

# Chapter 1

## After the European elections and the first wave of Covid-19: prospects for EU social policymaking

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### Introduction

The new European Parliament and European Commission took office in July and December 2019 respectively, in the context of the United Kingdom's imminent departure from the European Union (EU) and longer-term challenges posed by climate, technological and demographic change. Headed by Ursula von der Leyen, the new Commission announced ambitious plans for the next five years based on six main political guidelines: a) a European Green Deal; b) an economy that works for people; c) a Europe fit for the digital age; d) protecting our European way of life; e) a stronger Europe in the world; and f) a new push for European democracy (von der Leyen 2019: 4).

A raft of legislative proposals, communications and strategies were put forward in the first half of 2020 to implement these six headline strategies, in effect replacing the previous Europe 2020 Strategy of 'smart, sustainable and inclusive growth' and its seven flagship initiatives launched a decade ago (European Commission 2010). The transition to a 'fair, climate-neutral and digital Europe' was particularly prominent in the new Commission's initial Work Programme published in January 2020 (European Commission 2020d).

The Covid-19 outbreak that spread through Europe from January 2020 onwards soon complicated these ambitious plans. The Commission and Parliament face considerable challenges due to the rapid and deep economic downturn caused by the lockdown and the contraction of the EU budget as a result of the UK's departure on 31 January 2020. But the pandemic also gave urgency to a coordinated European response to the public health and economic challenges posed by Covid-19 (see Brooks *et al.*, this volume). An important breakthrough was reached in July 2020 when the European Council adopted a hard-fought compromise on the European Recovery Plan proposed by the Commission at the end of May. In its Adjusted Work Programme for 2020 (adopted in May 2020), the European Commission (2020a) confirmed its determination to deliver on the commitments made in the January Work Programme, but amended the timing of some of the proposed actions to prioritise those needed to boost Europe's recovery from the Covid-19 crisis. Importantly, the Commission remains committed to its two flagship initiatives, the European Green Deal and the Digital Strategy, regarded as essential in building 'a more resilient, sustainable and fair Europe' (*ibid.*: 2).

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1. Authors are listed alphabetically and contributed equally to the chapter. They would like to thank the editors as well as anonymous external reviewers for constructive comments on earlier versions of this chapter. The usual disclaimer applies.

This chapter analyses whether the election of a new European Parliament in 2019 and the appointment of the von der Leyen Commission imply a significant turn regarding Social Europe, not least in the context of the Covid-19 pandemic and its economic fallout. As we will show, the new Commission's social and employment agenda builds partly on key initiatives introduced under the previous Commission such as the European Pillar of Social Rights (EPSR), but also deviates in important respects from the course charted by the Juncker Commission. Most importantly, climate change moved centre stage in 2019, not least due to the success of Green parties in the European Parliament elections (see Section 1), but also reflecting generational change towards widespread acceptance of the existence of a climate emergency. This new focus on climate – and also digitalisation – has important implications for the European social dimension, as it indicates a broader conception of social protection (see Laurent, this volume) and a potential opening for the reinvigoration of EU involvement in the social field.

In line with recent research, our analysis emphasises the role of European elections and party politics as well as the Commission's role as policy entrepreneur in shaping the direction of Social Europe. We challenge recent accounts of EU social policy development that claim the 'end of Social Europe' (Graziano and Hartlapp 2019) or emphasise the Commission's liberal orientation concerning social and employment policies (Crespy and Schmidt 2017). We argue that the pro-EU majority in the European Parliament and the partisan composition and entrepreneurship of the Commission have the potential to prepare the ground for more social policy activity rooted in the expanded use of both soft coordination and legislation in pursuit of a wider set of social goals.

The remainder of this chapter is structured as follows: Section 1 discusses the impact of the 2019 European Parliament elections and the appointment of the new Commission on social and employment policy, taking into account prevalent divisions among the key actors. Section 2 examines European social policy in the context of embedding the EPSR into the European Semester and the outbreak of the Covid-19 pandemic. Section 3 looks at key proposals and initiatives in 2019 and the first half of 2020, explicitly considering the main areas of contention among relevant stakeholders. The last section concludes and discusses whether the new Commission's Work Programme and its approach to collaborating with the European Parliament and European Council signify a turning point in advancing the European social dimension.

## **1. Setting the agenda: the 2019 European Parliament elections and the new von der Leyen Commission**

### **1.1 The European Parliament election results**

Elections to the European Parliament took place between 23 and 26 May 2019. Besides being overshadowed by Brexit, the elections were historic in two ways. First, voter participation was fairly high (50.3%, the first rise in turnout in European elections), pointing to Europeans' increased interest in EU affairs and the future of the European project, and to a weakening of the 'second-order' character of European elections (Galpin and Trenz 2019). Second, the 2019 elections ended the dominance of the two

main centrist groups: the combined seats of the centre-right European People's Party (EPP) and the centre-left Progressive Alliance of Socialists and Democrats (S&D) had commanded an absolute majority in the European Parliament since 1979, enabling them to control the Parliament's agenda. This is no longer the case. They now have 335 seats (EPP: 187; S&D: 148) in the 705-seat Parliament after Brexit on 31 January 2020. The pro-European liberal Renew Europe (RE) group has 97 seats, while the European Conservatives and Reformists Group (ECR) formed in 2009 continues as a more eurosceptic group to the right of the EPP (62 seats). In particular, the Greens (67 seats) and far-right populists (grouped together in the Identity and Democracy political group) picked up votes from the centrist parties. Though not faring as well as predicted by some pollsters, the latter still increased their share of total seats from about 20% to 25% (76 seats). The far-left is represented by the Confederal Group of the European United Left/Nordic Green Left (GUE/NGL), with just over 5% (40 seats) the smallest of all political groups in the European Parliament. The remaining 27 seats are not linked to a political group (European Parliament 2020).

