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Published in:
Futures

Publication date:
1991

Citation for published version (APA):

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SOCIAL EUROPE IN THE 1990s

Beyond an adjunct to achieving a common market?

Patrick Kenis

Recently the idea of a social dimension of Europe has been much emphasized. Is this to be seen as a move towards a European welfare regime, or is it nothing more than an adjunct to achieving a common market? In order to answer this question, a typology distinguishing three types of social policy measures is introduced: (1) social measures securing the course of the economy; (2) social measures changing the course of the economy; and (3) social rights. The typology is first applied to an analysis of the genesis of social policies within the EC so far. Each of the three types of social measure at the European level are then assessed, and developments which might trigger the need for future social measures are analysed. Finally, their chances for establishment at the European level are explored.

The concept of a ‘Social Europe’ remains an ill defined and generally problematic goal. Indeed, the whole question of the role played by the EC in ‘social policy’ matters is still subject to dispute. For some, the realization of the Single European Market would have to be complemented by the creation of a Social Europe—this being part of a programme designed to give the EC a credible ‘human face’. Failure by the EC to act in the social sphere would mean neglect of duty, given the present fear of social dumping. For others, EC action in the social sphere is both unwelcome and an infringement of national sovereignty, even if it were presented in terms of respecting the principle of subsidiarity. Discussions on the future of Europe and its social dimension are consequently guided by normative disputes in which, generally speaking, the liberal point of view runs contrary to one more social-democratic in character.

In this article, no position is taken for either of the above standpoints, nor is a review given of the different aspects linked to these positions.

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Instead, it is illustrated that the actual development of social policy within the EC does not, in the first place, come about as a result of normative choices made by national and EC decision makers. Consequently, discussing social policy in such a liberal/social-democratic framework does not contribute a great deal. Alternatively, it is illustrated that it is the institutional structure of the European integration programmes which primarily accounts for the way in which social policy has manifested itself up to now—and for the way one can expect it to manifest itself in the future.

What is generally missing in the discussions on Social Europe are approaches which take into account the historical dimension and genesis of existing programmes and developments. Instead, the majority of reports, documents, and publications are characterized by a factual chronology made up of timetables of meetings and past or future decisions. They lack a comprehensive view of the developments within the genesis of European integration and the role of social policy therein.

In the next part of this article, three types of social policy are presented on the basis of Heimann’s classic work on social policy, first published in 1929. In a subsequent part, Heimann’s typology is used to direct a short description of the development of social policies in the EC so far. Finally, in the third part, three points are addressed for each type of social policy: first, why it is absent or present within the EC; second, whether social problems can be expected to develop which would make social policy necessary in the future; and third, what the choices are for social policy to develop in the future at the EC level.

Three types of social policy: securing or changing the course of the economy and social rights

Eduard Heimann’s book, entitled *Soziale Theorie des Kapitalismus—Theorie der Sozialpolitik*, first published in 1929, provides a basis for a more structurally oriented view of the development of social policies. It is the last convincing attempt to embed analyses of sociopolitical measures within a comprehensive interpretation of the development of modern capitalism. It is not possible here to do justice to Heimann’s well elaborated approach. The typology he developed for social measures and programmes is of particular relevance in our context. In a slightly adapted form—in order to take into account important developments in Europe since 1930—his typology reads as follows: social measures are of such a kind that they either (a) secure, or (b) change the course of the economy, or (c) promote social citizenship rights.

We briefly spell out what is meant by these different types of social policy measures:

(a) An example of social policy measures which secure the course of the economy are regulations regarding working conditions. It is clear that these kinds of measures can easily be advocated in strictly economic terms. For instance, it is generally accepted that industrial accidents should be avoided. If a single producer, in order to avoid costs related to working conditions, does not hold to such rules, general rules will
develop which force him to do so in order that producers compete on equal terms. (In order to simplify matters, I call them Type I social policies.)

(b) Social policy measures which change the course of the economy are, for example, wage increases and unemployment benefits. Characteristic of these measures is that they either change the course of the economy in favour of labour or interfere in the overall economic course. These measures are promoted through work councils, collective bargaining and labour unions; and they generally provoke fierce opposition on the part of producers, in spite of the fact that they tend to reproduce the hierarchies of the labour market (Type II social policies).

