission, 2010: 31 and 67). Even so, the cuts did little to improve the economic situation, and the Irish government was forced to enter in a Troika-led MoU programme in November 2010. As a result, further wage cuts were prescribed, even if Irish nominal Unit Labour Cost rates always remained well below the upper ceiling set by the NEG regime’s own MIP scoreboard. The wage related prescriptions were very precise, often relating to numerically defined targets that had to be met over a specific period. Representative examples of the types of prescriptions faced by the Irish and Romanian governments include:

The government will introduce legislation to reform the minimum wage ... and prevent distortions of wage conditions across sectors associated with the presence of sectoral minimum wages in addition to the national minimum wage. Measures will be as follows: ... Reduce by €1.00 per hour the nominal level of the current national minimum wage. ... Enlarge the scope of the "inability to pay clause", permitting firms to invoke this clause more than once. These measures should come into effect by May 2011. (Ireland, MoU, 28/11/2010)

Enactment of the Unified Wage Law ... with a view to: i) introducing a unitary salary system for the employees ... who are paid by the general government; and ii) limiting the public sector wage bill in 2011 to RON 39 billion ... and ensuring continued control of the public sector wage bill in subsequent years. (Romania, 2009 MoU, 3rd Amendment, 12/1/2011)

It is only as Romania moves into the status of being bound by a less constraining precautionary MoU, where there is a move from cuts to wage moderation. Indicative of this is prescription: ‘The public sector wage bill will need to stay on a sustainable footing’ (Romania, MoU, 6/11/2013).

In 2014, another theme appeared in the prescriptions on wages for Romania, namely calls for ‘objective’ criteria when establishing minimum wage levels. As the (explanatory) Recitals of the corresponding Council Recommendations include a reference in favour of social dialogue,⁵ analysis that does not take account of the local context could interpret them as being ‘social’. However, if placed into context, one realises that they were meant to restrain wage increases. The prescriptions were directed against the new Social Democratic government who promised to counter the wage cuts suffered by Romanian workers during the crisis by (unilateral) minimum and public sector wage increases. Although the minimum wage increases since 2013 did not undermine its international competitiveness (Heemskerk, Voinea, and Cojocaru, 2018), however, the Romanian government adopted in 2017 a radical tax reform that shifted the burden of almost all social insurance taxes from employers to employees. With this move the Government attempted to ‘avoid a hike in the public deficit’ caused by the public sector and minimum wage increases it scheduled for 2018 (Stoiciu, 2018a). It is noteworthy that this tax revolution was implemented just after the EU opened an SDP against Romania. Whereas Romania still has one of the lowest public debt to GDP ratio in the EU (37.5% in 2017), the Council asked the Romanian government to take decisive action to ensure that the nominal growth rate of net primary government expenditure would not exceed 3,3 % in 2017 (Council Recommendation, 16 June 2017, C 216/01).

A similar development occurred in Ireland in 2011, when the Troika and the new Irish government agreed to compensate employers for the reversal of the €1.00 minimum wage cut by a similar, albeit less radical reform: ‘We will reverse the recent reduction in the national minimum wage, mitigating any effects on employment through the targeted reduction in PRSI [Pay-Related Social Insurance] in the Jobs Initiative (Ireland, MoU, 1st update, 28/04/2011). Finally, it should be noted that Ireland’s MoUs also called for more wage flexibility through reforming the sectoral wage bargaining system, which we address below.

The second major orientation that coheres in the analysed NEG documents is concerned with pursuing a sustained increase in wages across the German economy. It is important to note that the degree of constraint is non-binding across all relevant prescriptions, with a lack of numerical precision, apart from the reference to the Keynesian ‘Golden Wage Rule’, which incidentally has inspired European trade unions’ wage bargaining coordination efforts since 1999 (Erne, 2008). Most of the discussion also falls outside of the Council’s Country-Specific Recommendations, which is not surprising given the strong political resistance in the so-called surplus countries against criticisms of their wage policies (Bieler and Erne, 2014). Two following passages representatively demonstrate the range of prescriptions put to the German government, including:

Sustain conditions that enable wage growth to support domestic demand. (Council Recommendation 2013/C 217/09)

Continued wage growth appears sustainable according to the ‘Golden Wage Rule’. This rule provides a theoretical framework for wage developments at the macroeconomic level in the euro area. According to this rule, nominal wages in each country should grow at a rate equal to national medium-term productivity growth plus the central bank’s inflation target. (Commission, Country Report: SWD (2016) 75 final, 26/02/2016)

These statements point to a perception that German policy makers favoured ‘beggar-thy-neighbour’ wage policies, generating a high-degree of export competitiveness, but at the expense of its EU partners (Flassbeck and Lapavitsas, 2013). Prescribing an increase in wages is thus not just aimed at restructuring the German economy, but about the way that such a restructuring will create spill-over effects for the capability of economic operators in other EU member states to recover. Although the tentative calls for higher German wage increases were welcomed by unions across Europe, it is equally clear that on balance the wage constraining prescriptions prevailed.

