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## European Economic Governance and Labour Politics

### 2.1 INTRODUCTION

The 2008 financial crisis represents a major turning point for European economic governance and labour politics. The crisis triggered European Union (EU) interventions in its member states' employment relations and social policies, which had hitherto been largely shielded from coercive EU interventions. At first, this shift occurred only in countries where governments had signed bailout programmes with international and EU institutions. After the EU adopted a Six-Pack of laws on economic governance in 2011 however, no member state was outside the reach of its new economic governance (NEG) regime. This shift is significant for analysts and social actors alike. As NEG denotes a departure from the usual trajectories of EU policymaking, EU scholars must rethink their long-established analytical perspectives. The shift to NEG challenges organised labour and egalitarian democracy too, as it threatens the role that labour movements and public services have played in Europe since the making of the mid-twentieth-century class compromise between capital and labour.

Although the NEG prescriptions that the EU began issuing after the financial crisis did not affect all workers and all public service users across Europe equally, the shift to NEG has nevertheless been fundamental. The Six-Pack's new EU Regulation 1176/2011 'on the prevention and correction of macroeconomic imbalances', for example, assumes that the purpose of NEG is to ensure that member states pursue 'proper' economic policies (Art. 2). This wording mirrors a technocratic understanding of EU governance, predicated on the implementation of apparently apolitical 'regulatory' standards by European executive agencies to create an integrated marketplace, as advocated, for example, by the Italian political scientist Giandomenico Majone (1994). If, however, EU economic policymaking is reduced to an exercise that consists of the implementation of 'proper' policies, it eschews the idea of democratic

interest intermediation between conflicting political priorities or social interests. After all, NEG affects not only technical standards but also *redistributive* areas of labour politics, which affect social classes differently, as happens in the case of wage bargaining or the provision of public services. NEG's technocratic assumptions, which supplant democratic choices, thus become highly problematic.

Although the single market programme (SMP) and economic and monetary union (EMU) exposed workers and labour movements to increased competitive pressures, the greater horizontal market integration caused by the SMP and EMU did not question the formal autonomy of social partners, as illustrated by the revival of neo-corporatist social pacts and social partnership agreements during the 1990s (Erne, 2008). By contrast, the shift to the much more vertical NEG regime pushed trade unions into a corner. This development seemed to leave very few options to labour movements: passive acceptance, national resistance, or transnational counter-mobilisations (Erne, 2019). Which of these responses have dominated, and why? And what have been the intended and unintended consequences of the shift to NEG for the European integration process, labour politics, and egalitarian democracy? These questions are vital for practitioners and analysts of EU governance and labour movements alike. The shift to NEG not only restructures the European political space and thereby challenges the role of trade unions but also requires new analytical tools that can adequately capture the ongoing social transformations that NEG has triggered.

In sum, in response to the upheavals caused by the 2008 financial crisis, EU policymakers adopted NEG. To understand the challenges that this new regime poses to labour politics however, we must also comprehend EU economic governance and its bearing on employment relations and public services prior to the shift to NEG. In section 2.2, we thus assess European integration dynamics already present before NEG and the ways in which labour movements positioned themselves in relation to them. Tensions between market-driven and political modes of EU integration were already apparent in the 2000s, but the shift to NEG made them much greater. NEG also unsettled EU policymakers' and scholars' core assumptions about EU economic governance and labour politics. Before we can discuss the analytical and political challenges caused by NEG however, we must first describe how it works, as we do in section 2.3.

## 2.2 EU ECONOMIC GOVERNANCE AND LABOUR POLITICS BEFORE THE 2008 FINANCIAL CRISIS

### *Economic Dynamics*

According to the Treaty on European Union (TEU), the 'Union shall establish an internal market' and 'promote social justice' and 'economic, social and

territorial cohesion, and solidarity among Member States' (Art. 3(3) TEU).<sup>1</sup> Whereas advocates of a social Europe argued that the latter EU objectives would require countervailing EU social policy interventions (Marginson and Sisson, 2004), the business-friendly promoters of the European single market project argued that its creation would produce substantial employment and welfare gains, as the free movement of capital, goods, services, and people would generate economies of scale and a decrease in prices for consumers resulting from increased competition (Cecchini, Catinat, and Jacquemin, 1988; van Apeldoorn, 2002; Jabko, 2006). Given these conflicting views, it is not surprising that the EU integration process did not follow a uniform trajectory since the adoption of the European Economic Community (EEC) Treaty in 1957. Instead, European economic and social integration has proceeded in different stages and at different speeds.

To draw a differentiated picture of the European integration process and to explain the unequal progress of its social and economic goals across time, Fritz Scharpf (1999) distinguished between the *negative* liberalising and *positive* harmonising of European laws, building on earlier works of Keynesian economic integration theory (Tinbergen, 1965; Pinder, 1968). Concretely, Scharpf distinguishes between EU interventions that (a) remove restrictions to the free movement of goods, capital, services, and people across borders (negative integration) and (b) set supranational standards to regulate goods, capital, services, and labour markets at EU level (positive integration). Negative integration *increases* market competition between firms and regulatory competition between different national governance regimes. The outcome is thus an increase in labour commodification (Streeck, 1992), which means turning labour power into a mere commodity to be bought and sold in the marketplace. In contrast, positive integration sets harmonised standards at EU level. If the harmonised standards are not set too low, positive integration curtails firms' capacity to use lower national standards to gain a competitive advantage and thus *limits* market and regulatory competition. When positive integration involves the regulation of employment relations and social protection, it functions as a market-correcting device that decommodifies labour.

<sup>1</sup> The EU's primary (or constitutional) law is specified in two treaties. Whereas the TEU sets out the objectives and principles of the EU, the Treaty on the Functioning of the European Union (TFEU) provides the organisational details and outlines the EU's policy areas. The TEU is an amended version of the Treaty on the European Union (signed in Maastricht in 1992), and the TFEU is basically the former (E)EC Treaty, signed in Rome in 1957 and amended by the Single European Act, the Maastricht Treaty, the Amsterdam Treaty, the Nice Treaty, and the Lisbon Treaty. The (E)EC Treaty became the TFEU in December 2009, after EU member states ratified the Lisbon Treaty.

The distinction between negative and positive integration enabled Scharpf (1999) to capture an essential shift in European policymaking triggered by the Single European Act (SEA) and its single market programme. After the SEA's adoption in 1986, economic integration processes went up a gear. The SEA departed from the positive (but cumbersome) integration approach based on building a level playing field for all firms through the harmonisation of national standards at European level. Instead, to remove all remaining non-tariff barriers to the internal market,<sup>2</sup> the SEA pursued a negative integration approach based on the mutual recognition of national standards for commodities traded across borders rather than their harmonisation at European level.