(c) Type III social measures are those which are based on extra-economic principles such as equity, responsibility, justice, decency, creativity etc. Generally, they can be called social rights in the sense that they refer to 'the whole range from the right to a modicum of economic welfare and security to the right to share fully in the social heritage and to live the life of a civilized human being according to the standards prevailing in the society'.

Heimann’s typology is particularly useful in analysing the genesis of European social policies, since it does not present social policy exclusively as a social system which is located somewhere under, above, or next to economic reality. By introducing types of social policy on the basis of how they influence the course of the economy, it is possible to evaluate social policy programmes within the context of the economic system. This is especially important when analysing the EC, which is still primarily an economic order and not a social or political system.

**Development of social policies within the EC**

The development of social policies within the EC can generally be divided into four periods.

1. A first period (1958–74) was characterized by the absence of any social measure. In the words of Vogel-Polsky, 'Il fallut attendre 1975, soit 17 ans, pour qu’un Directive de la CEE soit adoptée dans le domaine social sur la base de l’article 100. Cette Directive sur les licenciements collectifs a consacré pour la première fois la thèse selon laquelle l’harmonisation sociale peut avoir une influence directe sur l’établissement et le fonctionnement du marché commun'.

2. A second period (1974–80) started when in January 1974, a Social Action Programme was presented. The remainder of this period was characterized by actively seeking to realize the social measures proposed in the Social Action Programme. The measures proposed—ie attainment of full and better employment in the EC, improvement of living and working conditions, and increased involvement of management and workers in the economic and social decisions of the EC—became an integral part of EC policy. Unfortunately, however, a certain vitality was lacking.
This vitality manifested itself at the beginning of the third period (1981–85), when the phrase ‘European social space’ first appeared in a memorandum issued by the French presidency in 1981. Its key concerns were the intensification of the social dialogue, the emphasizing of cooperation and consultation in social protection, and the pursuit of employment as the cornerstone of EC policy. This document is mentioned here because it can be considered as the start of a new debate on a Social Europe. It is interesting, moreover, that the key concerns mentioned for such a European social space are typical Type II social measures. This is striking because, as we see below, it was especially Type II social measures that were almost totally absent in later initiatives.

Finally, the fourth period (from 1985 on) is characterized as being the era of Jacques Delors, the Single European Act and the Social Charter. The Social Charter was presented by the Commission in October 1989 as a commitment to the social dimension of Europe.

The preamble sets out the framework of the Charter declaring that:

- the completion of the single market is the most effective means for creating employment and ensuring the maximum well-being for all EC citizens;
- 1992 must favour the approximation of improvements in living and working conditions as well as economic and social cohesion;
- the situation of workers should be improved vis-à-vis freedom of movement, health and safety at work, social protection, and education and training; and
- equal treatment must be encouraged with regard to sex, colour, race and religion; and efforts made to combat social exclusion.

The Social Charter is subdivided into 12 sections whose concerns reflect existing Treaty and Social Fund commitments:

- the right to live and work anywhere in the EC;
- fair contracts of employment and equitable wages;
- the improvement of living and working conditions—including the right to annual and weekly leave;
- the right to social protection;
- the right to join (or not join) a trade union and to strike;
- the right to vocational training;
- equal treatment for men and women;
- worker consultation and participation;
- health and safety in the workplace;
- child protection;
- the right to a decent standard of living in retirement; and
- integration of persons with a disability.

To counter concern by some member states that a ‘blank cheque’ had been signed, the Commission drafted an action programme. It specified amendments to existing directives and measures relating to living and working conditions in the EC. It contains 47 ‘new initiatives’ on the most urgent aspects of the Social Charter and constituted the Commission work pro-
gramme in the social field for the next three years. The initiatives within the action programme correspond to the different sections of the Social Charter (except for the chapter on employment and the labour market). Table 1 gives an overview of the initiatives formulated within the Social Charter and of the distribution of the kind of instruments proposed to promote the initiatives.

Conclusively, it should be emphasized that the action programme has rather modest goals (its chief concern being health and safety at the workplace) and that it is little more than a statement of intent. The legal basis for these measures is not yet defined, and the action programme does not include a timetable (save the Commission’s stated intention of taking on all proposals before the end of 1992 and of including a first series of most important measures in its 1990 work programme). Moreover, the majority of articles in the charter are actually taken from a review of international UN, ILO and Council of Europe conventions—to which most members are signatories.

