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A social and democratic Europe? Obstacles and perspectives for action

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WORKING PAPER

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A SOCIAL AND DEMOCRATIC EUROPE?

Obstacles and perspectives for action

Daniel Seikel

SUMMARY

Everywhere in Europe, support for the European integration process decreases. More and more Europeans associate the European Union with the dismantling of social and democratic rights. Fundamental social rights clash with the market-liberal single market law, the key institutions of the European social model are undermined. What are the causes for this development? Which changes are necessary to achieve a more social and democratic Europe? This article reconsiders the concept of Social Democracy and suggests using it as a blueprint for a fundamental change of course of the European integration process. Starting point is the finding that the institutional architecture of the European multi-level system creates a systematic imbalance between liberalization and social regulation. On the basis of this problem analysis, I identify three policy fields that are of central importance for creating a social and democratic Europe: an “open” constitution for Europe, social minimum standards and the recuperation of the fiscal capacities of the political system.

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1 Introduction¹

The European integration process has always been associated with ambitious goals. After two devastating world wars, Europe's unification was closely linked to overcoming nationalism and to securing peace on the European continent. Additionally, from the beginning, the then European Economic Community (EEC) also aimed at promoting growth, increasing prosperity, enabling full employment and supporting welfare-state development in the member states. While military conflicts between EEC countries soon were no realistic threat anymore, against the background of the economic crises since the late 1960s and the accelerating globalisation, the economic dimension became increasingly important.

These days, the EU's policy is being widely criticised. Observers point to a pronounced market-liberal bias which increasingly shifts the balance between social regulation and market economy in favour of the latter (Bieling/Deppe 2003; Gill 1998; Höpner/Schäfer 2010, 2012; Scharpf 2010a; Ziltener 1999). The EU's policies and institutions have been frequently criticised for being technocratic and undemocratic (Bellamy 2006; Enderlein 2013; Lemb/Urban 2014; Mair 2007; Majone 2014; Oberndorfer 2012; Scharpf 2009; Streeck 2013; Urban 2013). Moreover, the current crisis management subjects distressed member states to tough austerity measures, furthers the dismantling of the welfare state and employees' rights, and threatens the economic stability of the euro zone (Buntenbach 2014; Busch et al. 2013; Fischer-Lescano 2014; Schulten/ Müller 2013). Thus, the prospects for a social and democratic Europe are rather bad.

Despite these highly problematic developments, especially from a worker-oriented perspective, there are good reasons to defend the integration process. Given the necessary political majorities, European integration could potentially provide the historical chance to contain capitalist competition between states in times of globalisation and unfettered markets. Cooperation at the European level could create the preconditions for transnational solidarity, stopping the race to the bottom between member states, regulating markets and restoring the primacy of politics and democracy over the economy. So far, however, this option is only hypothetical. In practice, European integration contributes to the exact opposite, not least by directly exposing the member states' welfare systems and production regimes to institutionalised regulative competition.

The European project is undoubtedly one of the greatest achievements of civilisation in the 20th century. However, this holds also true for the democratic welfare state, the autonomy of collective bargaining or the right to strike. Therefore, European integration must not be bought at the expense

¹ This working paper is a slightly modified translation of my article 'Ein soziales und demokratisches Europa? Hindernisse und Handlungsperspektiven', published in a special issue of WSI-Mitteilungen ('Soziales Europa: Fehlentwicklungen und Lösungsansätze'), 69 (1), 2016. I thank the editors of WSI-Mitteilungen for agreeing to a translation and publication in the WSI Working Paper series. The translation has been provided by Sebastian Streb.

of democracy and social rights. Europe is important, but so are the welfare state, rule of law and democracy.²

The social achievements that characterise the ‘European social model’ are seriously threatened by the current trend of the integration process, with the euro crisis and its political handling posing the biggest threat. Yet, the observable imbalance between market regulation and market creation is also rooted in the institutional architecture of the European multi-level system. For proponents of a social and democratic Europe it is important to provide an alternative to these negative developments – an alternative that can neither be an uncritical ‘more Europe at any cost’ nor a retreat to the nation state. Focusing on the institutional context, this paper aims at presenting some ideas on changes that might contribute to the realisation of a social and democratic Europe. While the paper does not deal with the problematic management of the euro crisis, it addresses the correction of the EU’s shortcomings in its ‘normal state’. The article is to be understood as a basis for further discussions and political debates on the future of Europe.