Positive regulation has always faced significant obstacles at European level. Most notably, new EU laws in the social field require a high level of consensus that is 'difficult or impossible' to reach, given the 'heterogeneity of Member State interests and preferences' (Scharpf, 2006: 854). In this context, European leaders' strategy of playing the market as a mechanism to unite Europe (Jabko, 2006) and the consequent shift to negative integration was significant: the SEA's single market programme (SMP) amplified market competition and facilitated the rise of a much more integrated European production system. The SEA rewarded companies that relocated part of their production capacities to countries with lower labour standards. In addition, economic integration went up another gear after the Maastricht Treaty (1992) launched the Economic and Monetary Union (EMU) and after the European Council opened the EU's eastwards accession process at its 1993 Copenhagen summit. Subsequently, the Maastricht EMU and the Copenhagen EU accession criteria, coupled with the increasing competitive pressures in an ever more integrated European market, increased the pressures on national budgets and unit labour costs (wages and social contributions) across old and new Europe alike.

The drafters of the Maastricht Treaty attached a social protocol to it, which was meant to facilitate the adoption of EU laws in the social field to prevent a race to the bottom in labour and social standards. Since the late 1990s however, EU policymakers have adopted only very few positive, market-correcting EU laws – although the EU did manage to adopt more of them in the social field than Fritz Scharpf (1999) and Wolfgang Streeck (1992) anticipated. Overall, those laws were not robust enough to offset competitive pressures unleashed by the SMP and the EMU (Marginson and Sisson, 2004; Maccarrone, Erne, and Golden, 2023).

<sup>2</sup> Intra-EEC tariff barriers had already been removed at the outset of the EEC.

Although the increased intra-European economic competitive pressures triggered by the SMP and EMU did not lead to the creation of a strong social Europe, neither did they lead to an end to social concertation between governments, employers, and unions at national level, as initially expected by neo-corporatist employment relations scholars (Streeck and Schmitter, 1991). Governments and employers continued to involve unions in national corporatist arrangements or social pacts – not to ensure a fair distribution between capital and labour as before but to moderate wage growth. Wage moderation was a key feature of these arrangements for two reasons: first, to improve the competitive position of countries' firms in an ever more transnational marketplace and, second, to fulfil the Maastricht Treaty's low inflation criteria to access the EMU (Grote and Schmitter, 1999; Molina and Rhodes, 2002; Eme, 2008). To access the EMU, governments also began reducing the costs of public services to meet the Treaty's public deficit criteria. They achieved that by curtailing public expenditure or shifting the costs of public services to private purses through a series of marketising reforms (see Chapters 5–10), leading to a commodification of the social welfare state, namely, employment relations, social services, and public utilities (Supiot, 2013).

After the introduction of the Euro in 1999 and the accession of ten new EU member states in 2004 however, the disciplining effects of the EMU and accession criteria on labour and the social welfare state diminished. This led EU leaders to relaunch the economic integration process by drawing on negative integration through service liberalisation. To achieve that, the Commission notably asked the European Parliament and Council in 2004 to adopt its proposal for an EU Services Directive, but these attempts were not entirely successful and, by the end of the decade, the contradictions of European economic integration became ever more apparent. Contrary to the assumptions of the proponents of the internal market programme quoted at the start of this section, European integration did not lead to market integration trickling down to social integration. Another reason for this was that the building of the single market and monetary union in an enlarged EU accentuated rather than reduced social and economic imbalances across countries and social classes (Meardi, 2013; Hugree, Penissat, and Spire, 2020).

Given the absence of substantial European industrial and social policies to reorient them, economic forces were by and large left to their own devices. As a result, the SMP, the EMU, and accession processes strengthened the productive apparatus in the EU's old core (namely, in countries that belonged to the former Deutschmark zone). In the eurozone's periphery, interest-rate convergence fuelled speculative property investments instead of productive ones, which would have allowed sustainable growth (Aglietta, 2019: 66).

This happened even in countries like Ireland, where governments included unions in social pacts and adopted policies in favour of the creation of new industrial clusters (McDonough and Dundon, 2010; Ó Riain, 2014; Roche, O'Connell, and Prothero, 2016). In contrast, firms in core countries benefited from two mutually reinforcing trends: (1) increasing economies of scale (in the enlarged EU market) and (2) increasing agglomeration effects whereby the most innovative and productive businesses prefer existing innovation hubs to greenfield peripheral locations (Aglietta, 2019: 78). Thus, the economies in the EU's strongest economies benefitted the most from economic and monetary unification, also because the introduction of the Euro removed any danger of countervailing currency revaluations in the former Deutschmark zone (Erne, 2008: 101). In turn, the SMP and the accession process led to a restructuring of productive capacities in the EU's new eastern periphery at the price of its continued dependence on the core (Hardy, 2009; Bohle and Greskovits, 2012; Simonazzi, Ginzburg, and Nocella, 2013; Ban, 2014; Stan and Erne, 2014).

From an international political economy perspective, the making and enlargement of the internal market and monetary union led to a new transnational division of labour that affected the economies of different member states differently. From a labour perspective however, economic integration increased the competitive pressures on wages and working conditions everywhere. Workers in high-wage, core countries faced increased threats from firms that they would relocate, and economic and monetary EU integration exposed lower-paid workers from peripheral locations to increased transnational competition, not least given their employers' subordinate position in transnational supply chains. In addition, just before the advent of the 2008 crisis, the Court of Justice of the European Union (CJEU) further accentuated the imbalance between the EU's economic and social objectives by prioritising the transnational economic freedoms of corporations over workers' social rights (Dølvik and Visser, 2009; Schiek, 2012; Garben, 2017; Arnholtz and Lillie, 2019; Wagner, 2020). Thus, although economic EU integration led to a much more integrated production system on the continent, it also amplified social divisions inside countries and transnationally across Europe.

By the 2000s, economic EU integration had also become increasingly politicised (Höpner and Schäfer, 2010; Schulz-Forberg and Stråth, 2014; Zürn, 2016), with unions and social movements (Turnbull, 2006; Erne, 2008; della Porta and Caiani, 2009) and the European Parliament playing an increasingly influential role (Hix and Høyland, 2013). Calls for a more political Europe also led to the draft Treaty establishing a Constitution for Europe in 2004. Many proponents of a social and democratic Europe had

already been supporting a shift from economic to political integration in the 1990s (Habermas, 1992; Erne et al., 1995; Golden, 2024). After the introduction of the Euro, some promoters of economic integration called for more political EU interventions too (Buti and van den Noord, 2004), albeit for different reasons, namely, to trigger structural reforms in member states that would consolidate the internal market and monetary union and enhance their competitiveness (Trichet, 2006). In the following, we thus assess the political dynamics of EU integration before describing the shift to the EU's NEG regime in section 2.3.

### *Political Dynamics*

The devastation caused by fascism and World War II amplified calls, including from trade unionists (Buschak, 2014), for a democratic, federal Europe (Spinelli and Rossi, 2013 [1941]). The first attempts to create one failed though. To uphold human rights and democracy in Europe, ten countries<sup>3</sup> created the Council of Europe (CoE) in 1949 as an international and not a federal organisation.<sup>4</sup> The constitution of a Political European Community, with a directly elected Peoples' Chamber, a Senate, and a supranational Executive accountable to parliament (Karp, 1954), equally unravelled in 1954 (Griffiths, 1994). European integration thus became an economic venture, albeit one that continued to be shaped by powerful political dynamics.