When we confront the Charter and action programme with Heimann’s typology, it strikes us that the main rationale behind the Charter is a strong promotion of Type I social measures. The Social Charter aims to implement fully the measures deemed indispensable for the effective operation of the internal market. By focusing on removing negative barriers to labour mobility, the Charter intends mainly to contribute to securing the course of the economy. The main preoccupation is to ensure that existing national legislation can no longer be used to inhibit the free movement of goods, persons, services and capital. New EC norms are not necessarily established through the Social Charter but through both removing obstructions to and creating the preconditions for labour mobility.

This restricted scope is astonishing: one would have expected that the coining of a new term—ie Social Charter—would have meant substantial developments towards Type II and Type III social measures. Analysed in more detail in the next section are the following concrete observations on the Social Charter—the goal of which is to draw conclusions from them as to the direction in which future European social policy may be moving:

1. The Social Charter seems to support especially Type I social measures.
2. Type II social measures seem to be noticeably absent from the Social Charter.
3. Only few ‘social rights’ are taken up in the Social Charter.

Which direction will the Europeanization of social policies take in the 1990s?

The Social Charter seems to support especially Type I social measures

Specific political interests played an important role in shaping the rather low claims of the Social Charter. Industry in general, as well as some member state governments, stated that EC action in the sphere of social policy is an unacceptable infringement of national sovereignty.

There is another factor which provides a more comprehensive explanation of the fact that Type I social measures are so prominent in the Social Charter—the linkage of the Social Charter to the 1992 programme. As the
### TABLE 1. AREAS OF THE ACTION PROGRAMME AND INSTRUMENTS PROPOSED.

<table>
<thead>
<tr>
<th>Formal</th>
<th>Informal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directives</td>
<td>Regulations</td>
</tr>
<tr>
<td>Health and safety at work</td>
<td>10</td>
</tr>
<tr>
<td>Living and working conditions</td>
<td>3</td>
</tr>
<tr>
<td>Equal treatment for men and women</td>
<td>1</td>
</tr>
<tr>
<td>Freedom of movement</td>
<td>1</td>
</tr>
<tr>
<td>Employment and pay</td>
<td>1</td>
</tr>
<tr>
<td>Social protection</td>
<td></td>
</tr>
<tr>
<td>Persons with a disability</td>
<td>1</td>
</tr>
<tr>
<td>Vocational training</td>
<td></td>
</tr>
<tr>
<td>Labour market</td>
<td>1</td>
</tr>
<tr>
<td>Protection of children and adolescents</td>
<td>1</td>
</tr>
<tr>
<td>The elderly</td>
<td></td>
</tr>
<tr>
<td>Information, consultation, participation</td>
<td></td>
</tr>
<tr>
<td>Association and collective bargaining</td>
<td></td>
</tr>
</tbody>
</table>

*Note:
*Others* amount to one Memorandum and five Community instruments.
Social Charter was to a great extent considered as a means of attaining the Single European Market, it was by definition destined to concentrate nearly exclusively on Type I social measures—ie measures securing the course of the economy. As part of the implementation programme of the Social Charter, no fewer than 10 proposals were forwarded for directives, ranging from safety in drilling industries to worker exposure to asbestos. A recommendation was proposed for a European schedule of industrial diseases and the establishment of a health, safety and hygiene agency.

On the basis of past experience, one can expect that the EC will continue to promote Type I social policies in the future. Given the explicit linkage between this type of social measure and the developing single European market, an increasing emphasis might even be expected. All partners involved—the EC, labour and employers—have an interest in some basic standards being agreed upon. For example, the Secretary General of UNICE4 stated in January 1990 that EC instruments to further the action programme’s goals should only be introduced if indispensable for ensuring the single European market’s healthy functioning and/or avoiding such competition as might distort the market. UNICE favours most of the measures foreseen on health and safety, education and training, and economic and social cohesion as defined in Article 130 of the Single European Act.

A minimalist social policy based exclusively on Type I social measures might suffice in a situation where market forces automatically generate social progress and full employment. Given the problems that Europe will face in the 1990s and with the single market having become a reality, the question is whether the Commission will turn to concentrating on other types of social policy. This question can be answered by analysing the two other conclusions.