The paper is structured as follows: I will first introduce the concept of social democracy as a blueprint for a reorientation of the European integration process (section 2). Following this, I will elaborate on the main barriers to a social and democratic Europe (3). On the basis of this analysis, section 4 outlines reform options for three key areas. In the final section, I will sum up the main results (5).

2 The concept of a social and democratic Europe

This section deals with the question of what should be the guiding principle of European integration. In this regard, I suggest that European integration should follow the idea of social democracy. The concept of social democracy is not to be equated with social democratic parties although, obviously, manifold historical and ideational ties and overlaps exist. It describes a democratic community that takes the political responsibility for the social wellbeing of its members (Meyer 2002: 13). Thus, the concept of social democracy corresponds to a republican understanding of democracy (see Scharpf 2009). In contrast to the principles of liberal democracy, republicanism is not restricted to protecting the individual’s freedom from state intervention. Rather, republicanism aims at ensuring the freedom of citizens in and through the state (Meyer 2012: 18f.). Social democracy is based on the insight that the citizens’ full (democratic) participation in a community’s economic and social life cannot be guaranteed by individual freedom rights alone. Accordingly, the status of citizenship is connected with a fundamental equality of all citizens that is incompatible with excessive economic inequality (cf. Marshall 1950). This is because an uneven distribution of material resources that exceeds a certain level also leads to an uneven distribution of economic and political participation (Marshall 1950: 57f.). Only

² See also Prantl (2014).

changes in the economic and social conditions through active government policies enable a large number of people to actively exercise their civil rights. This requires that political interventions of the state have priority over markets and economic power. Consequently, the concept of social democracy demands that basic democratic rights also apply to the economic and the social domain (Meyer 2002: 13-15, 27f). The primacy of democracy over the economy is the prerequisite that enables the economically 'weak' to exercise their civil rights (Meyer 2002: 14).

The following three elements are of crucial importance for social democracy: social rights of citizenship, economic democracy and an adequate capacity for political action of the political system. Social rights of citizenship are fundamental for legitimising modern democracies. Social rights imply an intrusion of in other respects free contractual relations by the status of social citizenship. Market prices – e.g. for human labour – are corrected for reasons of social justice (Marshall 1950: 68, 74). Social rights are the primary means against material and political inequality and are realised through an efficient welfare state. The state guarantees a politically defined minimum provision of essential goods and services and/or a minimum income sufficient for covering needs that are also politically defined (Marshall 1950: 54).

The second basic element of social democracy is the democratisation of the economy, i.e. expanding the democratic rights of self-determination and co-determination to the economic sphere (Meyer 2002: 17). Accordingly, all participants in the economic process should be enabled to shape their own work environment and should also have a say in major decisions on the allocation and distribution of resources. This includes institutions such as co-determination at company level, free collective bargaining, and the right to strike.³

Finally, it requires an effective political system to realise the above mentioned elements. For this purpose, three conditions are necessary. First, the political decision-making process has to be effective. Second, the political system must be able to generate the material resources for financing the implementation of regulatory objectives. Third, the political system must have the legal freedom to determine the economic order (Bast/Rödl 2013: 7). These characteristics can also be summarised as the problem-solving ability of the political system.

One of the greatest challenges for social democracy is globalisation (Meyer 2002: 12) which undermines the nation state's capacity to domesticate capitalism democratically (Scharpf 1998: 151). Exposed to international competition for mobile factors, the nation state loses its ability to maintain the conditions for social democracy in the national context. Open and unregulated competition between national economies causes problems that can make nation states less social over time, mainly through a mutual race to

³ The remainder of the article does not deal with the aspect of economic democracy.

the bottom in the areas of taxation, social benefits, wages, employees' rights and environmental standards. Provided the political will to do so would exist, the European integration process potentially offers the possibility to master these problems: through international cooperation at the European level, the mutual race to the bottom could be stopped by imposing 'ratchets' that prevent member states from increasing their competitiveness at the expense of social, labour and environmental standards. Thus, European integration opens up the chance to create the conditions for realising social democracy in a globalised world and to reclaim the lost capacity for political action. However, emphasising this potential should not conceal the fact that the current trend of the integration process points in the exact opposite direction – a systematic undermining of the central pillars of social democracy (for detailed analyses of the causes see Höpner 2013; Höpner/Schäfer 2010, 2012; Scharpf 1999; 2010a, 2010b). Some observers even believe that the EU's social and democratic potential is generally limited and consider the chance to achieve a change of course in European policy to be low – at least in the medium term (Höpner 2013; Scharpf 2010a). Regardless of the current chances for realisation, this paper asks what would have to be changed in order to remove the existing barriers to a social and democratic Europe.