Ferrera (2017) suggests that several lines of conflict may slow progress on social Europe: first, traditional divides between the political left and right over 'market-making' versus 'market-correcting' priorities, second a divide between pro-integrationists, who favour a binding EU interference in welfare states and national labour markets, and anti-integrationists, who support national sovereignty on social matters. A third tension, previously more latent but increasingly manifest since the sovereign debt crisis, has emerged between 'creditor' and 'debtor' countries. A fourth fault line is linked to free movement, access to national welfare states and 'social dumping'. While the third cleavage broadly speaking differentiates northern and southern Member States, the fourth is linked to eastern enlargement, territorially separating 'high wage/high welfare' regimes in the old (western) Member States from 'low wage/low welfare' regimes in the new (eastern) Member States. Empirical research on voting in the European Parliament has confirmed that the old 'left versus right' and 'pro versus contra further European integration' conflict lines remain important and that the new tensions between 'creditor' and 'debtor' countries and to a lesser extent between 'high wage/high welfare' and 'low wage/low welfare' states' explain support for and rejection of the adoption of the EPSR (Vesan and Corti 2019).

These cleavages are fully reflected in the 2019 European election results. While the left/right divide remains salient (even if less so than previously), it now intersects with a pro-Europe/anti-Europe one. While there is still a pro-EU majority in the European Parliament, the decline of the two main party groups (EPP and S&D) means that it is more polarised because of the *cordon sanitaire* around the radical right eurosceptic party groups. These centripetal forces complicate the Parliament's capacity to construct stable coalitions, thus decreasing its effectiveness in inter-institutional negotiations (Ripoll Servent 2019). This can be expected to create somewhat uncertain conditions for progress on social policy, as support from more business-friendly MEPs in the EPP and RE is needed. The dividing lines around socio-economic inequalities have also become more complex because of the newer cleavage around ecological sustainability. While both the centre-right and centre-left largely support the 'greening' of the economy, there

are major divides between the EPP and S&D on what this means and how it should be achieved, in particular regarding the financing of what will be a costly transition to a climate-neutral economy.

This more complicated situation will make it difficult for the European Parliament to respond to the increasing partisan salience of social policy. A comparison of the electoral manifestos of the political groups in 2014 and 2019 shows that the social dimension increased in salience, with more support for market-correcting than for market-making social policy. Though employment was a key issue in both elections, more specific attention was paid to social policy in 2019, e.g. with reference to the EPSR, compared to the prevalence of more general normative statements on the social dimension in 2014 (Pagano and Regazzoni 2019).

As the new Parliament began its work, the European Council adopted (in June 2019) a new Strategic Agenda 2019–2024 to structure its activities for the next five years (European Council 2019). This built on unprecedented citizenship participation through new formats of consultations such as 1,800 town-hall-style debates in which hundreds of thousands of Europeans took part (European Commission 2020g). The agenda sets out four priorities, the second and third of which are central to social policy: ‘developing a strong and vibrant economic base’ and ‘building a climate-neutral, green, fair and social Europe’; the other two priorities are protecting citizens and freedoms and promoting European interests and values globally (European Council 2019). Overall, the slogans sound similar to those of the previous European Council strategy (European Council 2014): ‘stronger economies with more jobs; societies enabled to empower and protect; a secure energy and climate future’ featured as the first three of five overarching principles. Written in the aftermath of the Great Recession and sovereign debt crisis, the 2014 strategy was pervaded with concern for returning to economic growth. The key points discussed under the heading ‘a Union that empowers and protects all citizens’ were heavily biased towards supply-side measures such as skills development and human capital investment. However, there are noteworthy differences. Under the old strategy, energy policy was mainly discussed under the aspects of affordability and security, with sustainability only in third place. In the 2019 strategy, the term ‘social Europe’ features relatively prominently in the document, together with ‘climate-neutral’, ‘green’ and ‘fair’. The 2019 Strategic Agenda signals the importance of allocating resources to digital transformation, skills and education to foster future economic growth. The new focus on a carbon-neutral and socially just Europe is significant: climate policy is explicitly linked with social policy, emphasising that the burden of a green transition has to be fairly distributed. Implementation of the EPSR at EU and Member State level is regarded as a key factor to achieve this (European Council 2019: 5).

