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**Towards a European Social Model
Preconditions, Difficulties and
Prospects of a European Social Policy**

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Introduction

The European integration developed since the founding of the Coal and Steel Community and the Treaty of Rome in the early and mid-1950s is substantially and principally *economic* in nature. The four familiar freedoms that the process of integration is intended to promote relate to the economic factors – goods, labour, services, capital – thanks to which a common market is to be brought into existence. Throughout history the creation of free markets has invariably provoked, from political actors at the national level, reactions intended to restrict or even abolish the negative consequences of this freedom of markets – what Karl Polanyi described as their “disembedding”. Such policies to correct the market have led, at the level of the nation state, to various forms of social provision by the state – later subsumed under the heading of “welfare state” – whereby social (or also ecological) standards are introduced to set new limits on markets, “re-embedding” them in accordance with forms of economic behaviour that can be regarded as acceptable from a social standpoint also. These forms of state social provision include, in a broader sense, the various forms of social security (protection against old age, sickness, and unemployment), occupational health and safety and industrial relations provision, as well as the employment policy conducted by the State. A feature of the process of European integration to date is that even though – in the framework of the Treaties since the Rome Treaties of 1957 and particularly since the Single European Act and the completion of the Single Market in the 1990s – freedom of the market has been successfully set above the nation states (in that a market-creating policy is now conducted at the supra-national level), policies to correct the market at European level have by and large failed, or not even been attempted.¹ For an economist with neo-classical leanings this may not represent a problem insofar as it is to be hoped – as exemplified some years back in the so-called Cecchini Report on completion of the internal market – that major welfare effects will

¹ See also F.W. Scharpf, *Regieren im europäischen Mehrebenensystem – Ansätze zu einer Theorie, Leviathan*, Vol.30 n°1, 65-92

accrue precisely as a *result* of economic integration. What such a stance fails to take into account is that, as a result of integration, the exit options for companies – previously tied in most important respects to the national state – have greatly increased, with the result that national welfare systems, which are indeed supposed to correct market failure in, among other areas, the social and ecological policy arenas, have come under pressure².

The background to this failure on the part of European integration policy is the differences that have grown up historically between nation states in the course of a process whereby countries devised their market-correcting policies in the form of national social policies and the different welfare state structures that currently co-exist within the European Union as different types of welfare state. Yet the situation is even more complex, for it is not only the types of welfare state that differ but also the socio-economic underpinnings of the national economies, so that at European level not only are different types of welfare state in competition but also, and above all, different types of capitalism and different types of industrial relations rub shoulders with one another³. What difficulties arise from this state of affairs, and how do they affect the prospects for a future European social policy? Is there, under these circumstances, any such thing as a European social model? In the following sections it is these differences that, first of all, will be subjected to a typological distinction in order subsequently, in the latter part of the article, to outline the social policy responses to the process of economic integration and its prospects at EU level.

1. “Varieties of capitalism” – different models of capitalism in the European Union

A first aspect of the socio-economic differences between the member states arises in the European Union from the differences in their “social systems of production”⁴. Economic behaviour – which in capitalist market-driven systems is governed by the

² The exit option increased by europeanisation and globalisation has accordingly shifted the balance of power within the “capital-trade unions-state” triangle strongly in favour of capital because the potential of undertakings to issue threats has increased tremendously. It is not that all firms are actually in a position to make use of the exit option, and not all those that are in such a position actually wish to do so. But all are in a position to issue threats and it is very difficult for governments and trade unions to evaluate how far such threats are to be taken seriously.

³ B. Ebbinghaus, ‘Does a European Social Model exist and can it survive?’ in G. Huerner, M. Mesch and F. Traxler (eds.) *The Role of Employers’ Associations and Labour Unions in the European Union*, Aldershot, Brookfield et al. 1999, pp. 1-26.

⁴ Cf. in relation to this expression Roger J. Hollingsworth, ‘Continuities and Changes in Social Systems of Production: The Cases of Japan, Germany and the United States’, in R.J. Hollingsworth and R. Boyer (eds.) *Contemporary Capitalism: The Embeddedness of Institutions*, Cambridge 1997, pp. 265-310.

principle of “use money to make more money”, or capital returns – is never directed to economic ends alone. Even purely rational economic action leaves room for alternatives in the objective, social and temporal dimensions (focus on ends or means, on an individualistic or cooperative approach, orientation to short- or long-term goals). Individual economic behaviour, what is more, is embedded in social institutions (standards, rules, laws) which, generally speaking, stand in a complementary relationship to one another and serve to stabilise economic behaviour, enhancing its strength and predictability⁵. Historically two basic types have thus developed in Europe:

- The first type corresponds to a form of radical liberal market capitalism, geared to short-term individual economic gain, refinanced predominantly on the stock exchange, its coordination mechanism being principally market-driven.
- Secondly, and in contrast to the above, another form of capitalism has developed, geared to long-term and cooperative-type efforts with, alongside the market, a set of non-market coordinating bodies, either in the form of corporatist arrangements (Rhineland capitalism in Germany, the Netherlands, Belgium and to some extent Austria) or with a dominant role played by the State (state capitalism in France and Italy), or, finally, thanks to the presence of hegemonic political parties (social democratic capitalism in Scandinavia, particularly Sweden).

The stability and path-dependency of the types of capitalism enumerated here are conditioned by their respective interlocking institutional complementarities (Amable 2003) including methods of financing, corporate governance systems, vocational training, as well as industrial relations systems and associations and their relationship to the state, and innovation systems. Disruption of these institutionally interlocking arrangements, for instance by borrowing elements from other types of capitalist system – e.g. in the framework of EU integration policy – can lead to losses of productivity and welfare and indeed to the erosion of a formerly successful model.