3 Institutional obstacles to a social and democratic Europe

This section deals with the institutional obstacles that stand in the way of a social and democratic Europe. I will focus primarily on those barriers that result from the complex architecture of the European multi-level system.

The first obstacle is the limited problem-solving ability of European politics (positive integration). Legislative acts of the union require a qualified majority in the Council, in some policy areas even unanimity, and the agreement of a majority in the European Parliament (EP). Treaty changes require unanimity, too, and must be ratified by national parliaments, in some cases even by referendum. Thus, the institutional barriers posed by European legislation are exceptionally high and there are numerous veto points. Policies that could contribute to the realisation of a social Europe, however, can only be realised under these demanding political decision-making rules (Meyer 2002: 156). The difficulties in forming majorities are drastically increased by the political-economic and institutional heterogeneity of the 28 (soon 27) member states (Höpner 2013; Höpner/Schäfer 2008). Reaching an agreement is especially difficult when core elements of the national production regimes are concerned. This holds particularly true for questions concerning the social, tax, finance and collective bargaining systems, but also for corporate control including co-determination at company level. In some of these policy areas that are central to social democracy, the EU even has no direct legislative competence at all. Thus, especially in the core areas of social democracy, the EU's capacity for political action is constrained (cf. Höpner 2013: 75f.; Meyer 2002: 156; Scharpf 2006, 2008a: 754ff.).

The second fundamental problem is the expansive jurisprudence of the European Court of Justice (ECJ). In contrast to the political decision-making mode at the European level, legal integration is highly effective (Höpner 2014). The European Treaties, as the basis of legal integration, are by no means neutral in their stance on the relation between state and the market but are characterised by a predominance of individual economic liberties. The four so-called fundamental freedoms that guarantee the free cross-border movement of goods, persons, services and capital increase the competition between national regulatory systems. In the course of the integration process they have become 'highly effective instruments of economic liberalization' (Höpner 2013: 78). Especially the jurisprudence of the ECJ is responsible for this 'radicalisation of the single market integration' (Scharpf 2008b; for details see Höpner 2008). Theoretically, all national practices, institutions and regulations that render cross-border trade potentially less attractive can be abolished by the ECJ. This affects particularly forms of social market regulation which naturally restrict individual economic liberties. The resulting market-liberal spin undermines the collective and social rights that are essential to social democracy (Scharpf 2008a, 2009, 2010b; Seikel/Absenger 2015).

The market-liberal thrust of integration through law has considerable consequences for the balance of power between social groups. Actors having an interest in liberalisation can use European law in order to legally bypass previously insurmountable political opposition within the national arena. By contrast, actors interested in social regulation, such as trade unions, do not have this option (cf. Scharpf 2010a: 221f.).

The same obstacles blocking positive integration also impede the political correction of ECJ rulings. If the ECJ makes a decision on the basis of European primary law, a correction requires unanimous agreement of all governments in the Council.

Since agreement on market-correcting policies is difficult and judicial integration on the basis of the single market freedoms is highly effective and at the same time almost always market-creating, the relationship between state and market shifts systematically in favour of the market (Scharpf 2008a: 49).

The here described – mainly institutional – obstacles hamper the development of a social Europe. For example, the weakness of positive integration is one reason for the fact that the EU neither prevents tax competition nor takes effective measures to regulate financial markets. The momentum of legal integration, by contrast, creates a strong impulse for liberalisation. Legal integration not only intensifies the race to the bottom between member states, e.g. in terms of taxes, but as a result of its market-creating thrust also legally delimits the scope for social and economic policies in the member states. However, since positive integration is prone to being blockaded, the capacity for political action at member state level is not compensated by additional regulatory capacities at the European level. The result is a dou-

ble asymmetry of liberalisation and social regulation at the European *and* the national level (Scharpf 2010a).