## 1.2 The appointment of the new EU Commission

The selection of Ursula von der Leyen (EPP) in July 2019 as Commission President was somewhat controversial, and this affected the negotiations concerning the new College of Commissioners. Von der Leyen emerged as a compromise candidate because the European Council did not support the *Spitzenkandidat* of the strongest political group,

Manfred Weber.<sup>2</sup> Von der Leyen set out a detailed programme of priorities in her bid to gain European Parliament approval. Notably, she expressed a strong commitment to building a special relationship with the European Parliament, supporting a right of initiative for the Parliament (European Commission 2020d). The Parliament flexed its muscles through rejecting three designated Commissioners in their vetting process, thus delaying the start of the new Commission by a month. With Council and Parliament support, the von der Leyen Commission finally took office on 1 December 2019, issuing its first Work Programme on 29 January 2020 (European Commission 2020d).

Foremost among its ambitions is the European Green Deal. Von der Leyen's Commission intends to make Europe the first continent to be carbon-neutral by 2050 and to achieve this via a 'just transition' that reconciles climate justice with a revamped and strengthened European role in social policies, including social protection. A Sustainable Europe Investment Plan and 'Just Transition Mechanism' are to support those regions and workers most affected by the economic and social costs incurred by the necessary changes to Europe's industrial economy in order to meet the ambitious climate targets. For example, access to reskilling programmes will be provided to workers in carbon-intensive sectors to help them gain access to new economic sectors (European Commission 2020b; Laurent, this volume). The Work Programme also promises to align EU policymaking with the United Nations Sustainable Development Goals (SDGs) and integrate these into the European Semester to guide the Commission's work across all policy areas (see Sabato and Mandelli, this volume).

'A Europe fit for the digital age' has moved up the agenda since the announcement of von der Leyen's six headline guidelines in 2019 (see above). From a social policy perspective, this headline importantly includes improving labour conditions for platform workers, focusing on their employment status, access to social protection, representation and collective bargaining (European Commission 2020d: 4).

Von der Leyen's agenda also emphasises a jobs-oriented, social market economy (an 'economy that works for people'). The Commission launched a consultation process in early 2020 (which ran until 30 November 2020) to implement the EPSR with a view to presenting an action plan in 2021 (European Commission 2020b). Important components are the proposal for a European Unemployment Benefit Reinsurance Scheme, full implementation of the Work-Life Balance Directive and a European 'Child Guarantee' to complement the existing Youth Guarantee which, in turn, is also to be reinforced (European Commission 2020e). A new Gender Equality Strategy 2020–2025 aims at closing labour market, pension, pay and care gaps and achieving gender balance in politics and decision-making (see Rubery and Tavora, this volume). As one of the Strategy's first deliverables, the Commission will propose binding pay transparency measures by the end of 2020 (European Commission 2020c). The Commission also promises to put forward 'a legal instrument on fair minimum wages for workers in the EU, in consultation with social partners and all relevant stakeholders' (European

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2. The *Spitzenkandidat* process was introduced in 2014 by the European Parliament, resulting in the election of Jean-Claude Juncker (EPP) as Commission President.

Commission 2020d: 5; see Peña-Casas and Ghailani, this volume). A strengthened social dialogue is another important aim (European Commission 2020b).

Von der Leyen (2019) underlines the importance of closer cooperation between the European institutions. Indeed, her work programme is greatly influenced by the main priorities of the European Council's Strategic Agenda for 2019–2024 (as outlined in European Council (2019) and calls by the European Parliament; e.g. the Child Guarantee was first suggested by the Parliament in 2015 (European Parliament 2015). As a major innovation, the European Commission and the Parliament also announced the strengthening of participatory democracy through a 'Conference on the Future of Europe' to give citizens their say on how the Union should be run and what it should deliver on. It aims at bringing together people from across the EU as well as representatives of civil society, Member States and European institutions. Initially planned to be launched in 2020, the Conference has been postponed until epidemiological conditions allow for this type of exercise (European Council 2020).

The von der Leyen Commission breaks with the past by appointing three Executive Vice-Presidents (EVPs) and five Vice-Presidents (VPs) to manage Commission work on thematic priorities. The selection and roles of the three EVPs suggest an attempt to build a broad coalition within the Commission in favour of strong social protection (broadly defined) and robust labour markets. Frans Timmermans, a social democrat, is EVP for the Green Deal; Margarete Vestager, a social liberal, is EVP for digitalisation; and Valdis Dombrovskis, a liberal conservative, is EVP for 'an economy that works for people'. All three are from small Member States, both old and new.

Nicolas Schmit (S&D, Luxembourg) was appointed the new Commissioner for Jobs and Social Rights,<sup>3</sup> falling under the EVP 'an economy that works for people'. Von der Leyen's mission letter to Schmit is largely in line with the priorities set out in her agenda, tasking him with achieving the social policy aims of the Commission Work Programme. It emphasises the importance of employment as a source of welfare, in terms of both decent and fair wages and access to training and education for those outside the labour market.

The introduction of three EVPs and five VPs for specific topics suggests that von der Leyen intends to improve the Commission's role and influence in interinstitutional relations. The revamped structure strengthens leadership on thematic priorities by introducing the EVP designation for the commissioners responsible for climate action (Timmermans), trade (Dombrovskis) and competition (Vestager) and increasing the number of VPs from four to five. There is scholarly consensus that the Commission's influence has decreased somewhat in the post-Maastricht era due to the European Parliament's growing activism and the creation of further European agencies such as the Fundamental Rights Agency and the European Food Safety Authority (see

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3. Initially commissioner-designate for 'Jobs' only, this would have meant that no commissioner had a 'social' remit in their title. Following pressure from S&D members of the European Parliament and trade unions, this title was changed. Also, the controversial VP for 'protecting our European way of life' was renamed 'promoting our European way of life' in November 2019.