Employment Protection Legislation

In the area of employment protection, there are again two major policy orientations that cohere. The first seeks the removal of labour market ‘rigidities’, and an increase in ‘flexibility’. In other words, there is a persistent call that the economic risk should shift from firms to workers. This

is evident across documentation for the Euro Area as a whole, as well as Ireland, Italy and Romania.

It is no surprise that throughout Euro Area documentation there is little precision in the language used about how exactly greater flexibility and reduced rigidity should be achieved for labour markets. The documentation, however, also regularly states the need to pursue these aims in line with principles of flexicurity. Scholars advocating for the thesis that we have witnessed the socialisation of the Semester, such as Sonja Bekker, point to a revitalised use of the flexicurity approach as a key piece of evidence, even going as far as to argue that its definition has been widened to encompass a larger range of security issues than were covered previously (Bekker, 2017). However, whilst in this study, we also find a call for principles of flexicurity to be respected when implementing labour market restructuring, these appear inconsistently, are most explicit in documentation that has no binding force on member states and lack any precision of language about how this could be achieved. This is hardly surprising given ‘the opposing viewpoints’ that flexicurity attempts to reconcile in one catchphrase (Hyman, 2005: 25).

When it comes to flexicurity, it is only in the case of Romania where this concept is explicitly employed, and this is always in an imprecise manner. The MoU signed in 2011 states, ‘improve the adequacy of the employment protection legislation and adapt to the flexicurity principles’ (MoU, 28/06/2011). There are also explicit references to what improving the ‘adequacy’ of legislation actually means, including ‘widen the set of cases for use of fixed-term labour contracts’ (MoU, 1st Amendment, 27/12/2011). Here, clearly, the need for flexibility is being prescribed. However, there are no equivalent measures targeting improved security for workers to convincingly argue that the two components of the concept are being fulfilled. Also important is that calls for liberalisation are being made in the MoU that is binding on Romania. In turn, the Romanian government used emergency law to push through a major liberalising labour law reform, despite a relatively high union density and union protests, notably in the public sector (Adăscăliței and Muntean, 2018; Stan and Erne, 2016).

There is a similar focus on flexibility across Italian documentation. Principally, EU-level documentation is concerned with ensuring that it is easier for Italian firms to dismiss workers. This would act as both a means to ensure firms are not financially burdened with unnecessary labour during periods of economic stagnation or crisis and to encourage firms to hire more people during times of increased prosperity. This strategy is specifically aimed at addressing labour market segmentation and the lack of employment opportunities for young workers. For instance, the relevant 2011 CSR states, ‘reinforce measures to combat

segmentation in the labour market, also by reviewing selected aspects of employment protection legislation including the dismissal rules and procedures’ (Council CSR 2011/C 215/02, 12/07/2011). When legislation is brought forward in 2012 that directly relates to the 2011 CSR, there is a strong approval of the substantive orientation of the package, highlighting the concern with moving towards greater flexibility. For example, the Country Report (CR) states,

The reform is sufficiently ambitious to comprehensively address the rigidities and asymmetries of employment protection legislation... Exit flexibility is improved by revising Article 18 of the Workers’ Statute regulating wrongful individual dismissals in firms with more than 15 employees. For collective dismissals, the draft law aims to simplify procedural obligations and reduce costs to employers. (CR SWD(2012) 318 final, 30/05/2012)

Following the adoption of further liberalising labour legislation in 2015/6, EU-level documentation reinforces the argument that it is primarily concerned with flexibility over and above a social concern for workers’ security, as the 2016 Country Report states: ‘the revision of the rules for unfair dismissal increase exit flexibility and substantially increases legal certainty’ (CR SW(2016) 81 final, 26/02/2016). Whilst there is a general lack of precision in the language adopted throughout EU-level documentation, leaving the national government to define the exact scope and focus of the legislation to be presented – something quite different from the extremely detailed prescriptions that tend to be a feature of MoU documentation – the external constraints on the Italian government do increase over the period under study, due to the shift in status from simply having an imbalance to having ‘excessive imbalances’ identified.