4 Key areas for a social and democratic Europe

4.1 Institutional reforms: an 'open' constitution for Europe

This section deals with proposals for solving the above described problems of low political effectiveness and excessive integration through law. As Bast and Rödl (2013: 9) state, the currently most urgent task in Europe is to restore the priority of democratic legislation over single market law. They formulate two key questions: First, how can the exercise of member state competences be protected from dysfunctional restrictions by single market law without endangering important achievements of economic integration? Second, what changes of the EU's institutional architecture are needed to increase political effectiveness without overburdening the EU in terms of legitimacy and institutional capacity (Bast/Rödl: 2013: 9)?

Relating to these questions, Fritz Scharpf (2015) has recently presented a far-reaching proposal. He suggests a constitutional restart in order to expand the capacity for political action at the European and the national level and to allow for a correction of integration through law. The goal is a reform of the EU's institutional architecture, which, in contrast to the current state, is open to alternative concepts about the organization of state and market, including the *leitmotif* of social democracy. The proposal rests upon the basic idea of replacing the multiple veto points in the European legislative process with the possibility of politically controlled opt-outs.

Scharpf's proposal contains four basic elements. The first element is the de-constitutionalisation of EU single market law. Accordingly, a European constitution should be reduced to those components that are typically included in constitutions: provisions about institutions, procedures and competences, as well as fundamental social and civil rights. The single market law would explicitly be no component of the constitutional law but would remain in effect under the 'ordinary' law of the *acquis*, thus losing its current quasi-constitutional status (Scharpf 2015: 401). The de-constitutionalisation of single market law would suspend the supremacy of economic freedoms over collective social rights.

Second, the proposal aims at eliminating the Commission's monopoly of legislative initiatives. Instead, 'qualified minorities in Parliament and Council should [also] be able to introduce legislative initiatives' (Scharpf 2015: 400). This would prevent the Commission from stopping or diluting measures that are not in line with the market-liberal preferences of the Directorates-General for the Internal Market, Competition or Trade (Scharpf 2014: 19). In addition, this would also significantly upgrade the EP, thus making an important contribution to the democratization of the EU.

The third element of Scharpf's proposal intends to reduce the relatively high majority requirements for ordinary legislation. Accordingly, a simple majority in the Council and the EP should be sufficient for adopting legislative proposals (Scharpf 2015: 400).

Fourth, for the sake of protection of minorities, the simplification of the decision-making processes would be balanced by politically controlled opt-out options for member states (from ordinary legislation only): this ensures that individual member states or small groups of member states with specific national characteristics – e.g. particularly extensive forms of co-determination – are protected from being overruled by simple majorities of the other countries (e.g. in the case of takeover or company law). However, opt-outs should be politically controlled, i.e. it should be possible to reject them by an absolute majority in Parliament and by a qualified majority in the Council. This could be reasonable when the uniform application of a law seems necessary, e.g. if non-applicants had a competitive advantage and/or if the benefits for applicants were reduced by non-uniform application. In these cases, member states would have to choose between the comparatively unproblematic adoption of far reaching solutions by a smaller group of countries on the one hand and a lengthy and cumbersome search for consent between all member states on the other hand which, in the end, might lead to a compromise that represents the lowest common denominator only (Scharpf 2015: 402f.). The proposal also foresees that member states are allowed to adopt legislation that contravenes the *current* acquis (Scharpf 2015: 401) because the current acquis contains more uniform rules as it would be the case after a reform. Such conflicting initiatives should be notified to the Commission beforehand and could also be rejected by joint majorities in Parliament and Council (Scharpf 2015: 403f.).

These measures address the previously identified problems of a poor problem-solving ability and an uncontrolled integration through law. First, it would become possible to control and correct the legal development politically. The member states' capacity for political action could be freed from European legal restrictions that no longer correspond to the interests of political majorities (Scharpf 2015: 404). European politics would be relieved from the legal constraints of an expansive integration through law, thus significantly increasing the range of policy alternatives. Second, the institutional constraints of the Community method's multi-veto system would be eliminated. This would not only improve the capacity for political action and make it easier to correct the legal development but would also contribute to greater public attention for and the politicisation of European decisions both at the European and the national level (Scharpf 2015: 404). At the same time, this would also lead to a more active role of national parliaments in European politics, thus contributing to an improvement of the democratic quality within member states (cf. Urban 2013: 143f.).