Schimmelfennig 2015). While the mainstreaming of social policy across Directorates offers the potential for social policy to gain an elevated status, at the same time the danger looms that economic concerns will once again trump social aims.

### 1.3 The Romanian, Finnish and Croatian presidencies of the Council of the EU

The Council's 18-month 'Trio' programme of the Romanian, Finnish and Croatian presidencies of the Council of the EU (European Council 2018) took place against the background of Brexit, the European Parliament elections, von der Leyen's selection as Commission President and the spread of the Covid-19 pandemic. Although the Trio programme did not even mention the EPSR (see also Vanhercke 2020), some notable progress was nevertheless made on social affairs. The Romanian presidency (first half of 2019) emphasised the main themes of convergence and economic, social and territorial cohesion, with significant legislation including the Work-Life Balance Directive and the establishment of the European Labour Authority (ELA) (see below; Romanian Presidency of the Council of the EU 2019).

The priorities of the Finnish presidency (second half of 2019) included initiatives to promote a competitive and socially inclusive EU and to make the EU a leader in climate action. A strong emphasis was put on the concept 'economy of wellbeing', but unlike the green agenda this did not seem to gain further traction at EU level. On legislation, the Finnish presidency prioritized managing the negotiations on a directive on equal treatment and on a revision of the social security coordination regulation (Finland's Presidency of the Council of the EU 2019), but failed to secure an agreement on the latter (see Section 3.2).

The Croatian presidency (first half of 2020) took account of the new Commission Work Programme and focused on achieving an agreement on the EU Multiannual Financial Framework (MFF) for 2021–2027 on which no compromise had been reached under the previous two presidencies (Croatian Presidency of the Council of the European Union 2020). Negotiations on the MFF have been contentious due to the opposition of affluent northern Member States (mainly the Netherlands, Austria, Sweden and Denmark, also known as the 'Frugal Four') to a significant expansion of the EU budget (see also Myant, this volume).

Though the EU budget is relatively small (about 1% of EU GDP), the increasing ambitions of the Commission (and the Parliament) and the increased costs of EU efforts related to migration, defence and other areas led to pressure to increase the budget to about 1.11% over the seven-year cycle. Moreover, the United Kingdom's departure from the EU leaves a gap in the EU budget of about €10-15 billion, causing conflict about how to fill the hole. The net contributors fear having to pay more, while the net beneficiaries oppose reductions in the EU programmes from which they benefit (such as the cohesion funds). The February 2020 Council failed to reach agreement on a compromise MFF level of 1.07% of EU GDP. The Special European Council in July 2020 finally managed

to strike a deal on the 2021–2027 budget, but flagship policies were severely curtailed in the final agreement. For example, to achieve a compromise, the total budget of the Just Transition Fund was reduced from €40 billion to €17.5 billion as a result of pressure from the ‘Frugal Four’ (Morgan 2020).

The Croatian presidency was greatly overshadowed by the outbreak of Covid-19 in Europe in early 2020. EU institutions have since been preoccupied with crisis decision-making related to Covid-19, further delaying action on the MFF. Commission President von der Leyen tried to break the stalemate concerning financial assistance to Member States most negatively affected by the Covid-19 emergency (mainly in southern Europe) by proposing a Covid-19 recovery fund as part of the MFF (see below; Myant, this volume). Overall, the three presidencies did not leave any strong mark on the EU’s social dimension, and the agenda was mainly determined by the Commission and the European Council.

## **2. Social policy in the European Semester and in the context of Covid-19**

### **2.1 Implementing the European Pillar of Social Rights**

Adopted as a solemn declaration by the EU institutions in November 2017, European social policy gained a solid footing through the EPSR. Any further progress on the social dimension depends on EPSR implementation. Importantly, the EPSR – one of Juncker’s key political ambitions – has been fully endorsed by the new Commission President. Revealingly, von der Leyen’s mission letter to Commissioner-designate Schmit in late 2019 tasked him with developing an action plan to implement the EPSR, thus indicating that this had not happened earlier (Tricart 2020). Its rights-based language notwithstanding, EPSR implementation relies mainly on the Open Method of Coordination (OMC) and its soft law mechanisms of benchmarking and recommendations due to the subsidiarity rule that determines social and employment policy in general. Exceptions to this rule are the principles of gender equality and equal opportunities as well as most principles listed under the EPSR’s ‘fair working conditions’ chapter, as these are regulated by EU-level legal standards.

Despite criticism of the effectiveness of the OMC, its learning and benchmarking tools have been reinforced over the years and now serve as the main instruments in the implementation of the EPSR. There is strong support for the OMC in the Employment and Social Protection Committees as it provides a means for achieving upward convergence. The EPSR’s integration into the European Semester also gives it some bite via the scrutiny process of National Reform and Stability/Convergence Programmes. One of the first tangible results of the EPSR was the implementation of a 2019 Council Recommendation on access to social protection (Vanhercke 2020; see also Section 3). However, since implementation often burdens Member States with considerable costs or relies on the social partners, new directives or other measures in these areas will not necessarily lead to upward social convergence (de la Porte, forthcoming).