When the ‘Troika’ arrived in Ireland at the end of 2010, the Irish labour market was already one of the most ‘flexible’ among OECD countries (Walsh, 2016). Yet, labour market flexibility was cited as a compelling reason to liberalise the only existing sectoral regulations on workers’ terms and conditions (Ireland, EAP, Autumn 2011 Review: 32-33). While we address the details of the reform in the following section, it is worth noting how “even in relatively ‘neoliberal’ Ireland, the implementation of the dominant norm of ‘competition’ must be closely monitored” (Achtsioglou and Doherty, 2014: 237). After the Troika left the country at the end of 2013, there has been no call within the Semester to increase Irish employment protection legislation.

Again, it is only in the case of Germany where there are a set of policy concerns distinct from the dominant trend for others. First, it is worth pointing out that there is a persistent call for the German government to support workers to pursue a transition away from ‘mini-jobs’ to

more traditional forms of employment; the former being a highly flexible form of employment that places strict limits on the income that can be earned, and excludes social security payments being made. Having emerged out of the Hartz reforms introduced in 2003 to address concerns over high unemployment (Bruff, 2010), mini-jobs have grown to include several million workers. It is here where there is a greater concern for workers' security being demonstrated, when compared with the other documentation analysed. However, if the growth of increasingly flexible forms of employment are a real concern for EU-level institutions, then why are reforms to increase flexibility at a rapid pace being prescribed in other countries?

Collective Bargaining

The dominant reforms being called for in the area of collective bargaining fit within the broader strategy of achieving economic recovery through the logic of 'internal devaluation'. There are persistent calls for wage bargaining institutions to be decentralised to firm level, particularly across Ireland, Italy and Romania, to enable wage adjustments that 'better reflect' productivity developments of companies.

This is evident in the case of Romania, which during the period of the financial assistance programme received prescriptions to 'implement reforms to the wage setting system allowing wages to better reflect productivity developments in the medium term' (Romania, MoU, 28/6//2011). In turn, the national and sectoral wage bargaining institutions were subjected to a 'frontal assault' in the form of another emergency law adopted by the Romanian government, which was euphemistically called the law on 'social dialogue' (Trif, 2016).

There is a similar message given to the Italian government over the period under study. In 2011, the then chairman of the ECB, Trichet and his successor Draghi, asked the Italian government in a leaked letter to 'reform the collective wage bargaining system allowing firm-level agreements to tailor wages and working conditions to firms' specific needs and increasing their relevance with respect to other layers of negotiations' (*Corriere della Sera*, 5/8/2011). This message frequently reappears in several CSRs Italy receives over the years. This created continuous substantial pressure towards a further decentralisation of collective bargaining to the firm level, even if multi-employer agreements at the sectoral level still play a significant role in Italy, in contrast to both the Romanian and Irish cases.

The reform of sectoral wage setting mechanisms, which became part of the Irish programme agreed with the Troika, was also justified on the ground that it should have ensured 'wages are adequately linked to [firm-level] productivity levels' (Ireland, EAP, Autumn 2012 Review: 37-38). The Irish case constitutes an interesting example of change in the discourse

orientation of the policy prescription. At the beginning of the Irish programme, the first MoU only required a review of the sectoral institutions. Yet, once two successive courts' judgments struck out sectoral wage setting as unconstitutional, the prescriptions became increasingly precise and targeted during the reform process which followed (Maccarrone, Erne, and Regan, 2019). Once again, the absence of similar calls from 2014 does not constitute an example of 'socialisation', but simply reflects on the one hand the fact that the requests contained in the MoUs were implemented, and on the other that the legislation protecting and enforcing collective bargaining rights was already remarkably weak.