⁵ In relation to this and the following cf.: W. Abelshauser, *Kulturkampf – Der deutsche Weg in die neue Wirtschaft*. Berlin 2003; M. Albert, *Capitalisme contre capitalisme*. Paris 1990; B. Amable, *The Diversity of Modern Capitalism*, Oxford 2003; C. Crouch and W. Streeck (eds.) *Political Economy of Modern Capitalism*, London, Thousand Oaks, New Delhi 1997; P.A. Hall and D. Soskice (eds.) *Varieties of Capitalism: the Institutional Foundations of Comparative Advantage*, Oxford 2001; J. Hoffmann, ‘Kulturelle Voraussetzungen für die Entwicklung der sozialen Marktwirtschaft in Deutschland und Kontinentaleuropa’, in: Gesellschaft für Technische Zusammenarbeit (GTZ) und Goethe Institut (Hrsg.), *Kulturelle Voraussetzungen für die Entwicklung von Demokratie und Marktwirtschaft*, Eschborn 2005, pp. 55-88 - on Internet: http://www.hwp-hamburg.de/cis/content_downloads/cp%203%20Hoffmann.pdf

Thus, for example, the radical market-driven Anglo-American type – represented, in the EU, by **British capitalism** – is financed predominantly on the stock exchange and thus conditioned by the short-term expectations of shareholders, while the system of corporate governance in Britain is principally the outcome of small firms pursuing exclusively business-oriented goals (short-term financial profits) with, at the centre of management, the Chief Executive Officer (CEO) whose responsibility is to the shareholders alone. Within this social production system characteristic of Great Britain the dominant form of industry (which actually accounts for only 20% of employees) is standardised mass production with low-skilled workers in highly flexible hire-and-fire labour markets (screwdriver manufacturing, low-skill-low-wage working conditions). It is therefore in employees' best interest to develop skills that are as broad and general as possible so as to remain mobile and employable in a wide range of firms. Whereas, under the German system, skilled manual workers are employed, in Great Britain (highly paid) workers, sometimes graduates, are trained within the company where their services are retained thanks to the seniority principle. And, alongside the standardised mass production, there is investment – thanks to venture capital swiftly raised on the stock exchange – in new markets and new high-tech products and it is by these highly trained and highly paid – to prevent poaching – employees that these products are developed. Price-elastic low-quality mass produced goods and high-tech products are thus both characteristic of the innovation system of the liberal market economy represented, in the EU, by Great Britain and Ireland.

On the contrary, in the social systems of production in the coordinated capitalist market economies – the prototype for which is the **German** corporatist Rhineland capitalism – production is financed either by means of long-term bank loans or by strategic (so-called stakeholder) investment on the stock exchange. The system of corporate governance is cooperative and geared to the long term (supervisory board – management board, with the chairman of the board as the first among equals and co-determination by worker representatives). Company goals include, alongside steady profits, the long-term securing and extension of markets and employment stability. The highly flexible internal labour markets are protected from the outside by high barriers (in-house qualifications, protection against dismissal) and training is organised on the basis of cooperation between the company, state and trade unions (the two-way vocational training system) so that, given the protection against dismissal, workers are

encouraged to rely on the qualifications acquired within the firm, and employers to invest in training, as the risk of employees deciding to leave or being poached is slight. Labour markets are thus extremely flexible internally, with opportunities for employees to acquire, as necessary, a wide range of skills, precisely *because* externally they are *inflexible*. On the basis of such arrangements there develops a stage-by-stage system of innovation that gives rise to quality and predominantly medium-tech products characterised by price inelasticity. This system of “diversified quality production” is also labelled by academics “high qualification-high wage-high quality”, a triad used to typify, for example, the notion of Germany as world champion in the field of exports.

Whereas, under the Rhineland capitalism form of *coordinated market* it is the two sides of industry which, in interplay with the state, exercise the coordinating role alongside and in the face of the market, in the statist type – found in **France** and, with some restrictions, Italy – this role is taken over by the state and in the social democratic type – Scandinavia, especially **Sweden** but also to some extent Austria – by Social Democracy as the hegemonic party in association with the state and the two sides of industry. The three sub-types of “coordinated market capitalism” (corporatist, statist, social democratic) differ from one another in terms of the ways in which economic action attains social embeddedness – whether through cooperation or hierarchy; all, meanwhile, are quite distinct from the radical market model of liberal market capitalism.

These different types of capitalism represent, at the same time, the socio-economic basis underlying the differences in the types of welfare state that have developed within them, as well as the differing industrial relations systems found in the EU. The coordinated capitalism type is currently under particular pressure, because of dramatic transformations of the international financial architecture and resulting changes in corporate governance orientation (in the direction of a short-term-oriented shareholder-value type), and also as a consequence of the internationalisation of markets, a point that will be explored further below.