Type II social measures seem to be absent from the Social Charter

As stated above, Type II social measures are of the kind that change the course of the economy in favour of labour or generally hinder the course of the economy. As one might expect, they provoke fierce opposition from the producers. This was exactly what happened whenever the Commission came up with proposals which fell into this category. Versions of the draft Charter mentioned some Type II social measures, but these did not find their way into the final version of the Charter adopted by 11 governments at the 1989 December Council. The draft of the Social Charter presented at the end of May differed from the one submitted in October in that, among other things, social measures of Type II were deleted. These were, for example, a minimum wage and a definition of a maximum working week for young workers. Moreover, the articles in the Charter which refer to collective bargaining, trade union membership, or the right to strike are not present among the rather limited proposals for EC directives or regulations in the action programme.

The position of industry is rather straightforward as far as acceptable social measures are concerned; it welcomes Type I social measures but fiercely opposes Type II social measures—such as ‘atypical’ work; improving
working hours; the right to leave for training; and provisions concerning worker participation, consultation and access to information.

As to the question of why European labour, when compared to capital, is much less successful in defending its interest, one must recall the political constellation that led to the single European market project. The alignment of two broad interests in the early 1980s seems to be the major impetus to the renewed momentum of European integration. The first group consisted of large European firms struggling against increasing stagnation ('Eurosclerosis'). The second group were the state elites seeking to regain (at least in part) some of the political sovereignty lost over time due to growing international interdependence. The result of this compromise was a political upswing, skilfully managed by the Commission, but from which labour was absent. Consequently, labour now plays only a minor role in the present aftermath of momentum for European integration. Moreover, its capacities for collective action at the European level are hardly developed. Even worse, the influence that labour unions have accumulated over the years within their national regimes, has been devalued by the growing international interdependence of the economy.

Arguments in favour of the Europeanization of Type II social policies

Dahrendorf wrote in 1973 that:

In accordance with the principle of subsidiarity so much discussed nowadays, Dahrendorf posed the question of why one should necessarily move all matters from the national to the European level. As justified as such a question might be, it carries the danger of perceiving the division of competences in the social field as a non-zero-sum game. In principle, the nation-state would continue to be in charge of all other social matters and would, in addition, be free to improve on the minimum standards laid down at the European level.

The problem is more complex, however, and has become even more so since time pressures were set on the realization of the common market. The reason for this is that social policies have become less and less effective at the national level—because in a completed single market, the boundaries around national systems will have diminished to such an extent that external effects will determine the internal functioning of nation-states. For the specific case of Type II social measures—ie social measures where labour and capital compete with each other for specific interests—this might imply the following: capital may move to areas whose national social policy regimes impose lower burdens on firms, thus putting pressure on policy regimes with high standards to lower their demands on firms. Movement of labour to areas with advantageous social policies, may increase the cost in those areas to a level where they become economically and politically untenable.
In the absence of a compensating transfer of social policy responsibilities to the European level, the result may be an economic and political advantage for capital. Market forces in general will become more important and—compared to present European practice—the European political system will be politically undermanaged for some time, and hence biased against labour interests.

Towards a Europeanization of Type II social policies? On balance, the changes arising from the processes described above, are more likely to be in the interest of capital than of labour. Pointing to subsidiarity, as a solution for rebalancing the growing inequity, is irrelevant in the case under consideration—since it is exactly the loss of sovereignty of the next lower level (the nation-state) which is the source of the problem. Given these circumstances, what possibilities are offered to promote Type II social measures at the European level?

As argued above, the ‘Community Charter on the Fundamental Social Rights of Workers’ failed in this respect. The problem was that generally any initiative going beyond the social measures defined in the Social Charter would be caught between the requirements of the member states—which have strong social regulations and which are afraid of going down to the common lowest denominator with regard to social dialogue—and those of business, which is afraid of more stringent standards which would raise production costs.

An alternative to the direct transfer of social policy responsibilities to the European level, as well as to subsidiarity, could be to strengthen and institutionalize the social dialogue between labour and capital at the European level. Starting in 1985, the Commission tried to institutionalize such a social dialogue. From its start, however, the European social dialogue has suffered from the inability of the peak associations of business to speak for their national affiliates, much less enter into binding agreements on their behalf. This inability of the European peak association should, however, not be interpreted as a weakness on the part of the employers. Rather, it can be seen as an intentional policy in order not to support the development of neocorporatist policy making at the European level. This is easily done for industry by refusing its peak associations the competence to represent the firms at the European level in social matters.