In 1951, six countries<sup>5</sup> created the European Coal and Steel Community (ECSC), which was led, by contrast to the CoE, by a *supranational* High Authority, the latter-day European Commission. The ECSC Treaty also established a *supranational* Court, the latter-day CJEU (Art. 31, ECSC Treaty). Whereas the High Authority was subject to judicial review, the actions of the ECSC executive did not depend on a democratic, popular mandate, even though the ECSC Treaty also created an Assembly, the latter-day European Parliament, which could dismiss the High Authority by a no-confidence vote (Art. 24, ECSC Treaty). The ECSC was tasked with

<sup>3</sup> Belgium, Denmark, France, Ireland, Italy, Luxemburg, the Netherlands, Norway, Sweden, and the United Kingdom.

<sup>4</sup> Over time, however, the CoE – which should not be confused with either the Council of the European Union (Art. 16 TEU) or its European Council (Art. 15 TEU) – did develop some supranational features, namely, the European Court of Human Rights set up in 1959 in Strasbourg. The Strasbourg court can claim superiority over national laws, court rulings, and practices if they contravene the CoE's European Convention on Human Rights.

<sup>5</sup> Belgium, France, Italy, Luxembourg, the Netherlands, and West Germany.

overseeing the post-war reconstruction of the steel and coal sector not only for economic but also for political reasons. This was outlined by the French foreign minister, Robert Schuman, who proposed its creation: 'By pooling basic production and by instituting a new High Authority, whose decisions will bind France, Germany and other member countries, this proposal will lead to the realization of the first concrete foundation of a European federation indispensable to the preservation of peace' (European Commission, 2020a). According to neo-functionalist European integration scholar Ernst Haas (1958 [2004]), the promoters of the ECSC in 1951 and the EEC and European Atomic Energy Community (Euratom) in 1957 were convinced that political integration would ultimately follow from the creation of these *European communities* as a spill-over from economic integration.

Although the making of an integrated European common market and customs union required *supranational* laws, the exact dosage of supranationalism and intergovernmentalism remained a contested issue among decision makers, lawyers, and scholars from the outset. At every stage in the 'process of creating an ever closer union among the peoples of Europe' (Art. 1 TEU), different visions emerged of what the EU should be. To what extent should member states retain their autonomy and just pool their sovereignty on a case-by-case basis (intergovernmentalism) or does European integration also require supranational state structures to govern an ever more integrated economy (federalism)? During their first three decades, the European communities worked largely as an intergovernmental organisation despite the founders' federal ambitions. This changed in 1987, when the SEA extended qualified majority voting in the Council to more policy areas to facilitate the implementation of its single market programme by new EU laws. In 1993, the Treaty of Maastricht extended qualified majority voting to additional areas, including working conditions and public services, and gave the European Parliament more co-legislation rights. At long last, Haas' neo-functionalist hypothesis seemed to be confirmed. In foreign and security policy, or pay and healthcare policy, however, member states retained much of their policymaking powers. Furthermore, the Maastricht Treaty counterbalanced the power of the supranational Commission by institutionalising the intergovernmental European Council of heads of state or government and by tasking it to 'provide the Union with the necessary impetus for its development' (Art. D TEU; now Art. 15(1) TEU). In employment relations and public services, EU policymaking followed therefore neither an intergovernmental nor a supranational approach. Instead, it has been described as a multilevel governance regime that displays different combinations of intergovernmental collaboration and supranational EU authority (Marginson and Sisson, 2004).

Both intergovernmentalist and supranationalist EU scholars have focused their studies on institutional questions, addressing the question of the formation of a European polity, usually in terms of an opposition between national and supranational decision makers.<sup>6</sup> However, their focus on political executives, namely, the Council and the Commission, often neglects questions about democratic accountability. Regardless of whether EU decisions are made at intergovernmental Council or supranational Commission meetings, in both settings national and European parliaments and publics play a secondary role. To be able to assess also the prospects of a more democratic EU, we must enlarge our analytical perspectives. We therefore analyse not only institutional processes but also the roles played by non-governmental actors, namely, trade unions and social movements, which also contributed to the making of social and democratic states at national level. In addition, we must place EU integration within broader developments in capitalist accumulation.

As shown in historical European studies, political authority over a population included few rights at the outset (i.e., civic rights to private property) and only subsequently more fundamental political and social rights (Marshall, 1950). The establishment of European state structures has usually been a product of coercion and economic capital accumulation (Tilly, 1992). Political and social rights usually followed afterwards as ruling elites' response to countervailing social movements (Marshall, 1950; Galbraith, 1952; Habermas, 1992). Although 'soft-liners' within ruling classes often played a key role in past democratisation processes (O'Donnell and Schmitter, 2013 [1986]: xviii), Western Europe's democracies and welfare states were not created out of the blue by benevolent rulers. Rather, they were usually the outcome of the social (class) struggles and subsequent class compromises between organised labour and capital (Rueschemeyer, Huber Stephens, and Stephens, 1992).

The creation of welfare states would not have been possible without labour's struggles for a democratisation of social and economic policymaking, namely, through an extension of political rights to participation in decision making and of social rights shielding workers from market pressures and vagaries (Marshall, 1950; Foot, 2005). These struggles included calls not only for more democracy in politics and society but also for actions that *politicised* social and economic issues by bringing them into the public sphere of debate and policy intervention. After World War II, Western European labour movements therefore

<sup>6</sup> The view that the national–supranational divide would be the most significant dimension of EU policymaking shapes even EU scholars' multilevel governance approach, which tries to overcome the polarised views of intergovernmentalists and federalists.

partially succeeded in shifting the conflict between workers and employers from the marketplace to the political arena, thereby embedding liberalism (Ruggie, 1982). This stabilised the capitalist economy and led to the creation of European social welfare states (Crouch, 1999; Millward, 2005; Wahl, 2011), with three key dimensions: individual and collective labour rights, social protection, and public utilities (Supiot, 2013).

Building on Stein Rokkan (1999) and his own work (Bartolini 2000) on the formation of democratic states, Stefano Bartolini (2005) stressed that the formation of EU state structures requires not only democratic participation rights but also the building of a welfare system. Others have reached similar conclusions (Habermas, 1992; Erne et al., 1995; Schmitter, 2000; Erne, 2008). EU policymaking in employment relations and public services is thus connected to political integration as well as its democratisation and politicisation. An exclusive focus on the institutional (national/supranational) dimensions of EU policymaking would thus be too narrow in scope to understand the links between EU governance and its democratisation – hence our focus on interest groups and social movements.

