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Arnaud Lechevalier, Fransesco Laruffa, Maryse Salles, Gabriel Colletis

► **To cite this version:**

Arnaud Lechevalier, Fransesco Laruffa, Maryse Salles, Gabriel Colletis. Representations of social Europe. Colloque "Les usages de la sociologie des politiques sociales", Centre Georges Chevrier (Université de Bourgogne, CNRS); Réseau RT6, AFS, Oct 2014, Dijon, France. 35 p. hal-01399869

HAL Id: hal-01399869

<https://hal.science/hal-01399869v1>

Submitted on 21 Nov 2016

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To cite this version : Lechevalier, Arnaud and Laruffa, Fransesco and Salles, Maryse and Colletis, Gabriel *Representations of Social Europe*. (2014) In: Colloque "Les usages de la sociologie des politiques sociales" 2014, 2 October 2014 - 3 October 2014 (Dijon, France).

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Representations of Social Europe

Arnaud Lechevalier (Université Paris 1 ; LISE, UMR CNAM-CNRS 3320 ; Centre Marc Bloch, UMIFRE N°14 CNRS-MAE, Humboldt University of Berlin),

Francesco Laruffa (Graduate School of Social Science, Humboldt University of Berlin),

Maryse Salles (University of Toulouse),

Gabriel Colletis (University of Toulouse).

Communication au Colloque « Les usages de la sociologie des politiques sociales », organisé les jeudi 2 et vendredi 3 octobre 2014 par le Centre Georges Chevrier (Université de Bourgogne – CNRS) et le réseau RT6 de l'AFS à la Maison des Sciences de l'Homme de Dijon.

Abstract:

Two main political and economic paradigms have framed the Social Europe so far. The first one has consisted in the (German) “ordoliberalism”, which has played a key role in structuring the foundations of the European Community as well as those of the Monetary Union. The other and more recent one is the so called “Social Investment Strategy” ” recently endorsed by the European Commission. Both normative frameworks have been also at the heart of the responses formulated at the European level to the euro crisis. Therefore, they have had decisive consequences on the current social situation in the Economic and Monetary Union.

This paper uses a theoretical and methodological framework, that combine *Weltanschauungen* (or *doxai*), principles and norms, for analyzing models of representations of social facts. This grid of analysis is used to understand what has happened to the Social Europe in the wake of the current Eurozone crisis and to formulate some alternatives.

The collapse of the financial markets, which happened 2007-2008 in the United States, has meanwhile turned into the worst social crisis ever experienced by several Member States of the Economic and Monetary Union. What are the social representations and driving forces at the root of this downward spiral? Two political and economic main paradigms have framed the Social Europe so far, its design and its historical trajectory. The first paradigm has consisted in the (German) “ordoliberalism”, which has played a key role in structuring the foundations of the European Community as well as those of the Monetary Union. The other and more recent one is the so called Social Investment Strategy. Beyond national and regime specifics, this approach, which in fact first appeared in the 1960s and then (re)emerged in the 1990s, has in the meantime become the official doctrine of the European Commission. Both approaches have complementarily been used by the European Council as well as by the European Commission to elaborate the responses to the crisis of the Eurozone. Therefore, both normative frameworks have had decisive consequences on the current social situation in the Economic and Monetary Union.

This paper aims at using a theoretical and methodological framework, which has been formerly introduced in various researches (Salles, 2007; Salles and Colletis, 2013), that combine *Weltanschauungen* (or *doxai*), principles and norms, for analyzing models of representations of social realities. This grid of analysis will be used to understand what has happened to the Social Europe in the wake of the current Eurozone crisis. We will first explain the methodology used. Secondly, the main part of the paper will investigate and explain the content of the two relevant key paradigms, their implications in terms of institutions and workings within the Economic and Monetary Union and, therefore, their consequences for the Social Europe. The third part of this paper will analyze the roles played by the ordoliberalism and the social investment approach as a response to the crisis; it will also stress their fundamental weaknesses and deficiencies. The final part will then present some elements for an alternative representation of a “Social Europe”.

1. The DPN method to analyze public policy and to build alternative policy

The double objective of this paper is, using the Doxa-Principles-Norms methodology (Salles, 2007), first, to analyze the discourse on the Social Europe and the way it is materialized in concrete devices and, second, to build an alternative discourse and the policies to implement it.