For similar reasons, collective bargaining has, at best, a scant chance of success at the EC level. Historically, the development of collective bargaining depends not only on organized labour but also on the existence of employers’ associations as a counterforce and of government intervention. In the absence of such multinational or European employer’s associations and of facilitating state intervention, there is little prospect for European-level collective bargaining to take place. An additional disadvantage to the development of collective bargaining is the high incompatibility of existing national industrial relations systems.

Another alternative which is developing at the moment and which contains a potential for institutionalizing Type II social measures at the European level, is the European company statute. The European company statute will eventually offer workers meaningful opportunities for influence and co-decision making; but it is unlikely to be in place when the present
wave of mergers and structural change reaches its peak. The more probable prospect is that the European company statute will be long delayed by disagreement between member states. In any case, this piece of legislation—containing earlier experiences with the social dimension—suggests that, compared to the existing systems of industrial citizenship at the national level, they are likely to pale into insignificance. They may even erode and undermine established, more advanced systems of participation—such as German co-determination.

Finally, an interesting and promising alternative mode for rebalancing the relationship between capital and labour at the European level, was put forward by Wolfgang Streeck. His starting point is that political–institutional intervention in the behaviour of markets and managements may have healthy consequences for economic performance. Societies which leave their enterprises the freedom to pursue their self-selected objectives, may perform less well economically than those societies which impose on their firms, through private or public forms of governance, ‘social’ obligations which the firms would not choose to enter into voluntarily. The latter can be achieved through social and political institutions which simultaneously impose constraints and opportunities for individual rational actors. Constraints are necessary for protecting profit-seeking individuals from the temptations of hyper-rationality and seeking quick-fix solutions which lead, for example, to ecological problems and redundant capacities. Opportunities, in turn, have to be offered for firms and management in fact to be able to adjust to diversified quality demand. According to Streeck, it is important that both constraints and opportunities be given simultaneously.

For example, a system of ‘rigid’ wage determination that keeps wages higher—and variation between wages, lower—than the labour market would require, produces the following advantages: it makes employers more willing to invest in training and retraining; it makes it attractive for employers to organize work in a flexible, decentralized manner; and this, in turn, is both supported by and necessitates high investment in training.

If space allowed, many more examples could be given to illustrate this point: ie that economies are in a better position to restructure towards diversified quality markets if they have institutional sticks as well as carrots available.

The most interesting aspect in the model proposed by Streeck is that it proposes a way to mobilize social policies from within the economic system and, at the same time, produces advantages for all the parties involved—at least in the medium to long term. Such a linking of the productive system with social policies would be especially attractive for the case of the EC—given the short-term improbability for the creation of supranational democratic welfare institutions.

Such an approach would, however, require a slightly different position than the one which the EC is actually taking in its 1992 project—a position primarily inspired by free-market liberalism and deregulationist institutional minimalism. This consequently allows large firms to follow their own independent market rationality and independently pursue economies of scale. The task for the near future should therefore be to promote institutional growth at the European level which would place markets and firms under prudent social control.
Only few ‘social rights’ are considered in the Social Charter

Finally, existing ‘social rights’ at the European level need to be assessed; developments which might trigger the need for future social rights, analysed; and their chances to become established at the European level, explored. ‘Social rights’ are understood here in the sense of T. H. Marshall’s ‘social citizenship’, ie “the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society”. Social rights within Marshall’s conception are one type of citizenship rights among others—such as civil, political, and industrial citizenship rights. By contrast, the ‘social rights’ in the ‘Community Charter of the Fundamental Social Rights of Workers’, refer to the whole range of civil rights, economic rights, industrial rights, and—only in few cases—to ‘social rights’ in Marshall’s sense.

The ‘Community Charter of the Fundamental Social Rights of Workers’ promotes primarily economic rights—which include some aspects of civil rights, ie the free movement of labour, capital, services and goods. The Charter assures ‘every citizen of the European Community’ the right to ‘freedom of movement throughout the territory of the Community subject to restrictions justified on grounds of public order, public safety or public health’.