2. Range of welfare state models in the EU

In combination with the historical development of different forms of capitalism differing answers have also taken shape, within the area covered by the EU, to the social

question that arose with the transition to capitalist economic systems and the democratisation of bourgeois societies in western Europe. If we consider the four European countries selected here, then it becomes clear that social security systems have developed against the background of the respective historical social developments and issues while there are in each case, at the same time, clear relations with the predominating type of capitalism. This historical connection becomes particularly clear upon an examination of the different approaches and essential issues⁶:

A central issue for the welfare system in **Great Britain** has always been the poverty question, for which the state has had to take responsibility in order to avoid social unrest. Since British society lacked and still lacks any strongly developed associative system that might have developed in conjunction with, or separately from, the state, i.e. some form of social security system along corporatist lines, the state provision for the poor that has existed since the beginnings of British capitalism was developed in the form of basic provision – a tax-funded old-age pension at a low level, a sickness and unemployment insurance on a contributory basis introduced under the National Insurance Act of 1911 – and, in the mid-twentieth century under the Labour government, a national health system was set up with distinctly “socialist” features. The strong concentration on the state as organiser is only seemingly in contradiction with the liberal market capitalism model for, precisely because British capitalism – in spite of contrary trends under Labour governments – has always been centred on the market, there was no development of a strong intermediary associative level with strong associations and civil society institutions with whose help social security systems could have been developed and, apart from the State, there were no bodies that could have set up such systems and kept them going. The alternative to an associative arrangement would have been a purely private health system, but such an alternative has always been quite unacceptable to British society with its shareholder-driven radical market economy, and this applies equally to the Conservatives. Well developed state social services, a low and primarily contribution-funded uniform system of basic social security (poverty among the aged is one of the most serious problems in the British system) and a state-provided universal health system are therefore the main features of welfare provision by the state in Great Britain which admittedly, because of the national health system, accounts for a higher proportion of the social product than in the USA

⁶ On what follows see, in particular, J. Schmid, *Wohlfahrtsstaaten im Vergleich*, Opladen 2002 and F.-X. Kaufmann, *Varianten des Wohlfahrtsstaats. Der deutsche Sozialstaat im internationalen Vergleich*, Frankfurt/M 2003.

while still remaining far behind the continental western European EU member states in this respect.

By contrast, in the three continental European reference states, the proportion of expenditure on welfare provision is far higher than in the liberal market economies. Even so, significant qualitative distinctions are to be observed between the continental European systems:

- For the **Swedish** welfare state the problematic exerting the strongest influence on the development of the social security system has been not poverty but *equality*. On the one hand, behind the demand for the welfare state to foster equality of life opportunities and, as far as possible, life situations, there were claims from a landowning majority of the population demanding a share in the economic gains accruing from the developing capitalism. These claims were given formal political expression by the social democratic party, which attained hegemony as from the mid-20th century and was able to build on a high degree of solidarity in the form of a premodern and peculiarly acute sense of community within the Swedish population. A universal social security model financed predominantly from tax revenue (since 1946 there has been a non-means-tested basic insurance for all old people), backed up by a strongly developed system of public social services, is designed to meet these claims. Only recently has this arrangement been cautiously supplemented by contributions (but this was achieved without the discriminatory effects against women characteristic of, for example, the German system). Health care is for the most part publicly organised with a general sickness insurance obligation and a high level of sickness pay (90% of pay). The trade union funds for unemployment benefits were subsidised by statute, and insurance for trade union members was made compulsory, giving the trade unions in practice the status of an “indirect state department” (F.-X. Kaufmann).
- The **German** social security system, on the other hand, under Bismarck, took as its point of departure the *worker question* (which, like the policies in Great Britain and Sweden also had the social question as its background). Bismarck, in setting up a social security system in the German empire, had two basic concerns, the first being to repress the influence of the rising labour movement and the trade unions which had begun to develop their own mutualistic forms of social security and whose

progress he wished to frustrate (quite the contrary, therefore, to the abovementioned Swedish approach!). Bismarck's other concern was to develop a form of state-controlled social security in keeping with his own corporatist policy ideas and directed against any further increase in the power of parliament⁷. Against this background, in the 1880s a contributory insurance model was developed (initially for old age, sickness and invalidity; later, under the Weimar Republic, in 1927 unemployment insurance was added), jointly financed by workers and employers and based on the male-breadwinner model (wife and children insured at the same time), the idea being to insure the individual contributor at times of social need and for as long as necessary. At the same time, alongside the compulsory statutory insurance there developed private insurance institutions which, while guaranteeing social security alongside statutory insurance, served to entrench differences between social groups and classes. This system fits into the Rhineland capitalism corporatist model, for it is built on the developed associative system of which it is itself one of the constituent causes; since the Weimar Republic – with an interruption during the NS period – the statutory compulsory insurance has been cooperatively organised on a tripartite basis (participation of trade unions and employer federations). The publicly organised social services are, in comparison with the Swedish system, relatively underdeveloped.

- The **French** social security system is constructed similarly to the German one, albeit from different starting points. It was the country's stagnating if not falling population figures – in comparison with the potential opponent Germany – that prompted a predominantly family-centred social policy in France. A population and family policy was thus and still remains central to social policy in France. Accordingly, paradoxical though it might sound, a model of social security financed along Bismarckian lines by joint contributions was introduced, with numerous family allowance funds and three separate official funds organised for old age, sickness and family. Just like the German model, the French model is comprehensively and selectively organised by occupational category and therefore, as stressed by F.-X. Kaufmann, it does not contribute to the reduction of social inequality. An additional characteristic of the French system is that an all-encompassing system of childcare is provided by public bodies with state support and therefore – in contrast with Germany – it is much easier for women to work

⁷ See Abelshauser pp. 61 ff.

outside the home, translating also into higher female labour market participation than in Germany. The French system, moreover, is underpinned by the statutory minimum wage (SMIC).

The differences between the social security systems outlined here are clearly described elsewhere. In his book *The Three Worlds of Welfare Capitalism*, Gösta Esping-Andersen divides the EU welfare states into three categories, namely, a liberal, a social-democratic and a conservative type. Both the first two – Great Britain as liberal and Sweden as social-democratic – have high female labour market participation. Whether as a matter of necessity on account of inadequate social security under the liberal system or because of the generous supply of public services for childcare and education in the social democratic system, women go out to work in similar proportions to men. This situation adds dynamism to the labour market insofar as “a working woman needs a wife”; a woman who works outside the home has to employ women who perform the work of the wife, the housework and/or the childcare, in her place and who are remunerated for so doing. It is different in the “conservative” welfare state types, Germany and France, which offer insurance to wives through the social security system and are based on the assumption of a male breadwinner in full-time permanent employment. These self-service societies preserve patriarchy and leave women to perform housekeeping and childcare, leading to low female labour market participation (though this does not apply to France, unlike Germany) and a less dynamic labour market in the segments in question.