Our perspective is that of an *engineering* of the modes of government, of policy in its broadest sense. In a twofold way, with the methodological tool, the Doxa-Principles-Norms model (Salles, 2007) is aimed at analyzing of how the dominant discourse on social Europe is embodied within the “machinery of power”¹, but also, in a reverse path, at revealing of how the specific devices, often presented as being merely techniques, are in fact carriers of deep and largely hidden representations. Using the same methodological tool, it is possible to offer an alternative discourse on Social Europe, as well as the ways to make it operational.

Our approach is that of a critical research in the sense of Neuman (2000) (in opposition to positivist and interpretive researches):

¹ According to the term used by Michel Foucault (2001a).

“[Critical approach] goes beyond surface illusions to reveal underlying structures and conflicts of social relations as a way to empower people to improve the social world”.

The DPN method distinguishes three levels in the organization of power. The first level, the more concrete – and often the only visible – is the level of the *norms* that govern the economic and social life². The second level, essential even if often ignored, is the level of *principles* that inspire those norms and establish their conceptual and methodological framework. Finally, the third level is that of the worldviews – explicit and implicit – the *doxai* that are at the basis of the principles and norms. We will have a closer look at each level later on in this part.

This structure in three levels, from the most specific and concrete to the most general and abstract, is commonly used in the engineering fields as in the management of enterprise and organization or the information systems (IS). Anthony (1965) thus distinguishes three types of processes from the most general to the most operational: the strategic planning that establishes the objectives of the organization; the management control, that oversees that the resources are used efficiently in order to achieve the objectives; and the operational control that supervises the realization of the production. In a similar way, these categories as been used and refined by several researchers. Among them Ansoff (1989) classifies the organizational decisions in three groups: the strategic decisions that define the kind of relation between the organization and its external environment (its mission, its *raison d'être*); the administrative decisions that establish the internal structure of the organization (relations of authority, distribution of responsibility); and the operational decisions that aim at making the process of resources transformation efficient.

For one of the elements involved in the governing of organizations, the information systems (IS), a three levels modeling (Sprinkle et al., 2010) is commonly used in computer engineering, going from the most generic to the most specific³. A database, for example, includes three levels of modeling. The first level is that of the meta-model, which consists of generic concepts available to build/create the models (e.g. the generic concepts of entity and relationship between entities). At the second level, there are the models created on the basis of the meta-model's elements; these are (empty) structures which represent (by drastically reducing the complexity) the elements of the world deemed to belong to the organization (for example, for a business the model of objects involved in product selling: customer, product, order, invoice...). Finally, at the third level, the produced models correspond to the data organized and structured as asserted by the model (e.g., information about a real customer, his orders, etc., as used by those for whom the system is intended).

Outside of the engineering fields, Foucault (2001b) proposes three levels of analysis of power (even if they do not have a general/specific relation):

“(…) it seems to me that it is necessary to differentiate the power relationships as a strategic game between the liberties (…) and the states of domination, which are what is usually called the (political) power. And, between the two, between the games of power and the states of domination, you have the governmental technologies, embellishing this term with a very broad meaning (…). The analysis of these techniques is necessary, because very often it is through this kind of techniques that the states of domination are established and maintained. In my analysis of (political) power, there are these three levels: strategic relationships, the techniques of government and the states of domination” (our translation).

² In this context, the term ‘norm’ is used in the sense of rules and regulations (ISO/CEI, 2004) and not as it is commonly used in sociology.

³ It is noteworthy that the approaches represented by the models or MDA (Model Driven Architecture) add a fourth level, the meta-meta-level.

From an institutionalist perspective, Schmidt (2008) also distinguishes three levels in the discourse: policies, programs and public philosophies:

„The first level encompasses the specific policies or “policy solutions” proposed by policy makers. The second level encompasses the more general programs that underpin the policy ideas. (...) These programmatic ideas are at a more basic level than the policy ideas because they define the problems to be solved by such policies; the issues to be considered; the goals to be achieved; the norms, methods, and instruments to be applied; and the ideals that frame the more immediate policy ideas proposed to solve any given problem. At an even more basic level are the “public philosophies” (...) - worldviews or *Weltanschauung* that undergird the policies and programs with organizing ideas, values, and principles of knowledge and society (Schmidt, 2008, p. 306).