The Social Charter actually addresses few—and, importantly, legally non-binding—‘social rights’ as compared to those defined by T. H. Marshall. Apart from being few, they are even more restricted since they do not even address the ‘citizens of Europe’ but only its ‘workers’—as the full title of the Social Charter clearly indicates. For example, the right to welfare is as legitimate for any EC citizen as it is for the citizens of a member state; this, however, applies only in cases where the person is in some way involved in a ‘normal employment relationship’. Within the Charter, there is a prevailing emphasis on persons with a present, past or future connection with the labour market. The most obvious beneficiaries of the measures have been and will continue to be migrant workers, working women, redundant workers from the coal and steel industries, and persons who are entitled to vocational training. These are the same groups for whom special provisions have been built into the EC treaties.

Moreover, the ‘social rights’ addressed in the Social Charter are of a fundamental nature when compared with the social rights which exist in the member states. For example, the right to health protection and safety at the workplace historically represents the earliest stage in the development of the welfare state. Another example of this type, is the proposed directive on the approximation of protection of children and adolescents. Here, the aim is simply (1) to ensure that children are not forced to work in sweatshops or in places which are likely to damage their health; (2) to ensure that a minimum working age is agreed upon, with exceptions being made for work in non-arduous activities; and (3) to limit maximum working hours of those under 18 years of age, as well as excluding them (except in specific occupations) from night work.

One reason for the absence of a more elaborated set of ‘social rights’ within the Social Charter, has to do with the Commission’s perception as to
who is responsible for initiatives concerning the implementation of social rights: responsibility lies with the member states, their constituent parts, the two sides of industry or, within the limits of its powers, the EC. This realistic approach is dictated by the Commission's acknowledgment of the fact that few member states would tolerate EC-led intervention in these areas; therefore, the Social Charter would not have been accepted. The subsidiarity principle should be welcomed; but again, the question is whether the single European market does not create its own realities—which, in the end, will require European answers.

Arguments in favour of European social rights. I do not argue here why some social problems can be better dealt with at the European level—because of large-scale advantages—rather than at the national level. Instead, I restrict myself to the kinds of social problems which can be expected to result from European integration—and which therefore, almost by definition, require a European approach.

First, and similar to the case of industrial policy, possibilities for national social policy objectives seem more difficult in countries as tightly linked to each other and as devoid of functional sovereignty as the member states of the post-1992 EC. For reasons of both interdependency and the need to adhere to EC law, it may become more difficult to implement such national policy measures as redistribution of income based on tax policy, income policy, positive discrimination regulations etc. Compensation can only evolve from a positive European approach.

Second, putting so much emphasis on the implementation of civil rights (ie freedom of movement etc), while at the same time neglecting the development of social rights at the European level, will result in situations where people will find themselves in a 'social vacuum'. For example, elderly persons residing in an EC country other than the one of their origin, would have to prove that they have sufficient resources neither to request nor to accept welfare. Take the following case in point: in the spirit of free movement, people move to another country, take up employment, and remain there for a long time—but later they need long-term care arrangements which they cannot afford without welfare co-payments, and therefore have to return to their original EC country. In such a case, the most recent social roots at the place of retirement will be destroyed.

Without even pretending to indicate solutions to such specific problems as can be expected to become crucial in the 1990s, the next and final part of this article indicates possible and impossible paths from European 'freedoms' or 'civil rights' to European 'social rights'.

Towards a Europeanization of Type III social policies? The need to become active in dealing with 'social rights' puts the EC under considerably higher pressure than is the case for the development of Type I and Type II social measures. 'Social citizenship' or 'Social Europe' imply a positive mode of integration which is more ambitious and complex than negative integration towards a single European market goal. A qualitative jump is needed from the promotion of social policies which 'secure' the realization of the single European market, to positive action which is necessarily based on the principles and values of social rights.
This points exactly to the main problem in the development of a ‘Social Europe’: how can a regime based on deconstruction find ways to set standards for constructive action based on extra-economic principles (such as responsibility, justice, decency, creativity, equity etc) without having them interpreted as avoiding competition and distorting the (single European) market?

The recent gospel of subsidiarity could be interpreted as the EC answer to this problem. This was clearly expressed by Sir Leon Brittan, who, in his Granada lecture, suggested that a Social Charter should respect subsidiarity by defining only a minimum of collective requirements; it should not impose a single view of social relationships on the diverse member states. Whereas this may function in most cases, situations will unavoidably accumulate in the near future which will necessitate, at least in some instances, the setting of European principles on social rights. Subsidiarity cannot be expected in this case to be a sufficient criterion to provide an unambiguous guide on its own.