As seen in the previous section on economic integration however, the creation of the internal market resulted in ‘regime competition’ (Streck, 1992), which exposed employment relations and public services across Europe to increased commodifying market pressures. Workers perceived this process of renewed commodification of labour, social protection, and public utilities as resulting mostly from either impersonal market forces or interventions by national governments. Countervailing trade union action therefore usually targeted the latter rather than the more distant EU. This was possible also because the shift to negative integration, following the 1986 SEA, left the formal autonomy of national labour and social policy regimes intact. Thus, these regimes could still react differently to the pressures of the increased market and regime competition unleashed by EMU and EU accession processes. This triggered a torrent of institutionalist research about the different national ‘varieties of capitalism’ and labour politics (Thelen, 2001). Until the 1990s, apart from some notable exceptions (Lefebure and Lagneau, 2001; Erne, 2008), national trade unions therefore found few reasons for EU-level action and were mostly invested in concession bargaining to defend labour and social standards at national, regional, or local level as well as they could.

The obstacles to positive EU integration in social policy fields, seen in the section above, led to an inbuilt asymmetry between market-making and market-correcting EU laws, which favoured capital. Nonetheless, unions started to build – intersectoral and sectoral – European umbrella organisations (Gobin, 1996; Dølvik, 1997; Degryse and Tilly, 2013; Fischbach-Pyttel, 2017)

and participated in EU policymaking in the hope of obtaining some labour and social rights at EU level in exchange for their support for the integration process (Crouch, 2000; Erne, 2008). These included the SEA's Treaty articles on occupational health and safety and the Maastricht Treaty's protocol on social policy that facilitated the adoption of directives in these fields by a qualified majority vote (instead of unanimity) in the Council (see Chapter 6). Although the EU's social legislative agenda went much further than Scharpf and Streeck had initially expected, overall, its achievements remained quite modest, also because of loopholes in many social EU directives that firms and governments could exploit to derail their application in practice.<sup>7</sup> By contrast, the EU laws that created the internal market and monetary union left national policymakers much less room for manoeuvre.

A few days before the Euro became an everyday reality, the European Council (2001) thus acknowledged that European citizens would be 'calling for a clear, open, effective and democratically controlled Community approach' and tasked a Convention of national and EU-level public representatives to draft a Constitution for European citizens. Despite these democratic openings, however, the European Council also restated that the 'basic issue should continue to be proper operation of the internal market and the single currency' (2001: 21).

Popular political pressures for a more democratic EU led to a partial democratisation of EU decision-making processes. In the 1980s, the Commission used its powers to open up public services to competition through the adoption of Commission Directives (Art. 106(3) Treaty on the Functioning of the European Union: TFEU). After the Commission decided to marketise the public telecommunications sector on its own, several governments challenged its power to do that before the CJEU. Although the governments lost their legal battle in court, they nevertheless won the war. In fact, the Commission thereafter felt obliged to abandon its exclusive legislative competition policy powers concerning public services 'in favour of conventional law-making processes involving the Council and Parliament' (Maher, 2021b: 832; see also Chapter 7). The marketisation of public utilities henceforth relied on inter-institutional, political compromises and thus progressed more slowly (see Chapters 7 and 8).

The democratisation of EU law-making went also beyond these institutional actors, as the Treaty of Maastricht introduced European social dialogue

<sup>7</sup> At times, however, notionally 'weaker' institutional power resources provided by EU laws can give workers more effective leverage for collective action than those provided by 'stronger' national labour laws, as shown by a transnational campaign of Ryanair pilots in 2017, which forced the Ryanair management to recognise trade unions (Golden and Erne, 2022).

with representative EU-level organisations of management and labour, giving them formal co-decision rights in EU social policymaking (Arts. 154 and 155 TFEU). The partial democratisation of EU policymaking also went beyond organised interest groups to include EU citizens at large: the European Citizens' Initiative (ECI) introduced in the Treaty of Lisbon (2007) gives groups composed of at least one million European citizens from at least seven different member states the right to make a legislative proposition to the Commission (Art. 11(4) TEU; Szabó, Golden, and Erne, 2022).

The more the EU democratised its legislative procedures, the more trade unions and social movements became aware of the threat of commodifying EU laws for employment relations and public services and mobilised against them across borders. By the mid-2000s, the Commission's attempts to deregulate public services by EU laws had run out of steam, as the countermovements that they triggered motivated the European Parliament to curb the Commission's commodifying bent through legislative amendments, for example in the case of Commissioner Bolkestein's draft Services Directive of 2004 (COM(2004) 2 final/3) (Erne, 2008; della Porta and Caiani, 2009; Crespy, 2012). The referendums on the draft Treaty establishing a Constitution for Europe (hereinafter, constitutional treaty or CT) did 'bring citizens closer to the European design and European Institutions' (CT, Preface), but without producing the desired effects. Instead of consolidating the 'proper operation of the internal market and the single currency' (European Council, 2001: 21), the French and Dutch referendum debates on the CT in 2005 and the parallel discussions on the draft Bolkestein Directive gave social movements and unions an exceptional opportunity to politicise and reject the policy orientation of the EU's economic integration processes in a European public sphere (Kohler-Koch and Quittkat, 2013; Béthoux, Erne, and Golden, 2018). The more EU governance by hard law triggered political countermovements, the more the EU relied on new governance tools.

In 2000, the European Council launched its Lisbon strategy, which aimed to turn the EU, by 2010, into the most competitive economy in the world. To achieve this objective, the EU relied on tools introduced in the previous decade, namely, the Broad Economic Policy Guidelines (BEPGs) introduced by the Maastricht Treaty (Art. 121 TFEU) and the Open Method of Coordination (OMC) introduced by the Amsterdam Treaty (Art. 148 TFEU). These procedures sought to achieve a greater convergence of national policies towards the EU's economic and social goals, namely, through a combination of numerical benchmarks, country-specific reports and recommendations, mutual learning, and peer pressure (Armstrong, 2010). Although not legally binding, these 'soft law' mechanisms nevertheless had 'practical

effects' (Snyder, 1993: 32). They created stronger links between national and EU officials and crafted a new way of governing that depoliticised policymaking and strengthened policymakers' capacity to govern at a distance from popular pressures (Miller and Rose, 1990; Lascoumes and Le Galès, 2004). Even so, trade unionists hardly found these new governance mechanisms threatening. After all, the promoters of the Lisbon agenda still tried to reconcile opposing social interests, as shown by the introduction of composite terms – such as 'flexicurity' – into the Euro-speak vocabulary (Hyman, 2005: 26). The Lisbon strategy's non-binding nature also reassured those who feared commodifying EU interventions in the social field. After the crisis of 2008 however, EU leaders broke the institutional padlocks that had hitherto constrained direct EU interventions in employment and social fields without much ado and set up the much more constraining NEG regime.

### 2.3 THE EU'S NEW ECONOMIC GOVERNANCE REGIME AFTER 2008

The making of the EU's NEG regime marks a major shift in EU policymaking. NEG provides new tools for the European Commission and Council not only to issue policy prescriptions to member states in areas of employment relations and public services but also to enforce them. In this section, we outline the economic and political context in which NEG was set up after the 2008 financial crisis, its coercive architecture, and the mechanisms that led to its institutionalisation at the beginning of the 2010s.