As stressed by Schmidt, in contrast to the fields of IT and management where the most abstract level is explicit, in this context the level of philosophy often remains hidden.

Indeed, many authors have analyzed the hidden and non-debated role of the worldviews in the instruments of government. Berry (1983) shows how in the organizations the managerial instruments impose a structure to the reality, implicitly determining the choices and the behaviors of unaware organization’s members. In the context of public institutions, Lascoumes and Le Galès (2005) show how behind the instruments of public action there are non-debated political choices. In a similar vein, Lorrain (2005) defines social technologies – such as legal categories and ratios of financial equilibrium – as the ‘invisible pilots of public action’.

Le Gales (2005) identifies the philosophy which establishes the instruments set in place to restructure the state in the UK, which are being promoted as being mere techniques:

“(...) the English utilitarian tradition, in the logic of a hyper rationalization of the world (...), [represents] the belief in a world of individuals motivated by the quest for their selfish interests”.

The DPN model is consistent with the presented approaches, although being distinctly different. Like the engineering for management and for information systems, but also like Schmidt (2008) and Foucault (2001b), DPN identifies three levels in the devices of government, designated here as doxai, principles and norms. In accordance with the work of Berry (1983) or of Lascoumes and Le Gales (2005), DPN recognizes in each political action, each socio-technical system or each standard the expression of a world view, which remains mostly implicit, deeply concealed within them. These researchers, however, retain only two levels in their analyses, on the one hand that of the "management tools" (Berry, 1983), of the "management arrangements" (Maugeri, 2007; Metzger, 2010), or of the instruments of public action (Lascoumes and Gales, 2005), and on the other hand that of the world visions, the "philosophies" in accordance with/in the terminology of Schmidt (2008).

DPN, in contrast, distinguishes an intermediate level between the "philosophies" (doxai) and norms, the middle level of the principles. We present below the three levels of DPN in more detail.

The first level consists of general representations that are expressed in different formalization degrees: from confused and non-structured opinions to well-established ideology. In the case of public policies, the doxai involve paradigmatic choices on the economy and the social, on the role of the state or of EU institutions. For example, human work can be interpreted as a cost – that should be minimized – or as the sole source of value. Similarly, social protection can be considered an expenditure (source of public deficit) or as a productive resource (Mathieu and Sterdyniak, 2008).

The doxai are too general and too abstract to use them to organize a social system. Hence, some more structured instruments are necessary. This is the function of the principles that specify the concepts, the items and the methods that allow the attainment of the objective identified at the level of doxa. The principles give a structure to the organization and to its actions. They can be defined as machines producing norms. The principles may be explicit or implicit. They include the language – both in the sense of dominant discourse and of dominant terminology – social conventions, legal categories, organizational methods (and the way in which decisions are made), methods that define indicators of evaluation, etc. Some examples in the context of the UE are: the use of benchmarking and of *best practices* and the way in which social indicators and statistics at European level are defined.

The norms are the most operational and visible devices of power. Unlike doxai and certain types of principles (such as conventions), the norms are visible, formalized or formalisable. They are presented as purely technical, derived from the search for efficiency and thus excluded from the political debate. They take the form of laws, regulations, standards, best practices, criteria, indicators and statistics. The minimum wage, the objective of employment rate and the percentage of public debt on the GDP are some examples of norms.

2. Two main paradigms for understanding the features and functioning of the Social Europe.

As explained in the introduction, two main paradigms have been playing a key role by being used as a response to the Eurozone crisis. For both paradigms we will use the already explained grid of analysis for distinguishing the representations, the principles and the norms.

2.1 Ordoliberalism: the competitive order.

Ordoliberalism⁴ is a school of thought, represented by a group of academic economists and lawyers, that emerged in the late 1920s in Germany and which is mainly interested in finding out how modern industrialized economies can be “organized through an order which is both economically efficient and humanly acceptable” (Eucken, 1942/1959, p.48, our translation). Its representatives tried to find a “third way” between the old (Manchester) liberalism and the socialist planned economy. The decisive element in the ordoliberal tradition is the freedom, which can only be kept save within the framework of a competitive market economy. Its final purpose consists in the idea that only a competitive order can guaranty not only the efficiency of economic processes, but may also hinder the concentration of (economic and political) power⁵. This competitive order has to be established and promoted by the state.