The predominant forms, financing models and social services provided by the different types of welfare state could hardly therefore, like the types of capitalism, be more different. Here it must also be borne in mind that the types of welfare state referred to are also, to a certain extent, constructed in line with the institutional mould provided by the type of capitalism, acquiring their own share of the complementary institutional features that constitute the latter.

3. Variations of industrial relations

Industrial relations systems in the western European EU-member countries bear an even closer relation than welfare systems to the differences in types of capitalism. This is hardly surprising, for industrial relations have always been at the very core of the

capitalist system. The differences are visible in the structures, cultures and politics of the two sides of industry in the different countries and we shall continue here to focus upon our four countries of reference⁸.

In **Great Britain** capitalist industries developed very early on. Small joint stock companies dominated the industrial sector and continue to do so. The trade unions, which also developed, in large numbers, early on, were predominantly occupational representations or representations of specific groups of employees which, in a few cases, were extended to form general unions but, generally speaking, remained small and adopted market-oriented behaviour in the search – and the competition – for membership. This prevented the development of either industry unions or sectoral collective agreements⁹ and collective bargaining activity focused on company bargaining, with a total of over 210 (!) trade unions (including some large and well organised ones like UNISON and GMB) which, between them, achieve a relatively good level of union density, competing in the workplace with one another. The trade union confederation, the TUC, has the task of arbitrating among the trade unions and (above all) supporting the Labour Party (though this is beginning to change under New Labour). The state intervenes in industrial relations insofar as it has a general policy interest in restricting the power of the trade unions (typical of such a tendency was the legislation on trade union mergers in the 19th century and trade union laws passed by Mrs Thatcher's governments). The industrial relations culture is geared to conflict (social partnership is, notoriously, possible only with strong associations, which did not exist!); shop stewards in the workplace do not understand their task in terms of codetermination but see it to lie in constituting a countervailing power in order to withstand the bosses, and the political orientation of the trade union movement is in no sense socialist but strictly reformist and in the tradition of the Fabian Society. Recently, however, with the introduction of European works councils, continental European codetermination structures have also begun to be introduced into British industrial relations.

In principle the **continental European systems** of industrial relations stand in stark contrast to this arrangement. Large trade union federations are the rule here (a situation

⁸ see Ebbinghaus op.cit.; A.Ferner and R. Hyman (eds.) *Changing industrial relations in Europe*, Oxford 1998 ; R. Hyman *Understanding European Trade Unionism. Between Market, Class and Society*. London, Thousand Oaks, New Delhi 2001; Waddington Hoffmann (eds.) *Challenges*

⁹ See also W. 'Gewerkschaften in Westeuropa, in W. Schroeder and B. Wessels (eds) *Die Gerwerkschaften in Politik und Gesellschaft der Bundesrepublik Deutschland*, Opladen 2003, pp. 86 ff.

which Wolfgang Streeck¹⁰ attributes to the fact that the continental European trade union confederations were already, during their emergence phase, faced with well organised capitalism as an opponent) with strong employer federations having been formed in response, and both sides more or less capable of organisation and commitment. These federations' policies are geared in a predominantly sectoral direction (e.g. regional sectoral agreements) although at the current time a process of "controlled decentralisation"¹¹ is to be observed. In addition, legally binding forms of codetermination at company and workplace level are more strongly developed than is the case in Great Britain where such forms – if one excepts the European Works Councils – are virtually non-existent. However, if one looks at the organisational forms of the trade unions and the role of the state, or at the relationship between the state and the two sides of industry, there are some decisive differences:

- Thus in the **Scandinavian countries** and also in **Germany and Austria** the predominant form is the large unitary trade union, organised and demarcated in most cases according to the principle of the industry federation (in Austria according to sectors). The unitary trade unions conclude regional and sectoral collective agreements (though this does not generally rule out company agreements or those covering specific occupational groups) independently on the basis of state-guaranteed free collective bargaining and the implementation of the collective agreements, in terms of their adaptation to the situation of the individual firm, is often organised by company or workplace codetermination bodies. These codetermination bodies do not only have information and consultation rights; in specific areas of company business they also have codetermination and codecision-making rights. In Austria and in two German *Bundesländer* an additional feature of industrial relations is the compulsory employee membership of labour chambers. At the same time the trade unions are present at a more local level, whether it be that, as in Scandinavia (see above), they organise the unemployment funds (which has led to high membership levels) or that, as in Germany, they cooperate in the corporatist system in semi-public organisations with the employer federation and the state on a tripartite basis (e.g. in social security, the two-track vocational training system, research institutes).

¹⁰ Streeck op.cit.

¹¹ F. Traxler, S. Blaschke and B. Kittel, *National Labour Relations in Internalized Markets. A Comparative Study of Institutions, Change and Performance*. Oxford 2001.