Of course, these measures do not guarantee the realisation of a social Europe which can only be the result of future political battles. But at least the institutional barriers to social democracy would be removed. This would be

the basic condition for political majorities in Europe to implement alternative social and economic concepts in democratically legitimised processes.

4.2 Minimum requirements for a social Europe

In order to realise a social and democratic Europe, European integration should more strongly serve the purpose of promoting welfare state development in the member states. Especially in the current crisis, this aspect is more important than ever. As stated above, high material inequality is incompatible with the principles of social democracy. Instead of cutting social benefits and reducing wages, minimum social standards should be agreed that provide adequate protection from social risks and also ensure a decent standard of living. To be clear, this would not be about the introduction of redistributive social security systems at the European level but about regulatory provisions to be implemented by the member states.

For instance, minimum wage replacement rates could be introduced for social benefits such as social assistance, unemployment benefits and pensions. In order not to financially overburden the countries' social systems, following Busch's idea of a corridor model (Busch 2005), member states could be divided into groups with different levels of wage replacement rates according to their economic capacity. In the long term, lower wage replacement rates should be adjusted to a higher level.

The crisis in the southern European countries has made it clear that in the EU not even the delivery of basic services is ensured. Against this background, it might also make sense to define a minimum level of public services. This would involve the coverage of basic needs such as a guaranteed basic supply of electricity and gas or comprehensive health care.

A minimum wage policy coordinated at European level could be another building block of a social Europe (Schulten 2014). This would be an effective remedy for rising social inequality and increasing in-work poverty. Given the huge wage differences between member states, however, the aim cannot be a Europe-wide uniform wage amount but a minimum wage norm to be implemented in the member states (Schulten 2014: 13f.). For example, the minimum wage level could be set to 60% of the respective median wage of a country.

4.3 Strengthening the fiscal capacity of member states

An important prerequisite for a high problem-solving ability of political systems is their capacity to generate the material resources needed to implement ambitious regulatory goals. This requires the solution of two tightly interconnected problems that interfere with the revenue side of state budgets: the regulation of financial markets and the curbing of tax competition.

As made clear by Nölke (2016) and Rixen (2016), containing financial markets and tax competition is an important prerequisite for a social and democratic Europe. Both authors point to the close connection between financialisation and tax competition on the one hand and social inequality on the other. Additionally, financialisation, tax avoidance and tax competition deprive nation states to a considerable extent of much needed resources (see Unger 2013). The liberalisation of capital flows and financial markets has substantially increased the mobility of capital. Financial market actors, companies and wealthy individuals can exploit the differences between national regulatory models in order to achieve a 'regulatory arbitrage'. Thereby, nation states are subjected to an intensive competition for investments and tax revenues. Because of the relatively advanced stage of market liberalisation, this competition is particularly intense in the EU, thus increasing the mutual race to the bottom between member states. Legal and illegal possibilities of tax avoidance as well as an increasingly capital-friendly financial market regulation and taxation do not only reduce tax revenues but also lead to a general loss of political and democratic control over financial markets.

In his article, Nölke (2016) calls for a stronger regulation of cross-border capital movements. This would not only reduce the vulnerability of financial markets but also facilitate the taxation of capital income and corporate profits. However, as Nölke points out, these measures would be incompatible with the free movement of capital as enshrined in EU primary law. Moreover, Nölke supports the introduction of a financial transaction tax which would also contribute to a deceleration of the financial market business and generate additional public revenues. In this way, the financial sector would contribute more to the financing of public tasks. Besides, there is also a necessity for a more effective regulation of banks, shadow banks and financial instruments.

Rixen (2016) shows that while there has been progress in combating tax evasion in the EU, there are still considerable shortcomings with regard to the containment of tax competition. Therefore, Rixen proposes a partial harmonisation of tax policy and argues for the taxation of corporate profits in the form of a common consolidated corporate tax base in combination with minimum tax rates.

5 Conclusion

In this paper, I have suggested that European integration should follow the concept of social democracy. The basic idea is to impose regulative 'ratchets' against the mutual race to the bottom and to align the integration process in a way that it guarantees and promotes the economic and social development of the member states in the sense of a complementary institutional level of regulation. First, I have shown how the current architecture of the European multi-level system systematically prevents the realisation of social democracy in Europe. Based on this analysis, I have identified three areas that are crucial for a social and democratic Europe: an 'open' Euro-

pean constitution, minimum requirements for a social Europe and the strengthening of the fiscal capacities of member states.