This school of thought needs to be understood within the prevailing historical context of that time: the Weimarer republic (with its hyperinflation, great depression, policy of cartels), the centrally planned economy in the UDSSR, then the Nazi ideology

⁴ The term “ordoliberalism” was in fact first used in a 1950 issue of the review *ORDO*. Before the War, the ordoliberals may have referred to themselves mostly as “neoliberals” – a term which is said to have been coined in 1938 by Alexander Rüstow.

⁵ “Competition as an instrument of disempowerment,” wrote Böhm (cited by Wördersfer, 2011, p.190).

and regime⁶ and eventually the post-war reconstruction. Concerning the intellectual context, the ordoliberalism has to be understood with regard to its critics of the – then declining – “historical school of economics” after the *Methodenstreit* (Labrousse, 2006) and its proximity to and differences from the Austrian neo-liberalism (von Mises, Hayek), but also before the context of a widening opening towards the international mainstream, which eventually resulted in the diffusion of the neoclassical approaches and later on in the emerging of Keynesianism (Rieter and Schmolz, 1993)⁷.

Ordoliberalism is nevertheless a heterogeneous set of ideas, although practically all the leading Ordoliberals joined the Mont Pèlerin society (Ptak, 2009). Some studies distinguish between three different groups: The core group of German ordoliberalism, that is ordoliberalism « *sensu stricto* » (Wörsdörfer, 2011), is being identified as the *Freiburger Schule*, founded in the 1930s at the University of Freiburg in Germany by the economist Walter Eucken (1891-1950), and by the two jurists Franz Böhm (1895-1977) and Hans Großmann-Doerth (1894-1944). In a broader sense, the term ordoliberalism also embraces a second “sociologic” trend (Pfak, 2004), represented by Alexander Rüstow and Wilhelm Röpke and finally by the group of “practitioners” led by Ludwig Erhard, Minister of economy from 1949 to 1963, who then became Chancellor, seconded by Alfred Müller-Almark, who himself was an offspring and a central figure of the *Kölner Schule der Nationalökonomie*, and who was to become a theoretician of the *Soziale Marktwirtschaft*. The analysis developed here will mostly refer to the work of Walter Eucken (1939/1989), the key figure of this school of thought.

Ordoliberalis: a “Weltanschauung”

The intellectual sources of influence on Eucken are diverse. For Wörsdörfer (2011), at the heart of Eucken’s concept and discourse on liberty is the (Kantian) term of autonomy. According to Eucken, the main threat to liberty is threefold: it derives from the private power of producers, from the power of social groups within a society and from the government. That is why this liberty protected by the law is so important: “Just as for the state governed by rule of law, the competitive order should create a framework, in which the free pursuit of the individual is limited by the sphere of liberty of another, thus creating a balanced liberty between humans. In reality, the will for competition is closely linked to the will for liberty”, (Eucken, 1949, p.27, translated by Wörsdörfer, 2011, p.197). But this liberty is not only a “negative” one; it requires material (see further) and mental conditions. From this perspective Christian values have concomitantly influenced the ordoliberal conservatism (Röpke, Rüstow) and its emphasis on the sociocultural foundations of individuals in the market economy.

Ordoliberalism, as formulated by W. Eucken, is based on a concept of economic order promoted and guaranteed by the State, as opposed to planned economy and *laissez-faire*. In this respect, ordoliberalism departs from the classical liberal

⁶ The relationship towards the national socialist regime remained ambiguous. Some ordoliberals, like Röpke and Rüstow, were forced to emigrate, while others, like Eucken, became open opponents of the regime and stood up against the instrumentalisation of the University (by Heidegger in Freiburg). Other right-wing liberal economists had accommodated themselves to the regime, at least until 1942 (Ptak, 2009).

⁷ On the genesis of ordoliberalism see Rieter and Schmolz (1993), Ptak (2004), Wörsdörfer (2011).

approach that emphasizes self-regulation of the market as well as “spontaneous order”, which evoked strong criticism, notably from Rüstow (Denord, 2008). According to the ordoliberal view perspective, it is the State’s task to organise competitive markets by providing a policy framework - “Ordnungspolitik” - for the implementation of this concept in society as well as the safeguarding mechanisms for these principles.