- By contrast, in the countries with a statist form of capitalism, such as **France and Italy**, the trade unions are organised along political or religious lines, yet at the same time on a centralised and nation-wide basis. At the workplace level it is true that there exist codetermination bodies – for example the *conseils d'entreprise* in France or the RSU in Italy – but their rights are generally confined to information and consultation (and in the case of the *conseils d'entreprise* they are even chaired by the employer or *patron*). Although the federations, as centralised organised trade union federations, and also the employer and/or industry federations, play an important role in politics, the trade unions as a rule – and particularly in France – have only a low degree of organisation and are consequently able to only a limited extent to exert binding effect. Their strength lies in the possibility of bringing non-members out on to the streets and in the pressure thus exerted on the government, for both collective agreements and substantial conditions of industrial relations (for example, working time) are either, in the final stage, implemented by government bodies – in France either by a declaration of general validity on the part of a commission consisting of representatives of both sides of industry and government¹² or directly by means of government decree. This is another instance of the influence of the statist type of capitalism on industrial relations, evidenced in France by the fact that unionisation in the private sector economy is around 5 per cent whereas the rate of coverage by collective bargaining is 90 per cent!

Regardless of whether or not the employer side is prepared to go ahead with joint collective bargaining at European level, it can therefore be foreseen that a common platform on the trade union side is bound to be extremely difficult to bring into being; factors militating against such a development are not only the different national interests but, above all, the different industrial relations structures in the member states¹³.

Here too the systematic nature of the difference in relation to the trade unions can be formulated in another way: if one develops – as Richard Hyman has done¹⁴ - a triangle to indicate the political and cultural orientation of the different European trade unions in

¹² For more information see C. Vigneau and A. Sobczak, 'France: The helping hand of the state', in T. Blanke and E. Rose (eds.) *Collective Bargaining and Wages in Comparative Perspective*, Bulletin of Comparative Labour Relations n° 56, The Hague 2005, pp. 35 ff.

¹³ J. Hoffmann (ed.) *The Solidarity Dilemma. Globalisation, Europeanisation and the Trade Unions*. Brussels 2002 (ETUI Publisher); J. Hoffmann, R. Hoffmann, J. Kirton-Darling and L. Rampeltshammer (eds.) *Europeanisation of Industrial Relations in a Global Perspective – Literature Review*, Dublin 2002.

¹⁴ Hyman op.cit.

the directions of Market, Class and Society, in terms of which the different national trade unions are then discussed, then the British trade unions can be placed between class (class opposition to capitalists) and market, the German trade unions, rather like the Swedish ones, between society (integration into society, social partnership) and market (free collective bargaining) and the Italians between class (opposition) and society. A “politics of solidarity” at European level will be difficult on such a basis, in any case for those actors who, since the birth of their organisations, have been singing the praises of international solidarity. This too applies only to the trade union federations, and not to the employer federations, whose members in any case, when it comes to Europe, prefer to dispense with any development of industrial relations above the level of the company or workplace.

4. Types of national economy and welfare state models under pressure of change

The types of capitalism, welfare state and industrial relations system presented here are path-dependent, which means that their developments are constricted by conditions and social and economic structures that, on account of their intertwinings, lend to the systems that have thus taken shape a weight of inertia which prevents any possibility of radical structural break. Yet it is these underlying structures themselves that are currently being called into question and indeed at two levels: at the social level, since the 1970s and in all the countries examined here, a process of modernisation has set in and caused a shift in the underlying social features – class membership and solidarity, adherence to tradition, the patriarchal nuclear family – towards much more plural living structures and more open, individualistic lifestyles. This process has initiated an erosion of the social foundations of the continental European models¹⁵. Meanwhile, in the economic sphere, the Fordist production and growth model associated with the large firm, assembly-line mass production, the (patriarchal) standard employment relationship (Mückenberger) and a comparatively high unification of work and living conditions, has become increasingly underpinned and supplemented by post-Fordist decentralised forms of smaller-scale and network-linked production and service arrangements. This development is accompanied by a tremendous shift of employee structures in the

¹⁵ Cf. also, *inter alia*, J. Hoffmann, ‘Co-ordinated Continental European Market Economies under Pressure from Globalisation – Case Study : Germany’s “Rhineland Capitalism”’, *German Law Journal* No 8/2004 and, more recently, P Windolf (ed.) ‘Finanzmarkt-Kapitalismus – Analysen zum Wandel von Produktionsregimen’, KZSS Sonderheft 45/2005.

direction of the service sector (tertiarisation). The forms of employment that predominate in these segments of the labour market are small firms and individualistic modes – including the so-called “labour entrepreneur” (*Arbeitskraftunternehmer*¹⁶). All these developments taken together serve to explain the relative loss of significance suffered throughout Europe at the present time by large organisations including the industry unions¹⁷.

With Europeanisation – the completion of the internal market at the beginning of the 1990s – and the gathering momentum of internationalisation since the end of the East-West conflict, with the resulting tremendously increased threat that capital will resort to its “exit option”, and the dramatic changes in the international finance architecture, there arises a major challenge, on that particularly affects the types of capitalism found in the coordinated market economies”. Liberal market economies of the Anglo-American type force the continental European and Scandinavian economic systems of the corporatist type on to the defensive. With their mix of price-elastic mass produced goods and innovative high-tech production achieved through stock exchange financing of necessarily short-term shareholder value, the company-related regulation of industrial relations and the welfare state basic social security, they are much better placed to react in the short term than are the corporatist systems and welfare state democracies that are tied down by a host of constraints in the form of the demand for agreement and consensus. Their capacity to pass on to society the social costs of the processes of economic change, to “externalise”, facilitates firms’ adaptation to the conditions of globalised finance markets and enables them to take up the exit options without high ensuing costs to the individual economy¹⁸.

No unequivocal direction of the change in corporatist market economies is perceptible at the current time for, though firms are indeed showing clear signs of a convergence in corporate governance systems, this has not led to a change of type into a liberal market

¹⁶ See N. Kratzer, *Arbeitskraft in Entgrenzung*, Berlin 2003 and – the highly controversial – H.J. Pongratz and G.C. Voss *Arbeitskraftunternehmer*, Berlin 2003.