It should be noted that none of the proposals made here will be easy to implement, because first the obstacles described in section 3 would have to be overcome. Besides, it is doubtful whether there currently exist political majorities in Europe that would implement such reforms. This is also and especially true for the proposal of a constitutional restart of the EU (Scharpf 2015: 397). According to Scharpf (2015: 397), this would even require a deep and dramatic crisis which would move the political actors to abandon their blockade positions, thus making possible a comprehensive institutional change that goes beyond incremental and path-dependent adjustments.

Although the institutional reform outlined here would considerably increase the other proposals' prospects of success, it is not necessarily a prerequisite for some of the proposed measures. For example, it is at least conceivable that agreement on proportional minimum conditions in the social area would also be possible under the current institutional conditions. Opt-outs, however, could facilitate progress in this area. The best example is the debate about a European minimum wage norm. So far, a common minimum wage policy has been rejected in the European Trade Union Confederation (ETUC) especially by some of those countries that have a high level of collective bargaining coverage as well as a high level of wages, thus fearing that European requirements could cause a reduction of their national standards (see Seeliger 2015).⁴ The possibility of an opt-out could resolve this constellation without undermining common standards, because the non-participants would be those countries that already have high wage levels. In view of fundamentally different national interests, however, an agreement on strict financial market regulations as well as on a partial harmonisation of corporate tax is more than unlikely at the moment. In these policy areas, progress would only become possible through opt-outs.

In order to contain the mutual race to the bottom in the mentioned policy areas, uniform rules would undoubtedly be the most effective solution. Advancements of an 'avant-garde'-group of countries in areas that are central for a social Europe, however, appear to be better than no improvements at all. In addition, differentiated integration is a matter of fact already today and even for some of the key integration projects (EMU, Schengen). In this context, it is important to emphasise that the reform proposed here includes the political control of opt-outs. It should be possible to reject them by a qualified majority in the Council. This means if a uniform application of rules seems necessary, member states would fall back on the procedural logic of the (classical) Community method. Thus, the reform would by no means lead to a deterioration compared to the current status quo but would open up new options for progress that are currently blocked. In those areas where unanimity is required at present, e.g. tax policy, finding consensus

⁴ At the 2015 ETUC Congress, the trade unions have agreed to a compromise formula: the ETUC supports the introduction of minimum wages if this is demanded by national trade unions. This is not to be understood as a call for a uniform European minimum wage. However, the compromise demonstrates the potential of opt-out solutions.

would even become much easier, because member states would lose their veto-right. Moreover, the EP would take a more pro-active agenda-setting-role and become able to initiate important policies. Besides, it would become possible to bypass currently existing European legal restrictions (e.g. the free movement of capital) politically.

I expect that opt outs is a hard pill to swallow for many pro-European integrationists, not least for those among the political left who sometimes seem to believe that member states can be forced against their will via the European level to become 'more social'. Perhaps it is especially those advocating a social and democratic Europe who have to realize that member states cannot be made 'more social' by European-level intervention when there are neither political majorities in the respective member states nor at European level supporting this ambition. The choice is between a standstill for all for the sake of uniformity – which seriously threatens to undermine European integration – or progress for some. In addition, I expect that these changes, by increasing political problem-solving ability and removing structural market-liberalism from European politics, could effectively reduce public discontent with the EU. The remaining discontent would no longer have to result in a complete rejection of EU membership like in the Brexit-case but could instead be channeled into less disruptive debates about selective opt-outs (Seikel 2016).

This paper is primarily intended to serve as a basis for discussion. It aims at identifying perspectives for action and at outlining selected solutions. It does not answer the question of how the path to a more social and democratic Europe could look like, i.e. how the proposals could be put into action. Thus, another purpose of this paper is to provide concrete guidance in case a window of opportunity for fundamental reforms opens up in Europe – not least in order to be better prepared for the time after the next crisis (cf. Scharpf 2015: 397).

The outlined medium- and long-term reform prospects should not obscure the fact that the currently most urgent task is the protection of national social systems and collective bargaining systems against illegitimate interference from Brussels and Luxembourg. Although not in the focus of this paper, the management of the euro crisis is currently the biggest threat to a social and democratic Europe. In this regard, a fundamental change of course is urgently needed. An important key to this lies in Germany: being the biggest creditor, Germany exerts considerable influence on the European crisis management (Bulmer 2014: 1249f.). A change of course in Germany's European policy would therefore be crucial for changing Europe's crisis policy.