The Commission's Work Programme also commits the EU to integrate the United Nation's SDGs into the European Semester. It is hoped that this will help align economic and employment policies with the SDGs as well as the European Green Deal targets through monitoring progress and ensuring closer coordination of Member States' efforts (see Sabato and Mandelli, this volume, for an appraisal of progress made in these areas).

The Commission's Work Programme also announced the establishment of a European Child Guarantee by 2021, ensuring access to basic rights for every child at risk of social exclusion. A recent analysis of the extent to which child poverty and children's rights were considered found that there is currently not sufficient focus in the European Semester on child wellbeing (Eurochild 2019). A child guarantee would also link in with the EU's commitment to meet the SDGs, such as ending (child) poverty.

Finally, the Work Programme announced the Commission's intention to put forward a proposal for a European Unemployment Benefit Reinsurance Scheme (EUBRS) in the fourth quarter of 2020. Welcoming this, the European Parliament's Employment and Social Affairs Committee has also called for an analysis of the need to introduce minimum standards for unemployment insurance systems in Member States. While a temporary scheme directing Support to mitigate Unemployment Risks in an Emergency (SURE) has been set up as a response to Covid-19 (see below and Myant, this volume), the establishment of a future permanent EUBRS is not ruled out.

## 2.2 Social partner involvement in the Semester

While the social partners, especially the trade unions, generally support the EPSR, there is a fear that certain legislative initiatives could undermine collective bargaining at Member State level (de la Porte 2019). Given the sensitivities about national systems of collective bargaining, one of the most important recent initiatives that warranted social partner input was the European Parliament resolution in October 2019 to propose a legal instrument to ensure fair minimum wages for all workers in the EU. In January 2020, the Commission launched the first of two phases of consultation with the social partners on this issue, with the second phase starting in June 2020 (see Peña-Casas and Ghailani, this volume).

Despite a waning of their organisational and political resources, the social partners – in particular trade unions – play an important role in a functioning democracy by providing input, output and throughput legitimacy (Schmidt 2013).<sup>4</sup> This role is crucial at a time of crisis and rising euroscepticism. The Juncker Commission (2015–2019) tried to relaunch European social dialogue following a decline in the relationship between the social partners in the shadow of the Eurozone crisis. The success of this

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4. Input legitimacy focuses on the 'who' of decision-making and is achieved by involving those being governed in the decision-making process; output legitimacy focuses on the 'what' of decision-making and is achieved when policies are effective in addressing the needs or concerns of key stakeholders; throughput legitimacy focuses on the process or the 'how' of decision-making and is achieved when policy-making is seen as transparent or open (Schmidt 2013).

relaunch is disputed, though: from the perspective of the Commission, social dialogue has been reduced to a form of social concertation, and it has become more difficult to transpose European collective bargaining results into legislation. Bipartite social dialogue has also been hampered by the refusal of employer organisations to commit to binding agreements at European level (Tricart 2020).

The integration of social objectives through the EPSR into the European Semester cycle nevertheless provides a framework for more social partner involvement in social and economic policy design and implementation. Recent research on the involvement of trade unions in the European Semester has revealed that their influence on Semester-related decision-making is still mixed, while their influence on National Reform Programmes (NRPs) is perceived by trade unions themselves as low or absent in most countries examined. Their influence on the outcomes of national reform processes is dependent on the institutional, legal and political power of national trade unions (Sabato 2020).

A milestone achieved in June 2020 was the social partner Framework Agreement on Digitalisation that links the social with the digital agenda. Building on the mandate expressed in the mission letters to Commissioner Schmit and to the EVP for ‘A Europe fit for the Digital Age’, Margarete Vestager, the European Commission started a consultation process to ensure that working conditions can be improved through collective agreements, not only for employees but also for the vulnerable self-employed, particularly platform workers. This is in recognition of the fact that the concepts of ‘worker’ and ‘self-employed’ have become blurred in the digital economy and may thus have competition-distorting effects within the single market. The Framework Agreement sets out a joint process that can be adapted to national industrial relations systems and allows for sectoral and company-level situations to negotiate and monitor responses to the impact of digitalisation on the workplace, including skills, work organisation and working conditions (CEEP 2020).

Although the multitude of existing cleavages may prevent significant progress on the EPSR in the current legislative period (see Section 1.1), the Covid-19 crisis has given impetus to a number of initiatives that at least in the short term support the notion of ‘Social Europe’ by aiming for a ‘fair socio-economic recovery’. Amongst more concrete social policy measures are a scheme to mitigate unemployment risks during an emergency and a youth employment support package described in further detail below.