#### *A Silent Revolution from Above*

Before 2008, EU laws that directly affected employment relations and public services were rare, even though the SMP and EMU exposed workers and welfare states to increased competitive market pressures. Most European business and centre-right political leaders did not think that this would be a problem. Employment relations and social policy should remain a matter for national social partners and policymakers (Léonard et al., 2007), regardless of the frictions that the making of the internal market and monetary union might entail. Although economic and monetary integration would make labour and social policy adjustments necessary, business and centre-right political leaders thought that the increased competition between different national industrial relations and welfare regimes triggered by it would suffice to ensure the EU's cohesion quasi automatically (Erne, 2008: 54).

After 2008 however, the views of European business and centre-right political leaders changed dramatically when they realised that the internal market and monetary union did not 'promote economic, social and territorial

cohesion, and solidarity among Member States' (Art. 3(3) TEU) but led to threatening macroeconomic imbalances between them. In June 2010, the European organisation of organised capital therefore urged the Commission and Council to draft a 'European framework' for 'product, labour, health care and social security reforms' (Business Europe, 2010: 7). This was a major policy shift, as Europe's business leaders had perceived the mere interest of EU authorities in employment relations under the banner of governance as 'too much intervention' only a few years earlier (Léonard et al., 2007: 7).<sup>8</sup>

To prevent the collapse of the monetary union, which 'would lead to a chain reaction that might well bring down the European Union as a whole' (Beck, 2013: 24), the EU adopted a much more interventionist NEG regime. In these exceptional situations, the existing order 'may legitimately be suspended to defend the common good' (2013: 27). The 'impending catastrophe empowers and even forces the Europe builders to exploit legal loopholes so as to open the door to changes' (2013: 26–27). Although Ulrich Beck acknowledged that the rhetoric of the 'imminent collapse of Europe may easily result in the birth of a political monster' (2013: 28), the sociologist of the risk society condoned the route taken by EU leaders as a response necessitated by the financial crisis. This pathway involved unlocking the many constitutional padlocks that had hitherto stood in the way of a more interventionist EU governance regime in employment relations and public services.

Across the globe, the upheavals caused by the financial crisis shattered into pieces 'the sophisticated but conceptually hollow premise on which the framework of self-regulating markets had been built' (Griffith-Jones, Ocampo, and Stiglitz, 2010: 1). Within the EU, the crisis seemed to vindicate the views of heterodox economic sociologists and political economists who had long argued that the single market and monetary union would require a *gouvernement économique européen* (Albert, 1997: 584) or even a *gouvernement européen tout court* (Boyer and Dehove, 2001). At first, many centre-left politicians and trade union advisors thus welcomed the shift to a more interventionist EU governance regime (Erne, 2012a, 2012b). This shift, however, soon disappointed those who believed in 2008 that the crisis would lead to a shift away from the free-market credo towards more social policies. In fact, the failures of neoliberal theory did little to weaken the power of corporate business interests in EU socioeconomic policymaking (Crouch,

<sup>8</sup> Incidentally, this shift also shows that the widespread EU assumptions about the internal market and monetary union as a tool to achieve economic and social cohesion 'were ideologically informed' and 'baseless, empirically' (Kochenov, 2019: 218; see also de Búrca, 2015; Stan and Erne, 2021b).

2011). As political leaders considered private banks to be systemically relevant, the banks managed to turn even the threat of their ‘imminent ruin’ into a powerful political asset (Erne, 2020: 260; Stiglitz, 2010). After 2008, the Commission thus approved national bank bailouts of unprecedented proportion. Intriguingly, by doing this, the Commission reinterpreted, in ‘a highly politicised environment’ (Maher, 2021b: 833), the EU Treaties’ competition policy principles that seemed to stipulate that state aid for private corporations was incompatible with the internal market (Buch-Hansen and Wigger, 2011).<sup>9</sup>

Facing competing pressures from business associations, unions, and governments, the European Commission and Council of finance ministers (EU executives) adopted a crisis narrative that mirrored different political concerns – as outlined below – but still went in a business-friendly direction (Syrovatka, 2022a: 211–299). First, EU executives endorsed the calls of business interests and surplus countries<sup>10</sup> for the curtailment of public spending. At the same time, EU executives endorsed calls for a supranational surveillance of national employment and social policies. Although this policy shift echoed long-standing Keynesian concerns of centre-left politicians and trade union economists (Erne, 2008; Delors, Fernandes, and Mermet, 2011), it did not represent a shift to the left. The EU executives just decided that the Euro’s success would depend not only on the curtailment of public spending in deficit countries but also on a much more constraining pan-European strategy of employment relations and public services reforms. This conclusion mirrored the shift of Business Europe (2010) in favour of stronger EU powers in labour, healthcare, and social policy, which was supported also by the American Chamber of Commerce, southern European organised capital, and MEDEF, the movement of French enterprises (Syrovatka, 2022a: 221–224). The German employer and business associations, BDA and BDI (2010), however, remarkably did not favour it, as they feared that a more supranational labour and social policy regime would lead to EU calls for higher wages in Germany, which would counteract the export-oriented strategies of German firms (2010: 4).

### *A Constraining Governance Architecture*

When some member states were no longer able to refinance their public debt after the crisis, the EU concluded several bailout programmes with member

<sup>9</sup> Art. 127(1) TFEU states that ‘save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market’.

<sup>10</sup> That is, countries with a current account balance surplus, like the Netherlands and Germany.

states in collaboration with the International Monetary Fund (IMF) and, in eurozone countries, also with the European Central Bank (ECB). These programmes made EU bailout funding conditional on the implementation of strict policy prescriptions, including in policy fields hitherto believed to be shielded from top-down EU interventions. This happened despite the EU's allegedly 'ordoliberal' (Joerges, 2013) principles that would outlaw the massive bailouts of private banks, the Treaty's no-bailout clause that would outlaw EU funding for its member states (Art. 125 TFEU),<sup>11</sup> and its Charter of Fundamental Rights. Regardless of their liminal legality, the EU first approved massive state aid packages for ailing private banks and then conditional state bailout programmes of around €500 billion, which is a lot more than the EU's annual budget of around €140 billion (Kilpatrick, 2017: 338).<sup>12</sup> Arguably, the EU could also have let banks or member states default on their debt repayments. This option was not chosen though, as EU and ECB leaders feared that even partial defaults could lead to the collapse of the Euro, which would represent a systemic risk to capitalist accumulation in general (Harvey, 2010; Tooze, 2018). In its subsequent case law, the EU's CJEU upheld the legality of the EU's NEG regime. To that end, the CJEU had to advance an interpretation of Treaty provisions that was not 'always the legally obvious' one (Barrett, 2020: 5).<sup>13</sup> The Memoranda of Understanding (MoUs) with

<sup>11</sup> According to Art. 125 TFEU, 'the Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State without prejudice to mutual financial guarantees for the joint execution of a specific project'.