Literature

Bast J. and Rödl F. (2013) Wohlfahrtsstaatlichkeit und 'soziales Europa' im Kontext der Euro-Krise, *Europarecht Beiheft* 1/2013, Hamburg, VSA, 5-12.

Bellamy R. (2006) Still in deficit, *European Law Journal*, 12 (6), 725-742.

Bieling H.-J. and Deppe F. (2003) Die neue europäische Ökonomie und die Transformation von Staatlichkeit, in Jachtenfuchs M. and Kohler-Koch B. (eds.) *Europäische Integration*, Opladen, Leske+Budrich, 513-539.

Bulmer S. (2014) Germany and the Eurozone crisis: between hegemony and domestic politics, *West European Politics*, 37 (6), 1244-1263.

Buntenbach A. (2014) Wer hat Recht(e) in Europa?, *Supplement der Zeitschrift Sozialismus* 4/2014, 3-11.

Busch K. (2005) Die Perspektiven des Europäischen Sozialmodells, *Arbeitspapier* 92, Düsseldorf, Hans-Böckler-Stiftung.

Busch K. et al. (2013) Euro crisis, austerity policy and the European Social Model. How crisis policies in southern Europe threaten the EU's social dimension, *International Policy Analysis* February 2013, Berlin, Friedrich-Ebert-Stiftung.

Enderlein H. (2013) Das erste Opfer der Krise ist die Demokratie: Wirtschaftspolitik und ihre Legitimation in der Finanzmarktkrise 2008-2013, *Politische Vierteljahresschrift*, 54 (4), 714-739.

Fischer-Lescano A. (2014) Austeritätspolitik und Menschenrechte – Rechtspflichten der Unionsorgane beim Abschluss von Memoranda of Understanding, *Rechtsgutachten im Auftrag der Kammer für Arbeiter/innen und Angestellte für Wien*.

Gill S. (1998) European Governance and new constitutionalism, *New Political Economy*, 3 (1), 5-26.

Höpner M. (2008) Usurpation statt Delegation. Wie der EuGH die Binnenmarktintegration radikalisiert und warum er politischer Kontrolle bedarf, *Discussion Paper* 08/12, Köln, MPIfG.

Höpner M. (2013) Soziale Demokratie?, *Europarecht Beiheft* 1/2013, 69-89.

Höpner M. (2014) Wie der Europäische Gerichtshof und die Kommission Liberalisierung durchsetzen: Befunde aus der MPIfG-Forschungsgruppe zur Politischen Ökonomie der europäischen Integration, *Discussion Paper* 14/8, Köln, MPIfG.

Höpner M. and Schäfer A. (2008) Eine neue Phase der europäischen Integration. Legitimationsdefizite europäischer Liberalisierungspolitik, in Höpner M. and Schäfer A. (eds.) Die Politische Ökonomie der europäischen Integration, Frankfurt a. M., Campus, 129-156.

Höpner M. and Schäfer A. (2010) A new phase of European integration, West European Politics, 33 (2), 344-368.

Höpner M. and Schäfer A. (2012) Embeddedness and regional integration, International Organization, 66 (3), 429-455.

Lemb W. and Urban H.-J. (2014) Ist die Demokratie noch zu retten?, Supplement der Zeitschrift Sozialismus 4/2014, Hamburg, VSA, 42-54.

Mair P. (2007) Political opposition and the European Union, Government and Opposition, 42 (1), 1-17.

Majone G. (2014) From regulatory state to a democratic default, Journal of Common Market Studies, 52 (6), 1216-1223.

Marshall T. H. (1950) Citizenship and Social Class. And other essays, Cambridge, Cambridge University Press.

Meyer T. (2002) Soziale Demokratie und Globalisierung. Eine europäische Perspektive, Bonn, J.H.W. Dietz.

Nölke A. (2016) Finanzialisierung als Kernproblem eines Sozialen Europas, WSI-Mitteilungen, 69 (1), 41-48.

Oberndorfer L. (2012) Der Fiskalpakt – Umgehung der ‘europäischen Verfassung’ und Durchbrechung demokratischer Verfahren?, juridikum 2/2012, 168-181.