### 2.3 Next Generation EU recovery plan

Following separate economic rescue packages at Member State level and a protracted search for a common response, at the end of May 2020 the Commission proposed a ‘Next Generation EU’ recovery plan of €750 billion and an increased 2021–2027 EU budget of €1.1 billion. To finance the promised investments, the Commission will be able to borrow extensively on behalf of Members States on the financial markets by issuing bonds. In the context of the crisis, Member States were also helped by the use of the general escape clause under the Stability and Growth Pact (SGP) that allows for a

temporary deviation from the SGP's debt and deficit rules. These measures represent an unprecedented step in dealing with economic crises at EU level. They are significantly different to the EU's response to the 2008–2009 Great Recession and resultant sovereign debt crisis where initial short-term Keynesian Member State responses to stimulate demand were soon replaced by strict austerity measures under the dictum of the European Central Bank and Commission.

Despite the fairly quick and powerful response to the crisis in financial terms, these emergency measures can only strengthen the European social dimension if they are combined with EU regulation and the introduction of binding standards.

## 2.4 Temporary support to mitigate unemployment risks

In the wake of the sovereign debt crisis it has been increasingly argued that both a Banking Union and automatic fiscal stabilisers in the form of a centralized unemployment insurance are needed to complement the Economic and Monetary Union (EMU) and introduce risk-sharing among members. Options of re-insurance of national unemployment benefit schemes in the Eurozone were first formulated by the European Commission in 2017, with an intense academic debate unfolding on this topic in recent years. However, no progress had been made in implementing these policy suggestions (Schmid 2019). In response to the Covid-19 pandemic and its economic fall-out however, a breakthrough has been achieved regarding a new instrument labelled 'temporary Support to mitigate Unemployment Risks in an Emergency' (SURE). SURE will provide EU financial assistance of up to €100 billion in the form of loans granted on favourable terms to Member States setting up short-time work schemes and similar measures to preserve employment (European Commission 2020f).

While this is an important tool at EU level and inserts some risk-pooling into the EMU, the initiative should not be mistaken for a proper European unemployment insurance scheme with individually claimable benefits. SURE is an instrument providing extra financial support to Member States in which employers have to temporarily lay off workers or drastically reduce working hours as a result of the pandemic. Whether it proves to be more than a temporary emergency mechanism and can be turned into a tool to generate intra-European solidarity remains to be seen. An experimental study has found that public opinion on hypothetical European unemployment insurance schemes is divided along both the left-right cleavage and views on European integration. Cross-border redistribution is an especially polarizing issue, yielding strong support from left-wing pro-Europeans and strong opposition from right-wing eurosceptics (Kuhn *et al.* 2020).

## 2.5 Youth Guarantee

Introduced in 2013 under the Barroso Commission at the peak of the previous youth unemployment crisis, the Youth Guarantee commits all Member States to ensure that all young people under the age of 25 receive a good quality offer of employment, continued

education, apprenticeship or traineeship within a period of four months of leaving education or becoming unemployed. Financial support was made available in the form of the Youth Employment Initiative and earmarked funding from the European Social Fund, to be match-funded by Member States. After a slow start, the Youth Guarantee has become a well-established policy implemented across the EU. In 2017, the Youth Guarantee was linked to the EPSR (Andor and Vesely 2018; European Commission 2020e). Concerns remain over the extent to which it has reached vulnerable young people and whether it has promoted an increase in precarious work. While trade unions were the driving force behind the introduction of the scheme by then-Social Affairs Commissioner László Andor, the quality of some job or training offers has been questioned, leading to the call for trade unions to be more involved in the monitoring and future design of the Guarantee (Voet and Jarc 2020).

In response to the Covid-19 crisis and the disproportionate effect lockdown measures had on youth labour markets, the Commission adopted a Youth Employment Support package on 1 July 2020. Promising at least €22 billion<sup>5</sup> spending on youth employment measures, the Commission put forward a proposal for a Council Recommendation to introduce ‘a Bridge to Jobs for the Next Generation’ to reinvigorate the Youth Guarantee (European Commission 2020e). The proposal acknowledges that young people are overrepresented in non-standard jobs, such as platform work, which often lack access to adequate social protection. Moreover, young people on entry-level jobs run a relatively high risk of losing their jobs to automation. However, the transition towards a more digital and greener economy will also offer new opportunities requiring young people with the relevant skills. The upgraded Youth Guarantee thus aims at aligning the vocational education, training and skills agenda with the green and digital agendas, potentially creating positive synergies.

### **3. Social policy agreements and setbacks January 2019–June 2020**

#### **3.1 Notable social policy agreements**

European institutions were able to move forward in several areas during 2019 and the first half of 2020. First, the Directive on Transparent and Predictable Working

Conditions was adopted on 13 June 2019 after negotiations between the Council and the European Parliament. The directive originated in a Commission proposal of December 2017 to revise Directive 91/533/EEC (‘Written Statement Directive’) that gave employees the right to written information on the key aspects of their employment relationship. The new directive resulted directly from the proclamation of the EPSR. Opposition from some countries, including Germany and the Czech Republic, slowed progress (Fronteddu and Bouget 2020). The directive establishes a set of minimum rights for workers, including transparency and predictability concerning remuneration, paid leave, working time and social security, in response to the increase in non-standard

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5. Critics argue that, to be effective, the scheme – now extended to young people up to the age of 29 – would need a budget of around €50bn (Voet and Jarc 2020).

employment, especially in the ‘gig economy’. Importantly, it also attempts to standardise the definitions ‘employee’, ‘employment relationship’ and ‘employment contract’. The directive’s provisions apply to those working three hours per week or more (over four weeks; see paragraph 11, EP and Council of the EU 2019c), as well as those on zero-hour contracts.