Eucken repeatedly stressed the importance of a “strong State”, which is constrained by a political constitution and could therefore stand above social conflicts for the creation and preservation of the competitive order (Rieter and Schmolz, 1993)⁸. This central role of competition in ordoliberalism can primarily be explained by the opposition it manifested to the regulations of the Weimar Republic on cartels (*Kartellverordnung* from 1923), and more generally, by the idea that laissez-faire leads to the emergence of particular powers that cannot be reconciled with the general interest. In this sense, the competitive order may be viewed as an approach to prevent the exploitation of the most disenfranchised members of society through economic powers.

Ordnungspolitik: constitutional and regulative principles of the competitive order

It is important to identify with Eucken’s ideas the framework for governmental action and processes. The structure is established by the *Ordnungspolitik* as an instrument of the State, whereas the process is defined through private initiative, the free forces of the markets. This *Ordnungspolitik* means that the state has to implement a policy, aimed at creating a sound and secure framework within which the markets can operate. “The main role of the state is to set the stage, to outline the framework conditions, as these are decisive for the development of economic activity. The fundamental task of the state can be described as ‘rule-setting’: to set the rules for economic processes, monitor compliance with them, and punish infringements” (Maes 2002, p. 7). It is about setting the rules of the game, to reinsert the market in institutional structures by using the tools of regulatory interventionism and competition policy. This active role of the state to frame and to boost competition is one of the most distinctive features of the ordoliberalism in comparison to the neo-liberalism (Schnyder and Siems, 2013). State regulation must take into account the interdependency of Orders, as well as the fact that economic intervention can also have an impact on the remaining social structures.

If there is a need for the State to intervene in order to ensure that the conditions for maintaining the competitive order are met, then the later cannot exist without a legal framework (Drexler 2011). Eucken defines two clusters of *principles*: the constitutional principles⁹ and the regulatory principles. “The ordoliberalism of the Freiburg School starts from the very premise that the market order is a constitutional order, that it is defined by its institutional framework and, as such, subject to (explicit or implicit) constitutional choice” (Vanberg, 2011, p.5). The basic principles of constitutional economics aim at avoiding all forms of arbitrary or abuse of private or public powers (Deschamps, 2013) as well as all unprincipled discretionary approach to economic policy. They consist in setting up an operational price system, enabling

⁸ Ptak (2004) points out the fact that Rüstow and Müller-Armarck referred affirmatively to Carl Schmitt’s theory of the state.

⁹ About the fundamentals of the economic constitution and the relevance of this concept for the European Union see Drexler (2011).

perfect competition, ensuring the primacy of monetary policy and price stability, open markets, private ownership of the means of production, the principle of liability, freedom of contract in a competitive process, as well as the steadiness and constancy of economic policy. Monetary stability plays a crucial role in this context, “as inflation damages the steering function of the price mechanism and creates uncertainty” (Maes 2002, p. 8). Money creation is an instability factor for the economy and also a fluctuation factor, because money supply is managed by specific interest groups (private banks, trade unions, the State) (Dehay, 1995). In order to establish a stable monetary order meant to serve public interest, the independence of the central bank should be firmly anchored in the Constitution.

Equally important are the rules for sanctions against any transgression of price stability. This idea was put into practice in 1948 during the monetary reform and laid down in the Bundesbank Act which was passed in 1957. The anti-trust legislation, which became law in 1958, was the final step on the path of market economy according to the principles of ordoliberalism (von der Groeben 1979).

The state has thus to set the institutional framework in which the economic activities take place (*Spielregel*), but not to drive the economic process (*Spielzüge*). However these constitutional principles are strengthened by *regulatory principles (regulierende Prinzipien)* meant to ensure that the competitive order will be upheld in the long run. These principles include combating monopolies and cartels, income policy, corrective measures to mitigate *negative external effects*. The role of the State consists in intervening each time, the economy departs from the preset model or each time reality reveals deficiencies, hindering the functioning of this economic model (Dehay, 1995, p.35). Infringement of the competitive rules must be sanctioned by the State. Numerous norms of public policy are derived from these principles (see the table 1).

Ordoliberalism and “Social Market Economy”

Beyond the recognition of the state’s role, one other peculiarity of German ordoliberalism’s contribution to neoliberalism – which deserves attention in the present context – was “a dedicated effort to resolve what the German ordoliberals themselves conceived as ‘the social question’” (Ptak, 2009, p.102). The embedded character of the market economy in the society and the “interdependence of (economic, cultural, societal) orders” (Eucken) explain this particular attention paid to the social question. Yet, there is no unified ordoliberal school of thought regarding social policy and more broadly regarding the “Social Market Economy”. The meaning of the term *soziale Marktwirtschaft* itself has been a controversial issue for decades.