Prantl H. (2014) Wo Europa neue Kraft braucht und woher sie kommen kann, Hans-Böckler-Stiftung, Deutscher Gewerkschaftsbund and Friedrich-Ebert-Stiftung (eds.) Demokratisierung von Gesellschaft und Arbeitswelt. Impulse für eine soziale Rechtspolitik. Dokumentation des Rechtspolitischen Kongresses, Berlin, 25/26 March 2014.

Rixen T. (2016) Das Soziale Europa im Räderwerk des Steuerwettbewerbs, WSI-Mitteilungen, 69 (1), 49-56.

Scharpf F. W. (1998) Demokratie in der transnationalen Politik, in Streeck W. (ed.) Internationale Wirtschaft, nationale Demokratie. Herausforderungen für die Demokratietheorie, Frankfurt a. M., Campus, 151-174.

Scharpf F. W. (1999) Regieren in Europa. Effektiv und demokratisch?, Frankfurt a. M., Campus.

Scharpf F. W. (2006) The joint-decision trap revisited, *Journal of Common Market Studies*, 44 (4), 845-864.

Scharpf F. W. (2008a) Negative und positive Integration, in: Höpner M. and Schäfer A. (eds.) *Die Politische Ökonomie der europäischen Integration*, Frankfurt a. M., Campus, 49-87.

Scharpf F. W. (2008b) Der einzige Weg ist, dem EuGH nicht zu folgen, *Mitbestimmung*, 07 + 08/2008, 18-23.

Scharpf F. W. (2009) Legitimität im europäischen Mehrebenensystem, *Leviathan* 37 (2), 244-280.

Scharpf F. W. (2010a) The asymmetry of European integration, or why the EU cannot be a 'social market economy', *Socio-Economic Review*, 8 (2), 211-250.

Scharpf F. W. (2010b) Negative and positive integration in the political economy of European welfare states, in Scharpf F. W. (ed.) *Community and autonomy. Institutions, policies and legitimacy in multilevel Europe*, Frankfurt a. M., Campus, 91-126.

Scharpf F. W. (2014) *After the crash. A perspective on multilevel European democracy*, Discussion Paper 14/21, Köln, MPIfG.

Scharpf F. W. (2015) After the crash: a perspective on multilevel European democracy, *European Law Journal*, 21 (3), 384-405.

Schulten Th. and Müller T. (2013) Ein neuer europäischer Interventionismus?, *Wirtschaft und Gesellschaft* 39 (3), 291-321.

Schulten Th. (2014) *Contours of a European Minimum Wage Policy*, Berlin, Friedrich Ebert Stiftung.

Seeliger M. (2015) Europäischer Mindestlohn als Arbeitnehmerinteresse? Probleme gewerkschaftlicher Positionsbildung, *Aus Politik und Zeitgeschichte*, 65 (4-5), 36-42.

Seikel D. and Absenger N. (2015) Die Auswirkungen der EuGH-Rechtsprechung auf das Tarifvertragssystem in Deutschland, *Industrielle Beziehungen*, 22 (1), 51-71.

Seikel D. (2016) The European Union In Crisis – Is Flexible Integration The Way Forward?, *Social Europe*, 22 July 2016 (www.socialeurope.eu/2016/07/european-union-crisis-flexible-integration-way-forward/).

Streeck, W. (2013) *Gekaufte Zeit. Die vertagte Krise des demokratischen Kapitalismus*, Berlin, Suhrkamp.

Unger B. (2013) How to finance a social Europe?, in Grozelier, A.-M. et al. (eds.) Roadmap to a social Europe, Social Europe Report October 2013, 95-97.

Urban H.-J. (2011) Wirtschaftsdemokratie des 21. Jahrhunderts. Konturen und Realisierungsbedingungen eines gesellschaftlichen Transformationsprojekts, in Meine H./Schumann M., and Urban H.-J. (eds.) Mehr Wirtschaftsdemokratie wagen!, Hamburg, VSA, 42-67.

Urban H.-J. (2013) Der Tiger und seine Dompteure. Wohlfahrtsstaat und Gewerkschaften im Gegenwartskapitalismus, Hamburg, VSA.

Ziltener P. (1999) Strukturwandel der europäischen Integration. Die Europäische Union und die Veränderung von Staatlichkeit, Münster, Westfälisches Dampfboot.

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