Contextualised Comparative Discussion

Our analysis shows that there has been no socialisation of the NEG regime in the fields and countries under study. While the coercive strength of commodifying prescriptions decreased over time, the Italian and Romanian governments continued to receive commodifying prescriptions. For supporters of flexible labour markets, no liberalising reform can arguably go far enough. Accordingly, there was a continuing insistence on both the liberalisation of job protection laws and wage bargaining decentralisation for Italy, despite the implementation of several, radical reforms from 2011 to 2015 (Rutherford and Frangi, 2018). In 2018, however, the issue of bargaining decentralisation was dropped. But this did not happen due to a higher sensitivity to social or local concerns, as the Commission continued to call the efforts on decentralisation insufficient (Commission, Country Report 2018, Italy). The recommendation was dropped only after the Employment Committee of the Council evaluated the level of decentralisation achieved by the Italian reforms as enough (EMCO, Thematic Review, 25/01/2018). At times 'local context' does indeed count (Pochet, 2019: 286), but only if recognised by at least 16 Council delegations from member states representing at least 65% of the total EU population. The uneven implementation of CSRs, as measured by the Commission (Al-Kadi and Clauwaert, 2019), therefore hardly represent a cause for respite for labour movements. Governments can never be sure 'in advance whether or not their "reform program" will satisfy the EU executives. The ambiguous grounds for sanctions therefore represent a risk that policymakers find difficult to assess' (Erne, 2015: 347). This point especially applies for small, dependent market economies like Romania (Ban, 2019).

The MoU prescriptions for Romania called for major wage cuts and a commodification of individual and collective labour law. The 2011 law on 'Social Dialogue' abolished national, multi-employer bargaining by law and increased the unions' representation thresholds to a level

that deprived most of them of their local bargaining rights. This would suggest that there would no need for further *new* prescriptions after the acute phase of the crisis. In 2013, however, the EU started to worry about the increases in public sector and minimum wage that the new Social Democratic government promised to implement unilaterally. First, the CSRs that were meant to prevent the increases had no effect. In June 2017, however, the Council opened a SDP that meant that government had to take decisive action to ensure that the nominal growth rate of net primary government expenditure would not exceed 3,3 % in 2017. In turn, the social democratic government counteracted its own wage increases by a new law that shifted most social security taxes of employers to their employees. Since 2018, its public sector and minimum wage increases have thus effectively been financed by the employees themselves, given the savings for both public and private employers created by this ‘tax revolution’ (Stoiciu, 2018a). In every third employment contract, net earnings even decreased despite high economic growth rates (Stoiciu, 2018b).

In Ireland, the MoU also called for major wage cuts and liberalisations of its already very flexible collective wage setting regime. After the abolishment of the provisions for binding sectorial minimum wages and their replacement by a more flexible regime in only a small number of sectors, Ireland did not receive any commodifying CSRs in our field, as the centre-right Irish government made sure that the austerity wage cuts were restored at such a slow pace that they did not cause any concerns in Brussels. Irish growth rates also increased again, not as a result of the austerity cutbacks, but due to the growth of actual and transfer pricing activities that multinational firms reported in Ireland. In turn, Irish nominal Unit Labour Cost (ULC) increases for the 2015-17 period remained a stunning 29.5 per cent below the upper ceiling set by the EU’s MIP scoreboard (Commission, Alert Mechanism Report 2018, COM(2017) 771).

The German government, by contrast, received weak prescriptions that point in a decommodifying direction. Since 2013, Germany has faced persistent calls to increase wages. This is, however, is not due to the German economy being besieged by forms of employment that are paid lower than equivalent forms of work elsewhere, but because of its position within the EU economy. German wage policy makers alone would be able to generate enough demand-led economic growth domestically that it is perceived that it would have positive ‘spill-over effects’ for the rest of the EU (in ‘t Veld, 2016). What on the surface looks like a shift towards social concerns about the wage moderation that has been forced upon German workers

for an extended period, is in fact an economic concern with the role current account (im)balances have played in shaping macroeconomic trajectories across the EU.

Conclusion

As the making of the EU market did not lead to convergence but to huge economic imbalances, adjustments had to be imposed by fiat. After the crisis shattered beliefs in self-regulating markets, national industrial relations policies became subject to vertical EU interventions. The turn to the New Economic Governance regime has already been problematized in theory. There are also numerous case studies on the social consequences of this shift. Others have tried to capture the nature of NEG by the counting and coding hundreds of CSRs (Copeland and Daly, 2018; Crespy and Vanheuverzwijn, 2017; Zeitlin and Vanhercke, 2017). However, what has been missing is an analysis of NEG prescriptions across a smaller sample of countries to allow meaningful, contextualised comparisons. We studied policy prescriptions on industrial relations issues for the Eurozone as a whole, two larger and two smaller countries. Whereas country size is a proxy for political influence in the EU, our selection also includes places that represent different locations across the EU's asymmetrical political economy. Our focus on four countries also allowed us to take the different contexts and constraints of prescriptions into account. This approach has distinguished our analysis from the decontextualized, counting exercises that treat all CSRs equally. This matters as our distinct approach has led us to different results.