Table 1: Ordoliberalism

Normative Framework: ordoliberalism		
Doxa/Representations/ Worldviews	Principles/Paradigms	Norms/Policies
<ul style="list-style-type: none"> - <u>Final purpose</u>: only a competitive economic order can guaranty freedom, efficiency and well-being - <u>Moral philosophy of reference</u>: Free markets (if shaped by a legal-institutional framework) serve the public good. - <u>Conception of freedom</u>: (Eucken) individual liberty consists in the Kantian notion of autonomy - <u>Relationship between economic and social spheres</u>: Interdependences of economic, cultural and social spheres - <u>Inequality/Philosophy of social justice</u>: Market processes which stick to the ordoliberal principles are fair; income formation should be subject of competition rules. - <u>Conception of government</u>: a “strong state” has to set up the rules of the game (constitutional and regulative principles) but does not intervene onto economic processes. - <u>Conception of Europe</u>: market-oriented system (four liberties), which has to include rules that limit the freedom of intervention of member states - <u>Concept of social Europe (art. 136 TEC)</u>: well functioning (common) markets will favor working conditions and standard of living for workers - <u>Causes of the current crisis</u>: Excess of public spending, deficit and public debt, lack of competitiveness and structural reform in the south EU countries 	<ul style="list-style-type: none"> - <u>Constitutional principles</u>: private property, functioning price system, freedom of contract, primacy of monetary order, liability, constancy of economic policy - <u>Regulatory principles</u>: combating monopolies and cartels, income policy, corrective measures to mitigate <i>negative external effects</i> - <u>Language</u>: <i>Ordnungspolitik</i>, rules of competition, highly competitive social market economy, free movement of workers, services and capital; <i>Defizitsünder</i> (deficit sinners), tightening of binding rules, structural reform, sanctions. - <u>Conventions</u>: efficiency of the well organized market-order. - <u>Organization of the UE</u>: negative integration, removal of all obstacles to free market and competition, weak EU-Institutions - <u>Definitions of social exclusion</u>: market solutions but the state may intervene in case of negative externalities. Access to the market (minimum income). - <u>Risks targeted by social policy</u>: Unemployment, poverty 	<ul style="list-style-type: none"> - <u>Economic policy</u>: independency of the central bank, price stability, sound public finance, competition policy, <i>Wettbewerbsfähigkeit</i> (competitiveness) - <u>Instruments and main fields of social policy and redistribution</u>: well functioning economic order and “special social policy” where the markets fail. Progressive income tax, which should not damage the investment - <u>Norms</u>: “growth friendly” fiscal policy, long term sustainability of welfare state and pensions system, tighten the eligibility criteria and control for the allocation of benefits, reduce the (too) high tax wedge, implement labour market reforms and reduce disincentive to work. Strengthen competition by lowering barriers and reducing (regulative)restrictions - <u>Indicators</u>: inflation’s target, % of GDP for current public deficit, structural budget balance, % of GDP ceiling for General Government gross debt, - <u>Social indicators</u>: GDP per head, Unemployment rate, poverty rate

This is due to the fact that there are at least three different approaches to this notion: The ordoliberal approach of thought that developed immediately after World War II, followed by an evolutionistic conception developed by Müller-Armack, who coined the term even though he was a latecomer at the margin of the traditional ordoliberalism, and lastly, the concept associated with the German economic and social “miracle”.