¹⁷ See the introductory chapter of J. Waddington and R. Hoffmann *Challenges*

¹⁸ It is certainly not the case that the coordinated market economies are the only ones under pressure. While these are exposed by the change in corporate culture and the tertiarisation process to considerable pressures (see Hoffmann, Co-ordinated Continental European Market Economies, op. cit.; W. Plumpe, Das Ende des deutschen Kapitalismus in: West End - Neue Zeitschrift für Sozialforschung Nr S/2005, pp. 3-26) without evidently having lost their export strength in the process, the seeming winners of the globalisation process, the Anglo-American type of liberal market economies are, at least statistically, the losers (as far as industry is concerned). For the low-skill-low-wage industries of assembly-line mass production are now in direct wage competition with low-wage economies and are therefore suffering – like the US industries – dramatic employment losses.

economy. It is more appropriate here – as in the case of German Rhineland capitalism and French statism – to speak of the formation of hybrids¹⁹. Welfare state models have also come under pressure. In the German model the contributory social security (transfer procedures) has been much reduced in terms of volume since the 1980s and supplemented by the constant increase in family policy measures. Also, in the recent past, by the introduction of basic security in old age through the process of the retirement pensions reform 2001 and by the basic allowance for jobseekers in the context of the Hartz reforms of 2005 it has been forcibly restructured in the direction of a universalist, tax financed basic insurance (with private additional insurance “Riester-Rente”). On the other hand, the Swedish tax-funded model has been supplemented by a contributory component, albeit without dispensing with the universal benefits payments. In industrial relations on the continent a trend is clearly visible towards the opening of sectoral agreements at company level, along the lines of a “controlled decentralisation”²⁰, yet without taking up the Anglo-American deregulation of industrial relations. Yet nor here are the changes so far-reaching that it is really possible to speak of a removal of the differences.

The German industrial relations model would appear to be particularly affected by these changing processes. Whatever the reasons for this might be – whether the emphatic social policy fixation on the standard employment contract, the strong employer or trade union veto position in the German industrial relations system, or a lack of the political capacity to push through new claims – the uncomfortable sense that Rhineland capitalism has not found a way of facing up to the new challenges and is not able to meet them quickly and flexibly enough is more widespread in Germany than any similar awareness in France, the Netherlands or Sweden. At the same time, very considerable efforts are being made in the economy, in science and in politics to change some of the central structural elements of the German model of regulation²¹.

Irrespective of these differences it can be assumed that, for the formation of a common European social model, this process of change, and the common threat to national models posed by the internationalisation of capital relations, give new opportunities for

¹⁹ See M. Höpner, *Wer beherrscht die Unternehmen ?* Frankfurt/M and New York 2003; on changes in French statism see B. Hancké, ‘Revisiting the French model; Coordination and Restructuring in French Industry’, in Hall and Soskice, op. cit. pp. 307-336

²⁰ See Traxler *et al.* op. cit.

²¹ T. Blanke and E. Rose (eds.) *Collective Bargaining and Wages in Comparative Perspective*, Bulletin of Comparative Labour Relations n° 56, The Hague 2005.

rapprochement at the European level. For, given the current degree of economic integration, a retreat into protectionism is hardly a realistic response to change (though it is not one that can be ruled out). A richer and more promising prospect would be the further development of European regulation along the lines of a re-embedding of the unleashed capital flows at the level of the European Union.

5. European Union: Race to the Bottom or creation of a European Social Model?

The nation state has always facilitated the various institutional forms for the embedding of economies – while also protecting them from outside interference – represented here by three areas (type of capitalism, welfare state system and industrial relations system). Only in this way has it been possible, over long periods, successfully to develop stable systems and capitalist market economies, as well as their correctives in the form of social or welfare state and industrial relations systems, which were then able to compete with one another internationally on world markets and play out against one another their respective competitive advantages.

This policy of embedding was undoubtedly successful. Even if we include the member states of the liberal market economy type, the level of social provision in the western European countries – measured by the share in GDP – is generally much higher than in the USA. And it is certainly not a foregone conclusion that the same kind of success will not be achieved on the European level because the European actors from the member states will have failed to agree on an alternative to the policy of the smallest common denominator, namely allowing free play of market forces. In fact they have already embarked on several attempts to supplement or even replace the process of negative integration (i.e. the freeing of markets and the common monetary policy conducted by the ECB in the Euro zone) by some components of a positive integration.

These components of positive integration are assumed, in respect of normative instruments, to include – there is no need to go into this more deeply here – recognition of the European Human Rights Convention and the core labour standards of the International Labour Organisation (ILO) in Geneva. The fundamental social rights enumerated in Article 136§1 of the European Community Treaty and taken from the

European Social Charter are also of great importance, as are the Community Charter of fundamental social rights of workers of 1989 and, not least, the European Fundamental Rights Charter of 2000 which was incorporated into Part 2 of the draft European Constitution of 2004. It is possible, in addition, to enumerate several general approaches by means of which common regulations at European level have been devised in such a way that the free play of markets is subject to a re-embedding:

Of prime importance are, **first** of all, the **equal rights, equal opportunities and equal treatment** provisions that are intended to foster the cross-border mobility of workers and the self-employed and the integration of non-mainstream groups of workers into the labour market (and for many years now not only into the labour market but also into the markets for private goods subject to open tender). Originally fuelled by competition policy considerations, these rules have developed a tremendous dynamic of their own, as increasing numbers of persons take advantage of their social entitlements in this respect. In the process, the nation states increasingly lose control over their welfare budgets, a trend that can be counteracted only to a limited extent by substituting (geographically linked) benefits in kind for social transfers of cash.²² This situation is resulting in increased pressure to shift social policy tasks increasingly to the European level, which would require an increase in EU own resources and, in the medium to long term, its tax sovereignty – a prospect which represents the background to the current quarrels over EU finances.