Our incorporated comparisons of the EU's NEG prescriptions for Germany, Italy, Ireland and Romania since 2009 show that there has been no socialisation in the three fields of industrial relations under investigation. The NEG regime is still biased in favour of business interests. Although the constraining power of commodifying CSRs declined over time, it would be wrong to dismiss the NEG regime as 'soft governance' (Pochet, 2019: 282). Our analysis shows that the easing of constraints does not denote a policy shift within the Semester, but rather the implementation of major commodifying reforms in Italy, Ireland, and Romania during the crisis years and the declining constraining force of CSRs in times of economic recovery. But make no mistake, the NEG regime institutionalised in 2011 is likely to come back with full force in the next crisis if it is not altered in time.

Our findings therefore do not support those that regard the Semester as a benign process that has been socialised. At the same time, looking ahead, there are also internal contradictions that may be exploited by labour in their favour. Unions could use the references to the

Keynesian ‘Golden Wage Rule’ in the 2016 Country Report for Germany as an argument for a more expansionary wage policy. After all, EU peer pressure on wages may have helped unions in Germany in achieving higher wage increases (Lübker, 2019: 19), which is also in the interest of workers elsewhere. Furthermore, unions could try to turn the EU’s own ULC benchmarks on its head, given that the MIP Scoreboard ceiling for acceptable wage increases (plus 9 % in the Euro zone and plus 12% in non-Euro area) has been reached almost nowhere (Commission, Alert Mechanism Report 2018, COM(2017) 771). In times of economic growth, the EU’s business and political leaders may also rediscover the merits of ‘social dialogue’ or ‘objective’ indexing mechanisms that they banished in the crisis, as has already happened to an extent through the CSRs that were directed against the unilateral wage increases of the Social Democratic Romanian government. However, it is important to note, in the absence of either political or workplace labour mobilisations, there is indeed no need for social concertation, which means that even moderate trade unions must complement the force of its Keynesian arguments with the argument of force (Bieler, Jordan, and Morton, 2019). Given the methodological nationalism of the NEG regime, its inaccessible, technocratic language, and the different policy directions of the analysed industrial relations CSRs for countries at the centre and periphery of Europe’s political economy, the EU’s NEG regime is not easy to politicise in a transnational public sphere. Considering the much more uniform commodification patterns of CSRs on the provision of public services (Stan and Erne, 2019, Szabó, 2019), the NEG regime may ironically be politicized by European public service unions rather than manufacturing unions that have been integrated in transnational production regimes for much longer.

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Tables

Table 1: Country Status within the EU's NEG Policy Enforcement Regime

State	Germany			Ireland			Italy			Romania		
Process	SGP	MIP	MoU	SGP	MIP	MoU	SGP	MIP	MoU	SGP	MIP	MoU
2009	EDP			EDP			EDP			EDP		MoU
2010	EDP			EDP		MoU	EDP			EDP		MoU
2011	EDP			EDP		MoU	EDP			EDP		MoU
2012 ^a				EDP		MoU	EDP	IMB		EDP		MoU
2013				EDP		MoU		IMB				MoU
2014		IMB		EDP	IMB			Ex-IMB				P-MoU
2015		IMB		EDP	IMB			Ex-IMB			IMB	P-MoU
2016		IMB			IMB			Ex-IMB				
2017		IMB			IMB			Ex-IMB		SDP		

Source: Council recommendations on national reform programmes (2011-2017).

^a The revised SGP and the new MIP process came into force in 2012.

SGP (Stability and Growth Pact): EDP (Excessive Deficit Procedure); Significant Deviation Procedure (SDP)

MIP (Macroeconomic Imbalance Procedure): Ex-IMB (Excessive Imbalance), IMB (Imbalance)

MoU (Memorandum of Understanding on Financial Assistance): P-MoU (Precautionary MoU)