The position of Eucken on this topic is not perfectly comprehensive because of his sudden death, which hindered him to finish *Grundzüge* and the part devoted to the social policy. Eucken does not offer a unified concept of justice. He rather conceived social policy within the framework of order (Eucken 1942/1959, XVI)¹⁰. *Market processes which stick to the ordoliberal principles are fair*. That explains why the competitive order is so important: Not only because of its efficiency, but also because it offers the optimal solution to the *soziale Frage*. Eucken stresses that there is no policy without repercussions on the social question (*soziale Frage*). Allocation and redistribution are always linked (Eucken 1942/1959, XVII), and the competitive order ensures that the formation of income will be subjected to the right rules of the game. This is the key issue. Yet, because competition policy is not sufficient to solve all of the problems, other aspects need to be considered concerning the “*special social policy areas*”, which reach beyond the order issue and the commutative justice, as defended by Hayek (Wörderfer, 2001, p.206-237). Still, social policy always remains subjected to the subsidiarity principle, and the limits of redistribution are being pointed out. All these social policy measures have to be implemented in accordance with the efficiency of the market. The *Welfare state (Wohlfahrtsstaat)* is viewed negatively, as an emanation of paternalism, etatism and corporatism. By blunting the will to perform well and by therefore leading to a reduced capacity for innovation, the welfare state has a significant cost, all the more, as it can also undermine(s) self-responsibility in general. This is the conclusion drawn by Ludwig Erhard: “The concepts free and social are congruent (...); the freer an economy is the more social it is and the greater will be the macroeconomic utility created”¹¹. This statement clearly showcases the approach adopted in the “social programme” of the Rome Treaty (see Annex 1).

In conclusion, a strict distinction has to be made between the ordoliberal heritage as found in the European treaties and the entrenched components, those institutional complementarities that are specific to Germany’s post-war economic and social system (Streeck 2009). Paradoxically, the EMU has become an unexpected channel to reintroduce the ordoliberal principles in Germany through the back door.

2.2. The Social Investment (Third Way) approach.

The *Sozialinvestitionen* approach appeared in the 1960s in Germany in the context of the “second phase of the social market economy” (Müller-Armarck) and the debates on the renewal of the social policy (Sozialenquete-Kommission, 1966; Sanmann, 1970) especially influenced by some ordoliberals (Müller-Armarck, 1960 and 1962 ; v. Nell-Breuning, 1970). The main issue was already a shift of priority in the area of social policy in favour of preventive services (benefits in kind) and social investments compared to benefits paid in case of loss of income or more broadly compared to “corrective factors”. This new orientation toward a more “preventive,

¹⁰ In the *Grundsätze der Wirtschaftspolitik*, Eucken writes: “One of the main intentions of this book was to make again clear that social policy should not be viewed as an appendix to the rest of economic policy, but that it has to be considered first and foremost as an issue of economic order’s policy (*Wirtschaftsordnungspolitik*) (...) There is nothing that doesn’t concern social issues (...). Within the framework of a competitive economy, it means above all: achieving its basic principle, namely the creation of a functioning price system of perfect competition” (1942/1959, p.179-180, our translation).

¹¹ Ludwig Erhard (*Wirken und Reden*, Ludwisburg, 1966, p.320) cited by H. Tietmeyer (1999, p.6).

forward-looking, growth friendly and active” social policy (Widmaier, 1970) focused on the areas of preventive health, education, skills requirement over the life cycle and care. It was already bound to the issue of new indicators.

The idea that social policy has to become a productive factor which enhances growth and employment reappeared in the 1990s. In this framework, the state has to enable citizens to care for themselves rather than caring for them (Häusermann and Palier, 2008). It is possible to distinguish at least two kinds of social investment school of thought (Morel et al., 2012). The first can be defined as social-democratic and is mainly realized in the Nordic countries and especially in Sweden. This involves the combination of protection and enabling policies because security is considered a precondition for the good functioning of activation. The second version of social investment that has become dominant at the European level is based on the ideology of the Third Way, developed by Anthony Giddens (1998) and sees security as an obstacle to activation. We will focus on this latter version because of its influence on the European discourse and policy-making: Since the launch in 2000 of the Lisbon Strategy, which was aimed at boosting growth and jobs, notably through the measures which invest in people's capacities and provide equal opportunities, the EU has adopted this policy orientation. It has meanwhile become the “official” strategy of the EU Commission in the field of social Europe (e.g. Europe 2020, Social Investment Package) – see Morel (2013) and below.

The social investment worldview

As Ebert (2012, p. 143) observes, the Third Way ideology is characterized by the following assumptions: the recognition that there is no alternative system to organize society beyond capitalism; the role of the civil society in providing welfare (together with the state and the market); the formula “no rights without responsibilities”; the supply-side economic policy with focus on investment in human capital; the focus on the equality of opportunities rather than redistribution and outcomes equality; the economic globalization as a given. Furthermore, this version of the social investment approach can be defined as an ideological synthesis between neoliberalism and a new social-democracy (Ferrera, 2012).