<sup>12</sup> Eurozone finance ministers also approved an assistance programme for the Spanish financial sector under the European Stability Mechanism (ESM), which the EU leaders created after amending Art. 136 TFEU by Decision 2011/199 in 2011. Furthermore, the ECB purchased private and public assets for more than €2,500 billion between October 2014 and December 2018 to support the EU economy (Kilpatrick, 2017).

<sup>13</sup> In Case C-370/12 *Thomas Pringle v Government of Ireland*, 27 November 2012, for example, the CJEU ruled that the EU bailout mechanisms, such as the ESM, would be legal, despite the TFEU's no-bailout clause (Art. 125). In so doing, the CJEU reinterpreted the aim of Art. 125 TFEU as an obligation to keep member states submitted to the 'logic of the market' that apparently guided the drafters of the EU treaties (Case C-370/12, para. 135). Consequently, EU bailout mechanisms would be legal as long as they enforced that submission to the market through political demands (or 'conditionalities') favouring fiscal discipline and structural adjustment. To secure the stability of the eurozone as a whole, the CJEU also "discovered" an ultimate objective for EMU (safeguarding the financial stability of the euro area) that had no basis in the Treaties' (Hinarejos, 2015: 125–126). Gavin Barrett (2020: 6) thus described the *Pringle* ruling 'as the case in which the European Court of Justice cautiously deferred to a revolution . . . in order to save the Eurozone: a revolution, in effect to save the status quo'. Whereas 'judicial activism was needed to advance the cause of European integration' in the past, in the financial crisis 'something quite different was needed, that the law not become an obstacle. Thanks to the case-law of the Court of Justice, this need was met' (Barrett, 2020: 5–6).

three non-eurozone (Hungary, Latvia, and Romania) and four eurozone (Greece, Ireland, Portugal, and Cyprus) member states signed by the EU between 2008 and 2015 could thus include binding prescriptions on employment relations and social policies, despite EU executives' lack of legislative powers in these fields. As non-compliance would lead to a withdrawal of EU bailout funding, the level of constraint faced by a member state in relation to MoU-related prescriptions was very significant.

The strict conditionalities of MoU did not affect only bailout programme countries. The MoU's approach to budgetary discipline and policy changes also served as a general model for the silent revolution from above that the then Commission President, José Manuel Barroso, had already announced in 2010. This revolution took the form of a package of new EU laws that strengthened the EU's economic governance powers in relation to all its member states. Using a dormant Maastricht Treaty paragraph as its legal basis,<sup>14</sup> the European Parliament and Council adopted the Six-Pack of EU laws on EU economic governance in 2011. The Two-Pack, which they adopted in 2013, further institutionalised the powers of the Commission and the Council in national fiscal policy (Bauer and Becker, 2014).

Instead of steering member states' policies through the classical method of governing by law in accordance with the EU's ordinary legislative procedure, the Six-Pack institutionalised the NEG regime that steers member state policies through new public management tools, for example numerical benchmarks, country-specific ad hoc prescriptions, and an extraordinary policy enforcement regime. According to the Six-Pack laws, the Commission can propose fines for non-compliant states. In the event of excessive deficits, Regulation 1173/2011 allows yearly fines of up to 0.2 per cent of GDP for non-complying eurozone countries (Erne, 2012b; Bauer and Becker, 2014). In contrast to the fines foreseen in the original Stability and Growth Pact (SGP) adopted in 1997,<sup>15</sup> the Commission's fines apply automatically unless a qualified majority of national finance ministers vetoes them within a ten-day period. The Six-Pack thus substantially enhanced the sanctioning mechanisms behind the SGP's excessive deficit procedure (EDP), which is the corrective arm of the EU's surveillance regime that aims to ensure member states' compliance with the EU's deficit and debt criteria. Although the EU's reference values for its EDP

<sup>14</sup> 'The European Parliament and the Council ... may adopt detailed rules for the multilateral surveillance' (Art. 121(6) TFEU).

<sup>15</sup> Council Regulation (EC) 1466/97: On the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, and Council Regulation (EC) 1467/97: On speeding up and clarifying the implementation of the excessive deficit procedure.

are clear-cut,<sup>16</sup> most member states exceed them most of the time; but what matters for an EDP against a state are not reference values as such but the Commission's assessment of their trajectory. This gives the Commission considerable leeway in relation to member states' budgetary policies.<sup>17</sup> In 2013, the Six-Pack's rules on budget deficits were strengthened further by the Two-Pack of EU laws that enhanced the Commission's control over national budgetary processes and by the Treaty on Stability, Coordination, and Governance in the Economic and Monetary Union (or Fiscal Treaty), in which EU member states committed themselves to introducing balanced budget rules and automatic fiscal correction mechanisms in their own legal systems.

In addition to the enhanced EDP, the Six-Pack laws introduced a novel Macroeconomic Imbalance Procedure (MIP), which likewise foresees fines that the Commission can enforce unless a reversed qualified majority of finance ministers vetoes them within ten days. MIP Regulation 1176/2011 allows yearly fines of up to 0.1 per cent of GDP for eurozone countries that display excessive macroeconomic imbalances and fail to enact the corresponding EU corrective action plans. Compared with the EDP, the MIP rests on an even vaguer definition of what constitutes a punishable infringement, that is, *excessive imbalances* in the MIP case. According to Art. 2 of the MIP Regulation, these 'mean severe imbalances, including imbalances that jeopardise or risk jeopardising the *proper functioning* of economic and monetary union' (emphasis added).<sup>18</sup> This definition is so all-encompassing that no employment and social policy area can a priori be placed out of its reach, as almost all employment relations and social policies restrict the apparent self-sufficient functioning of markets (Erme, 2012b).

<sup>16</sup> 'The reference values referred to in Art. 126(2) of the Treaty on the Functioning of the European Union are: 3% for the ratio of the planned or actual government deficit to gross domestic product at market prices; 60% for the ratio of government debt to gross domestic product at market prices' (Art. 1, Protocol 12, TFEU).

<sup>17</sup> 'The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States with a view to identifying gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria: (a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, *unless*: – either the ratio has declined substantially and continuously and reached a level that comes close to the reference value, – or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value; (b) whether the ratio of government debt to gross domestic product exceeds a reference value, *unless* the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace' (emphasis added) (Art. 126(2) TFEU).

<sup>18</sup> This formulation can already be found in the Maastricht Treaty (Art. 103(4) TEC, now Art. 121(4) TFEU) but only regarding the non-binding Broad Economic Policy Guidelines and not as a basis for the issuing of financial fines in the event of non-compliance.