Table 2: Degree of Constraint of NEG Prescriptions

Origin of Prescription	Enforcement Mechanisms	Coercive power
<p><u>MoU Process</u> MoU-related CSRs</p>	<p>Withdrawal of Financial Assistance ^a Withdrawal of EU funding ^b Financial Fines ^{c, d} Naming and Shaming</p>	<p>Very Significant</p>
<p><u>MoU Process</u> Precautionary MoU-related CSRs</p> <hr/> <p><u>SGP / MIP Processes</u> SGP- and MIP-related CSRs for states with excessive deficits or excessive macroeconomic imbalances</p>	<p>Withdrawal of EU Funding ^b Financial Fines ^{c, d} Naming and Shaming</p>	<p>Significant</p>
<p><u>SGP / MIP Processes</u> SGP- and MIP-related CSRs for states with <u>NO</u> excessive deficits or excessive macroeconomic imbalances</p> <hr/> <p><u>Europe 2020 Strategy Process</u> Europe 2020-related CSRs</p>	<p>Naming and Shaming</p>	<p>Weak</p>

^a EU Financial Assistance to a member state is conditional on the implementation of the corresponding MoU.

^b Since 2014, European Structural and Investment funding to all EU member states is conditional on ‘sound economic governance’, i.e. the implementation of corrective EAP-, SGP-, and MIP-prescriptions (Article 23, Regulation No 1303/2013 of the European Parliament and of the Council of 17 December 2013).

^c Since 2011, a member state of the euro area that has not ‘taken effective action to correct its excessive [budget] deficit’, risks ‘a fine, amounting to 0,2 % of the Member State’s GDP in the preceding year.’ (Art. 6, Regulation No 1173/2011 of the European Parliament and of the Council of 16 November 2011).

^d Since 2011, a member state of the euro area that ‘has not taken the corrective action [against excessive macroeconomic imbalances] recommended by the Council’ risks an ‘annual fine of 0,1 % of the GDP in the preceding year of the Member State concerned’ (Art. 2, Regulation No 1174/2011 of the European Parliament and of the Council of 16 November 2011).

Table 3: Policy Trajectories of NEG Prescriptions

	Wages	Employment Protections	Collective Bargaining
<i>Decommodification</i>	Increase = W_INC	Increase = LM_IEP	Solidaristic = CB_SOL
<i>Commodification</i>	Restraint = W_RES	Decrease = LM_DEP	Individualised = CB_IND

Table 4: EU Prescriptions on Wages, Employment Protection, and Collective Bargaining

Decommodifying					Commodifying				
	DE	IT	IE	RO	DE	IT	IE	RO	
2009								●	2009
2010							●■	●	2010
2011			●			△□	●■	●▲■	2011
2012						△□	●■	●▲■	2012
2013	○△					▲■	●■	●▲■	2013
2014	○△				○	▲■		○	2014
2015	○△			○		▲■		○	2015
2016	○△							○	2016
2017	○△					■		○	2017

Source: Our Analysis of Council Recommendations on National Reform Programmes (2009-17) including the MoUs quoted in them. See Annexe.

Content of Prescriptions: ○ = Wages; △ = Employment Protection Legislation; □ = Collective Bargaining

Degree of Constraints: ●▲■ = Very significant; ●▲■ = Significant; ○△□ = weak, based on Table 2 above.

Endnotes

¹ Participant Observation. “Social Dialogue Actors and [Troika] Institutions in the Context of Deepening EU Integration”, round table discussion at the ILO/European Commission seminar: *The governance of policy reform in Ireland*, Irish Government Buildings, Dublin Castle, 7 December 2012.

² “It is unacceptable to me that workers and retired people had to shoulder the burden of structural reform programmes, while ship owners and financial speculators became even richer. In the future we need a more democratically legitimate replacement for the Troika and thorough social impact assessments for any new support programmes” (Juncker, 2014).

³ See the European Financial Stability Mechanism (EFSM) and the European Financial Stability Facility (EFSF) as well as the overarching Regulation No. 472/2013 of the European Parliament and the Council on 21 May 2013 on the ‘strengthening of economic and budgetary surveillance of Member states in the euro area experiencing or threatened with serious difficulties with respect to their financial stability’.

⁴ All NEG prescriptions for Germany, Italy, Ireland and Romania (2009-2017) on wage policy, employment protection legislation and collective bargaining have been coded by policy orientation and their enforcement power (based on the particular country location within the NEG enforcement regime in a given year), as documented in the Online Appendix.

⁵ ‘The minimum wage, which is among the lowest in the Union, has increased substantially since 2013 and the lack of objective criteria for its setting creates uncertainty. A tripartite working group has been set up to work on the reform of minimum wage setting, but there continues to be no clear guidelines or criteria that would take into account its impact on job creation, social conditions and competitiveness. Overall, social dialogue remains weak.’ (Recital 12, Council Recommendation 2016/C 299/189).