Another initiative attempting to improve working conditions for the increasing share of the labour force in non-standard employment is a Council Recommendation on access to social protection for workers and the self-employed, a key element of the EPSR (Council of the EU 2019). The vulnerable or concealed self-employed in particular suffer from the lack of access to contributory insurance-based schemes (Spasova and Wilkens 2018). The measure recommends that Member States establish minimum standards in the field of social protection and ensure formal and effective coverage, adequacy and transparency for all workers and the self-employed. One motivation behind it is also to ensure a level playing field on the labour market and to improve statistics and monitoring. As a soft law measure, the recommendation promotes dialogue and mutual learning activities but leaves it to Member States how to design reforms. While currently lacking bite, the recommendation may pave the way for binding initiatives in the future (see Armstrong 2016 for examples of soft law measures leading to hard law later on).

Third, the Work-Life Balance Directive entered into force on 1 August 2019 (EP and Council of the EU 2019a). This directive aims to modernise existing EU legislation to improve the work-life balance of parents and carers; to promote the more equal sharing of parental leave between men and women; and to improve women’s status on the labour market. One important feature is the introduction of paid paternity leave: fathers have the right to ten days’ leave at a rate at least equal to sick pay. Two of four months of parental leave are non-transferable (the level of compensation to be decided by Member States). Carers also have the right to five days’ leave per year, while workers have expanded rights to request flexible working arrangements when their children are younger than eight. Other provisions promote using European funds to increase formal care provision, protect parents and carers against dismissal, and decreasing disincentives for dual-earner households. Critics remarked that disagreements among Member States led to a lowest common denominator approach (Vanhercke 2020). Nevertheless, the directive represents a significant regulatory change from the Parental Leave Directive that it replaces, introducing a payment obligation for parental leave. It may thus have degenderizing effects on care practices (de la Porte *et al.* forthcoming).

There was also progress on institution-building. The European Labour Authority (ELA) was established in Bratislava (EP and Council of the EU 2019b). The origin of the ELA was Commission President Juncker’s announcement in his 2017 State of the European Union Address, while its rationale stems from the EPSR. A central idea behind the ELA is to facilitate labour mobility under fair and transparent conditions and to respond to potential abuses. The aims of the ELA are to ensure that individuals and employers have access to relevant information about their rights and obligations concerning free movement; to encourage cross-national cooperation in the enforcement of EU law; and to try to resolve disputes regarding cross-border employment. Provisional agreement on the ELA was achieved in February 2019 under the Romanian presidency, and it is

envisioned that it will be fully operational by 2024. ELA governance will be based on a management board with representatives from the Commission and EU Member States. A stakeholder group will provide expertise and advice. The ELA thus bundles existing committees and networks in an effort to streamline activities related to employment rights (Cremers 2020).

Three years after its initial proposal by the Commission, a landmark agreement was ultimately adopted by the European Parliament in early July 2020 on the EU road transport sector ('Mobility Package I', consisting of two regulations and one directive). It brings significant social improvements to truck-drivers' working conditions by prescribing rest periods outside the cab and ending distortion on competition by clearer rules on remuneration regarding posted drivers in international transport. Two aspects of the mobility package are, however, a considerable setback for the target of carbon-neutrality by 2050: the mandatory return of vehicles to the Member State of registration every eight weeks (a measure targeting 'letterbox companies') and restrictions imposed on combined transport operations, which will lead to unnecessary emissions and pollution.

Finally, the revised directive on exposure to carcinogens or mutagens at work (Directive 2019/983 (EU), amending Directive 2004/37/EC) came into force in 2019. The legislation was part of a wider effort to improve European legislation on occupational health and safety, even though Vogel (2018) warns that 'one swallow doesn't make a summer'.

### 3.2 Setbacks

Despite significant efforts by the Romanian and Finnish presidencies, the Council and the European Parliament failed to reach agreement on revised regulations on the coordination of social security systems. The aims of the Commission's 2016 proposal were to enhance and clarify the rights of mobile workers in light of changing labour market conditions (European Commission 2016); to reduce employers' abuse of labour mobility provisions; and to link benefit receipt more closely with the Member State where contributions are paid. The latter was particularly important for unemployment benefits. Among other things, the proposal would have reduced the maximum posting period for posted workers from 24 to 18 months. The proposal also included an increase in the number of exportable months of unemployment benefit (from three to six) and clarified the responsibility of national social security systems when a cross-border worker is employed longer than 12 months in the host country.

The Council and the Parliament were far apart on three issues: the rules applying to cross-border workers, the export of unemployment benefits, and the aggregation of social security insurance periods for mobile workers. The Parliament took a centre-left position, arguing that cross-border workers should be able to choose which national social insurance system they would like to be covered by. The Council vehemently opposed this. Some Member States insisted that family-related benefits (child allowances, supplements to unemployment benefit) should be indexed to the cost of

living in the Member State where the benefit is received. Other Member States argued that the proposal would do little to reduce fraud (Cornelissen and De Wispelaere 2020). Ultimately the proposal failed due to an unlikely alliance of Eastern European and affluent Member States via the required qualified majority voting.