Secondly there is the instrument of **minimum standards** developed, at least since the 1970s, for the purpose of positive integration, by the European Commission with strong backing from the case law of the ECJ. In a large number of directives – which in many cases have raised the level of national regulations – minimum standards are introduced throughout Europe which guarantee, so to speak, the respect of a basic floor of social or ecological standards in the conduct of economic behaviour. Here it is necessary to guard against a widespread prejudice according to which the EU, under Article 136 TEC (subsequently the Amsterdam Treaty), is believed to enjoy extensive powers in the social policy field, with the Council able to decide overwhelmingly by majority decision and no longer only unanimously. In actual fact, the Community's powers still do not extend, according to Article 137 §5 TEC, to key areas of freedom of assembly (right of

²² See P. Pierson and S. Leibfried, *Halbsouveräne Wohlfahrtsstaaten: Der Sozialstaat in der europäischen Mehrebenen-Politik*, in Leibfried/Pierson (eds) *Standort Europa – Sozialpolitik zwischen Nationalstaat und Europäischer Integration*, Frankfurt a.M., 1998, pp. 58 ff.

assembly, right of strike and lockout) and pay rights (remuneration; exception: Article 141 TEC, equal pay for men and women). The advantage of the authority to set minimum standards undoubtedly consists in the fact that the question of *how* these minimum standards are to be observed is for the most part left to the national systems, the disadvantage being that the standards are often – albeit not invariably – low and frequently well below those of the developed continental European welfare states of the EU 15, which means that they continue to offer scope for a “race to the bottom”.

Thirdly, there is the interplay of **social dialogue and Commission proposals** which, since the mid-90s, has resulted in a significant increase in legislation of relevance to labour policy in the EU, leading, in the process, to the now perceptible outline of an independent European Social Model. In the social dialogue the European social partners attend negotiations organised, usually on the initiative of the Commission, at an interprofessional or sectoral level and which are designed to lead to the conclusion of Europe-wide agreements that form the basis for binding European legal acts. If the Social Partner negotiations fail, then the Commission usually seeks equivalent regulation by the normal European legislative procedures. To date the tangible results of the social dialogue are relatively slight: alongside numerous joint statements, opinions, projects and initiatives, only five framework agreements (**parental leave, part-time work, fixed-term contracts, teleworking and stress avoidance** in the workplace) have been concluded. The central problem of the social dialogue consists in the fact that the employer side has little interest in European collective bargaining because it sees that corporate interests at the European level can be promoted much more effectively at company level²³. UNICE – the employers’ federation at the European level – has few powers and is still rather unwilling to sit down at a negotiating table with the trade union confederation ETUC or the European industry federations. The same applies to the trade unions, admittedly to a lesser extent, but here too the interest in a uniform European regulation of working conditions is extremely uneven. Social partner negotiations have been, however – and even though they failed on account of the reluctant employer stance – an important prerequisite for the achievement of significant social policy reform plans such as the setting up of **European Works Councils**, the **information and consultation of employees at national level** and the **burden of proof in cases of gender discrimination**.

²³ B. Keller and B. Sörries, Der neue Sozialdialog auf europäischer Ebene: Erfahrungen und Perspektiven, Sonderdruck aus: Mitteilungen aus der Arbeitsmarkt- und Berufsforschung, Stuttgart u.a. 1998, p. 715ff. 723

Fourthly the period from the end of the 1990s to the beginning of the new millennium was characterised by a wealth of successful labour and social policy initiatives at EU level. These include, as well as adoption of the **four anti-discrimination directives** the successful completion of the legislative procedures on the “**European Company**” (and the **European cooperative society**) and the co-determination of workers at company level (included with the European Company directive) and the adoption of the **European Charter of Fundamental Rights** which goes far beyond most national constitutional provision in terms of fundamental social rights. It is true that these still do not at the present time have any binding force – and may not achieve it at all given the negative referendum results in France and the Netherlands. But even so their significance as reference points in legal argument is not to be underestimated.

Fifthly, and finally, in the 1990s the **open method of coordination** (OMC) was introduced. This was, not least, a reaction to the fact that in the European Union differing and sometimes contradictory systems of regulation (the types of capitalism, social state models, industrial relations systems) co-exist in a state of incompatibility within a European-level system of regulation. The member countries, which are the best able to bring their systems closer together, are therefore expected to step up their common efforts in this direction and to coordinate in an open manner so that, on the one hand, the degree of heterogeneity and complexity within the European Union is reduced, enabling progress to be made throughout Europe in the direction of a common social model. The procedure is designed, on the other hand, to ensure that previously well functioning socio-economic linkages are not destroyed in the process of harmonisation, for this would be clearly counterproductive, turning a process intended as a means of solving problems – European regulation – into a problem in its own right. Such is the purpose of National Action Programmes (NAPs) which are subject to annual joint examination. However unsatisfactory may be, to date, the empirically demonstrable results of this approach, which is an attempt to implement a “politics of diversity” (F.W. Scharpf), it is an instrument that may be expected to perform well in the long term. For this policy does not ordain any specific model in a top-down manner – a practice which can entail catastrophic consequences for those national systems that are incompatible with this model – but an attempt is made, cautiously and in an open manner, to bring the national systems closer to one another. It is an approach which – in the opinion of sociological observers – not only respects but actually serves to enhance

their autonomy, by means of “deliberative and consensual setting of common goals, emulation, staging of learning processes and incentives for goal-oriented behaviour”²⁴.