The scoreboard of MIP indicators, which Art. 4 of Regulation 1176/2011 tasked the Commission to set up, does not clarify the limits of MIP-related NEG interventions in employment relations and public services either. By contrast, the scoreboard confirms the encompassing remit of the MIP, as four of its fourteen headline indicators affect labour and social policy, namely, unit labour cost, unemployment, long-term unemployment, and youth unemployment rates. The inclusion of these four social indicators, however, is not a sign of a social turn in the MIP. Their use rather indicates a vision that sees labour as a troublesome factor of production that can jeopardise the proper functioning of the European economy. This is evidenced by the scoreboard's benchmark for unit labour cost increases, which defines only a ceiling but no floor for them. This is very problematic, as the unequal wage developments across the EU in the 2000s were caused not by excessive wage increases in the EU's periphery (i.e., wage increases above national inflation and productivity rates) but by excessive wage moderation policies in a core country, namely, Germany (Erne, 2008). Conversely, the scoreboard's ceilings for unemployment, long-term unemployment, and youth unemployment rates seem to point in a social direction. What matters, however, is not only the design of the MIP indicators as such. More important is the policy direction of the subsequent NEG prescriptions that the EU issues to reach them. To lower unemployment rates, for example, EU executives issued NEG prescriptions that urged the Italian government to weaken the Italian labour law, which protected workers against unjustified dismissals (Chapter 6).

The MIP thus became a significant tool for making inroads into the structural reform agenda first advanced through EU laws on the internal market and monetary union as well as the non-binding Broad Economic Policy Guidelines (BEPGs) that EU executives began to issue after the adoption of the Maastricht Treaty in 1993. However, whereas the former ran out of steam in the 2000s following the democratisation of the EU's ordinary legislative procedure, the latter lacked coercive power, as outlined in section 2.1. By adopting MIP Regulation No 1176/2011, the European Parliament de facto delegated its legislative power to define what constitutes appropriate socioeconomic policies to the Commission and the Council's Economic Policy Committee (EPC) advising it.<sup>19</sup> The Commission and the EPC not only designed the MIP scoreboard, which is meant to identify those

<sup>19</sup> The EPC, comprising two delegates from each member state, the Commission, and the ECB, advises the Council and the Commission by providing analyses, methodologies, and draft formulations for policy recommendations. Its proceedings are confidential, <https://europa.eu/epc/>.

countries whose socioeconomic policies require an in-depth review but also drafts the country-specific recommendations (CSRs) and, if necessary, corrective action plans to ensure the ‘proper’ functioning of the European economy.

The Commission also plays a central role in the sanctioning procedures underpinning both EDP and MIP procedures. So far however, the ‘atomic bomb character’ (Calmfors, 2012: 11) of the fines for non-complying member states has prevented the Commission from triggering them. Even so, the Commission succeeded in nudging reluctant member states to take NEG prescriptions seriously, namely, when they threatened to open an EDP or an MIP against those member states. This happened, for example, in 2018, when the first Italian government led by Prime Minister Conte initially declined to follow EU advice in relation to its 2019 budget law. After the Conte government was confronted with both the Commission’s determination to sanction it and increasing interest payments demanded by holders of Italian government bonds, the Italian government felt obliged to revise its stance and reach an accord with the Commission (Fabbrini, 2022; Gasseau and Maccarrone, 2023).

Since 2014, all EU structural and investment funding has depended on ‘sound economic governance’, which means the implementation of MoU, SGP, and MIP prescriptions by the member state concerned (Art. 23, Regulation 1303/2013 of the European Parliament and of the Council of 17 December 2013). Hence, EU social and cohesion funding became conditional on the implementation of NEG’s policy agenda (Costamagna and Miglio, 2021; Syrovatka, 2022a), even though local recipients of EU funding can hardly be held responsible for excessive imbalances or deficits (Jouen, 2015). This set in train a money-for-reforms approach that fundamentally reoriented the purpose of the EU’s social and cohesion funding. Whereas the EEC’s social funds offset the negative effects of horizontal market integration, the structural reform clause of Common Provisions Regulation 1303/2013 turned the EU’s social and cohesion funding into an instrument for the further advancement of market integration.

As all facets of the NEG regime are interrelated, EU executives introduced a new policymaking process in 2011, the European Semester, which integrates all NEG interventions in one overarching procedure.

### *How NEG Works: The European Semester*

The EU’s ordinary legislative procedure understands politics as a process of democratic interest intermediation between conflicting social and political interests. To reshape member states’ policies, the Commission must therefore propose specific, universally applicable laws and get them adopted by the

European Parliament and the Council. In the social policy field, the Commission must also consult the European confederations of employers and trade unions on possible directions of its proposals (Art. 154(2) TFEU). 'Should management and labour so desire', their EU-level agreements can even be 'implemented by a Council decision on a proposal from the Commission' (Art. 155(2) TFEU), making social partners 'co-legislators' at EU level (Welz, 2008: 357).

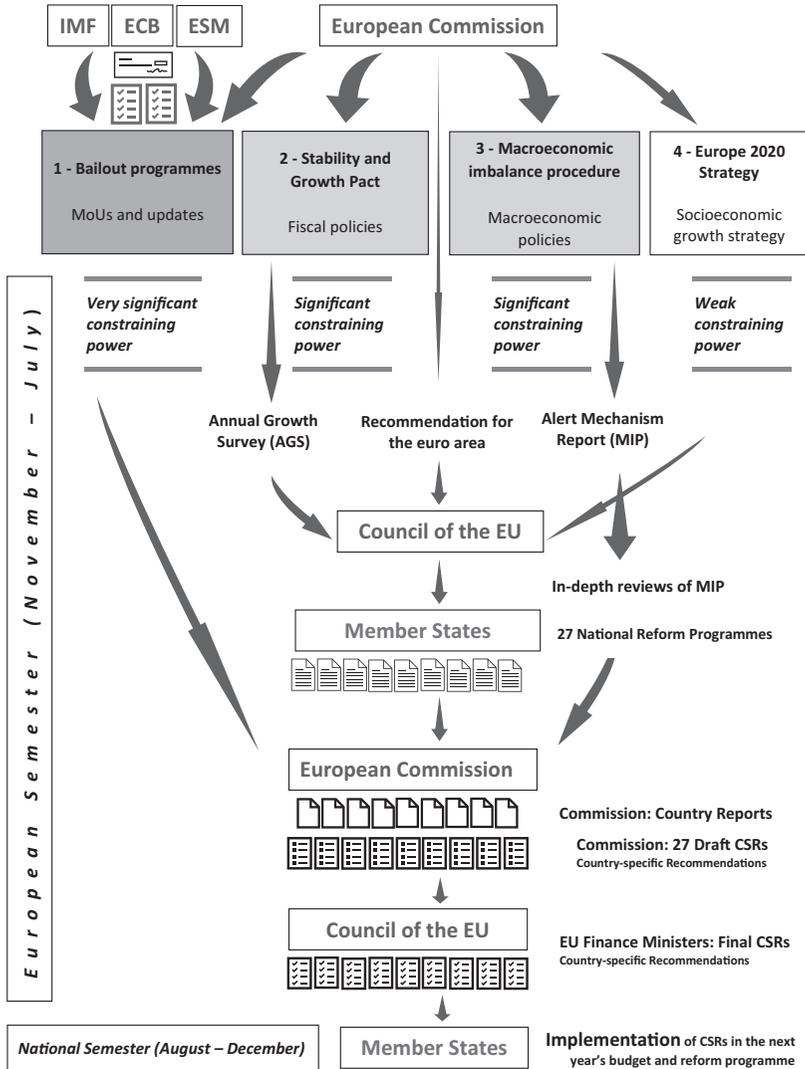
NEG does not follow this logic of democratic interest intermediation. It is instead a new policymaking space at the borderline of democracy, bypassing national and European parliaments and social partners (Habermas, 2011). Whereas labour politics had been an arena of interest intermediation between organised capital and labour – and right- and left-wing political parties, respectively – NEG frames politics in technocratic terms as a conflict between the 'right and the wrong' (Mouffe, 2011: 5). Hence, NEG gave the Commission and the Council a complementary (and arguably more efficient) policymaking tool that is less prone to parliamentary intermediations and the veto power of social partners, more holistic in terms of its overarching strategic goals, and country-specific in its focus by comparison with the EU's ordinary legislative procedure.