The reason why it appears to be so difficult to define theories of justice as a guiding principle for positive integration within the EC, might be linked to the ‘political undermanagement’ of the European project: ie the minor role that the European Parliament plays, as well as the fact that important national interest groups (eg labour unions—but also many others) do not Europeanize at the same speed as European economic integration and interdependency move forward. Bercusson argues that, from a legal point of view, the promotion of the social dialogue ‘offers a unique opportunity to be utilized as an instrument for developing the substantive content of, as well as applying, fundamental social and economic rights’. Although this possibility may be legally feasible, the European social dialogue is still a case of political undermanagement—as was spelled out before.

Paradoxically enough, it may be exactly the political undermanagement which moved European integration as far as it is today. If the European integration project would have concentrated from the very beginning on political integration instead of economic integration, the project might have come to a halt many years ago—especially given the high level of political heterogeneity which exists in Europe. This may explain why the Commission is adopting an extremely cautious approach and continues to reaffirm its aversion to excessive central control, of which it has been accused in connection with the social dimension by both governments and employers.

Given these circumstances, which will presumably not change in the course of the 1990s, a social space will have to develop through harmonization and policy convergence rather than through the establishment of a common European welfare regime. Specific solutions to specific problems will have to be developed which lie somewhere in between ‘shipping the social problem (eg poor people) back to their place of EC origin’ (which at the moment is common practice), and ‘developing a common European welfare regime with its own formal and material standards’.

Leibfried suggests two evolutionary social policy stages which lie between these two extremes.

First, a somewhat more refined evolutionary social policy model would imply that a person may stay and the cost of support may be charged back to his or her place of origin. At present EC law allows for this possibility...
which is a common feature of EC social security networking—only in the case of temporary ‘student’ status.

Second, another intermediary step going further than the previous one, would be that social welfare can be taken up by any EC citizen in any EC country. As seen before, this now applies only to persons who are considered to have a ‘normal employment relationship’. Possibilities could be explored either to extend the defined group so that entitlements would benefit a broader range of people, or to ‘piggy-back’ social policies in accordance with labour market developments. An example of the first strategy is the European Court of Justice having set its own Europe-wide standards of defining the ‘normal employment relationships’ (cases: Levin and Kempf). The Court did not define such an employment relationship on the basis of the weekly working hours or the monthly income, as is done in most member states (eg in Germany, a ‘normal employment relationship’ means at least 15 hours work weekly or a minimum income of DM 470 monthly). The Court rather stated that it is only relevant that a person be ‘employed’, independent of whether he or she is earning less or working less than what the member state defines. This implies that a person has a right to reside in an EC country even though he or she could support himself or herself only insufficiently. Although the linkage to an employment relationship is still crucial, the interpretation of the Court can be understood as a move towards the establishment of ‘European citizenship’.

Pushing forward and implementing nothing more—but nothing less—than the above (intermediary) stages in the many areas of social policy, is already expected to be difficult. It will require decisive positive action on the part of the EC. It cannot be emphasized enough just how important such an effort is to prevent Europe from either being caught in the deadlock of trying to create a common (and politically undermanaged) European welfare regime, or slowly slipping towards an eroded US-style welfare model.

Notes and references

1. The present article deals exclusively with the status of social policy within EC Europe. It concentrates on how the EC deals with its own problems. One should, however, not forget that outside Europe also many even more pressing social problems are to be found. Developing an externally directed social policy is certainly as, if not much more, important than that internally directed social policy which is described here.
2. E. Heimann, Soziale Theorie des Kapitalismus—Theorie der Sozialpolitik (Frankfurt am Main, Suhrkamp Verlag, 1980).
6. UNICE (Union of Industries of the European Community) represents economic and sociopolitical peak associations of business of the member countries of the EC, as well as some associated organizations of other Western European countries.
8. Neocorporatist policy systems can only develop if all three sides are willing and able to take part in it.
9. In some countries, they are negotiated at the enterprise level; in others, on the sectoral level within a given national or subnational territory.
10. This idea was presented in a lecture for the Meeting of the Andrew Shonfield Association, Florence, 14–15 September 1989.