The “open method” is used particularly in areas where the Community has no explicit powers or where such powers as it does have are inadequate to regulate the matters in question. It is conceived as an alternative to the legislative procedures of Community law. Thus, commentators have pointed out that the addition of the open method in Article 137 §2a is to be interpreted as being specially intended to function in those areas where the EU cannot pass directives that would achieve approximation of the law by means of binding minimum provisions.²⁵

The method of open coordination also appears – now that the approaches to an autonomous coordination of collective bargaining seem to have run out of steam – to be the right instrument for achieving coordination **of national collective bargaining policies** and steering them in a direction that is in keeping with European policy goals (e.g. employment policy). It is not a question of EU competence as such, for there is no form of legal decree that would introduce compulsory uniformity of the national paths, and the autonomy of the social partners is thus preserved, while institutionalising and providing support for cooperation and emulation in the form of numerous channels for reporting, participation, competition and communication. An indirect stimulus of this kind is required if a similar set of bearings is to be gradually achieved for industrial relations throughout Europe. For the direction taken by national industrial relations systems in certain EU member states in the face of the common challenges constituted by internationalisation, globalisation, increasing concentration of firms, individualisation and membership shrinkage, shows that there can be no talk of a trend towards the development of comparable structures. Quite the contrary: every “industrial system” reacts in a path-dependent manner whereby it makes certain limited adjustments while also strengthening its traditional, specific features²⁶. In spite of common challenges no convergent development of the systems is emerging.

²⁴ G. Schmid and S. Kull, Die Europäische Beschäftigungsstrategie. Anmerkungen zur ‚Methode der offenen Koordinierung‘, WZB, discussion paper February 2004, p. 17

²⁵ E. Högl, in H. Von der Groeben and J. Schwarze (ed.) Vertrag über die Europäische Union und Vertrag zur Gründung der Europäischen Gemeinschaft, 6th edition 2003, Article 137 Rn. 49

²⁶ T. Blanke and E. Rose (ed.) op.cit.

6. Summary and conclusion: is there a European social model?

The question of whether there is any such thing as a European social model can, for the time being, be answered only in the following manner: under current circumstances certainly not, if the term is meant to refer to a closed system of social and economic regulatory mechanisms designed to correct the operation of markets. Yet what does exist, firstly, in all western European member states is a comparatively high level of welfare state protection, while at European level, secondly, a certain number of elements for the development of a specific welfare state framework have indeed been put in place. These nascent elements have, in their essentials, been described earlier. What kind of “shape” will result is for the time being uncertain but what is, on the contrary, quite certain is that there is, at the current time and on the open admission of all parties, a lack of industrial relations actors endowed with the power and the ability to act under their own steam. It is simply not possible to view the development of European labour and social law in terms of any kind of joint or countervailing powers²⁷. Given this fact, the usually invoked patterns of explanation for change at national level do not obtain. While some considerable steps in the direction of social and legal development have, quite unmistakably, been taken at European level, it is impossible to base an interpretation of their dynamic upon conventional models. We would suggest that at European level patterns of a post-Fordist type of regulation are being developed and pushed through in response to the demands of international competitiveness, a process which, to some extent, can also be observed at national level. This would explain the pioneering function achieved by European social policy vis-à-vis the member states since the beginning of the 1990s.

Components of this model of regulation are a strengthening of the individualisation of industrial relations, the deliberate harnessing of employees’ willingness to perform and deploy their creativity, the use and indirect steering of their autonomy as well as of that of their interest representations, the “normalisation” of atypical employment, the decentralisation and drawing to company level of collective patterns of regulation, the valuing of “voluntary” agreements as against collectively agreed or even state-imposed standards and, all in all, the subtle channelling of all types of persuasion and communication for the purposes of the desired forms of regulation. In the light of the

²⁷ W. Däubler, „Auf dem Weg zu einem europäischen Arbeitsrecht?“ in L. Krämer, H.-W. Micklitz and K. Tonner (eds.) *Liber amicorum Norbert Reich*, 1997, pp. 441-450

major emphasis on antidiscrimination there thus arises, all in all, a picture of emancipated industrial relations based on contracts between parties with equal rights requiring at most indirect support from collective actors belonging to associations or state agencies.

The message to emerge from this reconstruction of industrial relations is ambivalent: it appeals to workers' independence and self-determination in order to bind them the more effectively to the workplace. It persistently and as a matter of deliberate strategy rids the system of all "hard" and authoritatively secured co-determination rights for employee representatives, while offering in return relatively broad room for "soft" involvement interests. It transforms the workplace from an apparatus characterised by order and obedience into a communication system in which all involved can assert equal claims to respect. Sceptics will argue that this change merely conceals the now excessive claims to appropriate and exploit human labour capacity and subjective potential. Optimists maintain, on the contrary, that these new forms of cooperation and "employment alliance" are conditioned by vital needs existing on both sides and that under these new regulatory models workers stand to gain as much as do employers.

Whatever the rationale for establishing a European model of regulation may be, such processes of transformation invariably entail a balancing act between the devising of a viable model of regulation and the problem that, in the process of its development, successful national social systems of production, welfare state and industrial relations will be damaged or even destroyed. Since the balancing act has not, in this case, been facilitated by the eastwards enlargement of the EU, with the accession of countries that have not, so far, been in a position to develop any social system of capitalist production or industrial relations of their own, and which have far less developed welfare state systems, caution is required: the Europe project appears to be finely suspended, as has been shown by the referendum on the draft constitutional treaty, on the silken thread of the capacity for integration displayed by the European social model.

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