## **Discussion and conclusion**

Despite a difficult political and economic context, the 2019 European elections and the appointment of the von der Leyen Commission have improved prospects for reinvigorating and reorienting Social Europe, at least rhetorically. Concerns over climate change and social protection were important issues in the European elections campaign, and the new Commission policy agenda emphasises a fair transition to a climate-neutral, digital Europe. Though the European Parliament still has a pro-Europe majority, it is increasingly polarised, thereby complicating von der Leyen's ambitious plans. However, the new Commission has taken important steps to restructure its internal organisation in order to improve its capacity for interinstitutional relations, especially its relationship with the Parliament. The Commission has also adopted a more inclusive and open approach by strengthening the role of the Parliament as 'the voice of citizens' and also by employing tools of participatory democracy, notably the planned Conference on the Future of Europe.

In the first half of 2020 the new Commission has tried to reinvigorate the social dimension, especially under the headline of 'an economy that works for people' but also by strengthening the link between social policy and climate security (via the Just Transition Fund) and the digital age (particularly regarding the social security of platform workers). The Green Deal is a real step forward for the EU, but questions remain about the financing of the various new proposals, not least given the Covid-19 crisis (see Vanhercke, Spasova and Fronteddu, this volume).

Though the left-right balance in the European Parliament makes furthering the social dimension challenging, the renewed entrepreneurship of key Commissioners could potentially help advance social Europe. In particular, aligning the social agenda with the European Green Deal and digitalisation strategy offers possibilities for creating useful synergies. The reinforced Youth Guarantee and the Framework Agreement on Digitalisation provide encouraging examples of this. However, it will be important to align social policy with the European Green Deal and digitalisation strategies effectively to make them mutually reinforcing, thus avoiding weaknesses such as those identified in the interinstitutional agreement on the Mobility Package. The mainstreaming of social policy across different vice-presidents is also promising, but success will require that social protection will not be subordinated to economic growth, fiscal consolidation and other 'hard' targets.

The rise of eurosceptic parties across the EU and in the European Parliament is likely to increase the salience of domestic politics in the EU policy considerations of Member States, constraining the scope for agreement on major reform. Many of the initiatives proposed by the new Commission and supported by the new Parliament reflect the

tension between the need for the EU to act in the social field and the competence accorded to it in the Treaties, in a context of Member State opposition to perceived interference with national welfare states – an all-too-familiar theme in the development of EU social policy. EU institutions are constrained by the limited legal basis for EU action in the social field and the principle of subsidiarity, yet jurisprudence in the Court of Justice of the European Union (CJEU) has often expanded social rights in the past (Caporaso and Tarrow 2009). The OMC continues to provide the most promising template for policy coordination in areas where the EU has limited or no competences, though for it to maintain its relevance it needs to be integrated into the EPSR and connected to the new EU headline goals.

The Covid-19 crisis has also led to some remarkable developments. The proposal to boost the EU budget to €1.85 trillion by a €750 billion Recovery Fund ('Next Generation EU') is clearly ambitious and signals European solidarity in tackling the pandemic and its economic and social fallout. We are currently witnessing a (short?) period of cross-national cross-party convergence supporting social and economic emergency measures due to the pandemic, similar to the initial policy responses to the 2008 financial crisis. The distributional implications of these short-term measures will only play out in the medium to long term when politics again start shaping both European and national responses. Covid-19 will undoubtedly overshadow the work of the European Parliament and European Commission in the years to come. Despite the financial and economic problems it is causing, the pandemic is nonetheless creating pressure for more coordinated European action in the face of the transborder challenges affecting all Member States. The new SURE mechanism, for example, is a quantum leap. In addition, as demonstrated by Brooks *et al.* (this volume), the European Member States began to work together very quickly in the throes of a major public health crises. This opens the prospect that Member States will be convinced of the value of a more integrated future EU health policy.

The launch of the European Commission's previous grand social policy strategy – Europe 2020 – coincided with the 2009–2010 economic crisis. The harsh austerity period that followed undermined the view of the welfare state as a productive factor or social investment (Vanhercke 2020: 111). Social actors at EU level eventually managed to reinvigorate the Social OMC through the Europe 2020 mandate and European Semester process (Armstrong 2016; Vanhercke 2020), so it is important for social policy to remain centre-stage in the new EU strategies as the Covid-19 pandemic continues to adversely impact European welfare, economic and health systems. For European economies to 'build back better', it is pivotal that social aims are not side-lined by any potential desire to achieve economic growth at any price.

Returning to the question whether the approach of the new Commission is a turning point in European social policy, there is an optimistic and a pessimistic outlook. On the one hand, there is some indication that the social agenda will be strengthened by linking it to the digital and climate agendas. On the other hand, it is too early to tell how the impact of the pandemic will play out in the long run. When the effects of the pandemic become less severe, there will certainly be distributional struggles about how to pay for

the various emergency measures put into place. When this happens, there is a real risk that social policy aims may be subordinated, once again, to budgetary issues.

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