The EU bailout programmes, the excessive deficit procedure (EDP) of the revised SGP, and the new macroeconomic imbalance procedure (MIP) thus came to complement and overlay the EU's economic growth strategy called Europe 2020. All four mechanisms were brought together in 2011 when the EU introduced an annual cycle of country-specific policy prescriptions, surveillance, and enforcement in the guise of the European Semester (the Semester). The Semester has thus institutionalised NEG as a system of policy coordination and surveillance drawing on four legal strands: the legally binding MoU, EDP, MIP, and the non-binding Europe 2020 strategy.

The Semester begins with a strategic Commission document that outlines the EU's Annual Growth Strategy (AGS),<sup>20</sup> proceeds with the Commission's assessment of member states' progress in implementing the NEG agenda (in Country Reports and, if necessary, in-depth reviews), and ends with a Council Recommendation for each member state that includes several policy prescriptions outlining their tasks. As shown in Figure 2.1, the recommendations are drafted by the Commission in May and adopted by the Council (of finance ministers) in July. Each recommendation document includes several

<sup>20</sup> Since the 2020 cycle, the AGS is called Annual Sustainable Growth Strategy.

FIGURE 2.1 The four faces of the EU's new economic governance (NEG) regime



Source: Adapted from <https://www.consilium.europa.eu/en/infographics/european-semester/>; own illustration.

CSRs on fiscal and economic as well as employment relations and public services matters.

Figure 2.1 also shows that the Council Recommendations issued since 2011 integrated all NEG prescriptions in one document, despite their

different legal foundations. Concretely, Council Recommendations include policy prescriptions based on the following strands of the NEG regime:

- (1) Memoranda of Understanding (MoUs) specifying the strict conditions attached to EU bailout funding. If a member state was subject to an EU bailout programme, the Council Recommendation that it received stated that it had to implement the prescriptions specified by the corresponding MoU and its updates.
- (2) The Stability and Growth Pact (SGP), which aims to discipline member states' fiscal policies (as revised by the Six- and Two-Pack laws of 2011 and 2013).
- (3) The Macroeconomic Imbalance Procedure (MIP), which aims to prevent and correct macroeconomic imbalances (as introduced by the Six-Pack laws).
- (4) Europe 2020, which was the EU's 'smart, sustainable, and inclusive' growth strategy for 2010–2020. It was based merely on a Commission Communication (COM [2010] 2020 final) and formally not binding. Europe 2020 replaced the Lisbon strategy (2000–2010).

The integration of policy prescriptions, emanating from different but interdependent strands, in one document appears to favour a holistic, multidimensional approach to socioeconomic governance. Yet, the social goals of the Europe 2020 strategy are subordinated to the 'meta-priority of the structural stability of monetary union' (Pochet and Degryse, 2013: 109). This becomes clear by comparing the weak constraining power of social Europe 2020 prescriptions (backed merely by the naming and shaming of non-compliant states) with the significant constraining power of SGP/MIP prescriptions (backed by fines) and the very significant constraining power of MoU-related prescriptions, given the threat of a withdrawal of financial assistance in the event of non-compliance. We therefore cannot treat all CSRs equally, as is usual among other scholars in the field (see Chapters 4 and 5). As MoU-, SGP-, and MIP-related NEG prescriptions constrain the range of national policy options, we can also no longer dismiss NEG recommendations as mere soft law (Bekker, 2021; Jordan, Maccarrone, and Erme, 2021; Rocca, 2022). In comparison with the EU's preceding economic policy coordination tools, NEG prescriptions leave member states much less room for manoeuvre. This is true not only if a country becomes subject to an MoU programme, but also if a country faces an EDP or an MIP – as happened in the case of France, which is neither a small nor a peripheral country (Erme, 2015; Syrovatka, 2021).

Member states that received NEG prescriptions in MoUs and their updates had to implement them to receive bailout funding. It is thus not surprising

that all eurozone countries that were subject to a bailout programme ‘by-and-large adopted the fiscal consolidation measures prescribed by the Troika’ (European Parliament et al., 2014: 6). The same study also noted that Ireland, Cyprus, Portugal, and Greece were given unevenly onerous prescriptions for ‘structural reforms’, depending on the different ‘structural conditions’ that businesses enjoyed in them before the crisis. As the structural conditions that business enjoys can always be improved further, the study finally also conceded that it was difficult to assess whether the structural reforms that a government implemented in turn would be ‘sufficient’ (2014: 6). As a result, national governments could never be sure in advance whether their reform programme would satisfy EU expectations (Erne, 2015) – as shown, for example, regarding the recurrent NEG prescriptions that Italy received to deregulate its employment protection laws (see Chapter 6).

The difficulty of delimitating the scope of necessary NEG reforms at the outset makes the task of assessing the implementation of NEG prescriptions difficult too. When assessing the implementation of an EU directive, the Commission usually conducts a merely formal analysis to check whether all member states have transposed it into national law. When assessing the implementation of NEG prescriptions however, the Commission evaluates member states’ progress substantively, within the framework of the European Semester. Put differently, its assessment of policy implementation under NEG is qualitatively different and enlarged, increasing its scope for follow-up and further policy intervention. As there are no limits to ‘growth-enhancing structural reforms’, it is thus not surprising that the Commission and the European Court of Auditors (2020) were fully satisfied with the implemented changes in only a few cases. This, however, does not mean that the impact of CSRs is limited, as one may think if one relies on the CSR implementation figures provided by the Commission itself (Efstathiou and Wolff, 2018; Al-Kadi and Clauwaert, 2019). Any meaningful analysis of NEG therefore requires a research methodology that allows us to assess the policy orientation and effects of NEG prescriptions across countries and areas in their semantic, communicative, and policy context. We construct and outline such a methodology in Chapters 4 and 5.

In this chapter, to unveil its governance mechanisms, we have described the intricate NEG regime that EU leaders adopted after 2008. In Chapter 3, we review the classical approaches of scholars of EU integration and labour politics and outline why they need to be revised given the EU’s shift to NEG.

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