From neoliberalism, the social investment approach derives the critique to the traditional welfare state. This is considered responsible of producing perverse incentives that may cause social problems such as long-term unemployment. Indeed, providing excessive passive benefits impedes individuals to act responsibly (e.g. generous unemployment benefits are an obstacle to the active search for a job). In this sense, social rights should become conditional upon the take-up of responsibilities. The new paradigm is thus supported by three ideas: “Making work pay”, a new role for the individual, and a mix between rights and duties (Vielle and col., 2005). In his book “The Third Way: The Renewal of Social Democracy”, Anthony Giddens introduced the notion of social investment as a normative concept (Giddens, 1998). He called for a “new partnership” in the assignment of the welfare function to families, markets and states and challenged the state to develop an entrepreneurial culture. The goal was to “shift the responsibility between risks and security involved in the welfare state, to develop a society of responsible risks takers” (1998: 100).

From the social-democratic ideology, the social investment derives the concern for social equality. However, this is defined in a new manner following the formula: ‘equality as inclusion’ (in the labour market), given that the aim is not to achieve

substantial equality of outcomes but rather to equalize opportunities. Therefore, in the social investment paradigm, social justice is defined as a) the equality of opportunities (precondition); b) the contribution principle, which states that a person's position in the society should reflect her greater contribution to the society's welfare (Ebert, 2012, p. 157). Hence, inequality is judged not on the basis of its extent – as it was in the traditional welfare state – but rather on how it emerges: inequalities that emerge after having equalized opportunities are just because they reflect individuals' different contributions to society. Thus, the problem of justice is limited to that of equalizing the chances of participating in the market: once this is guaranteed, then the market results are just. In contrast to the social-democratic ideology that is based on the assumption that the structures of a market economy should be reformed to achieve social justice (e.g. de-commodification of labour), in the social investment the rules of the market game are accepted and no longer put in question, the question of justice is concentrated to the opportunity to participate in the game, with given rules (Ibid.).

A parallel implication of this is that social policy and economic policy are to be integrated. In particular, social policy is subordinated to economic policy. The shift in the emphasis from consumption-based and maintenance-oriented programs to social services that contribute directly to economic development is conceived as an answer to the neo-liberal argument that social spending being wasteful and a source of dependency (Mindgley, 1999). The social investment seeks to enhance social and human capital as well as capacities to participate in the productive economy. It presumes to offer an alternative perspective to redistribution: social programs should be investment oriented, enhance economic participation and make a positive contribution to growth (Midgley and Sherraden, 2000). Thus, the objective of the social investment strategy is to maximize the employment rate in order to achieve economic growth and social inclusion. From this perspective, social policy is not considered as a cost that should be kept to a minimum – as it is in neoliberalism – but rather as a productive investment that contributes to economic growth that becomes the final objective and the source of welfare state legitimacy.

The language of the new social risks and of structural reforms

The social investment has to be understood within the framework of the issues raised by the socio-economic transformations that have taken place during the past three to four decades: Deindustrialization and the tertiarisation of employment, massive entry of women into the labour force, increased instability of family structures, de-standardization of employment (Taylor-Gooby, 2004; Bonoli, 2007), aging population and its implications for social care and new challenges posed by change to the labour markets and competition in a globalized knowledge based economy. Accordingly, new social risks have appeared: low or obsolete skill, inability to combine motherhood and child rearing with paid employment, sole parenthood and child poverty, atypical career patterns and insufficient social security coverage. Traditionally the welfare state has had to deal with the risk of lack of income due to life-risk (unemployment, old age, etc.) whereas the social investment regime considers the lack of skills and the risk of exclusion (long term poverty, out-dated skills), the family breakdowns or being called on for care for an elderly relative as more important. Instead of the redistributive welfare state paradigm, the social investment state (Dingeldey, 2008: 220, Giddens, 1998) aims at redeploying public

spending from passive social transfers to investments in education and training, labour market activation measures, promotion of lifelong learning and other measures to reconcile work and family. The populations targeted for intervention via investment have also changed. In a context of “post-industrial cleavages” (Bonoli, 2001), the welfare state can no longer be only a “welfare state for (mostly male) older worker and older people in general” but has to prevent risks.

As already mentioned, the idea of the active social state is first rooted in the neo-liberal critique of the welfare state that the latter is cumbersome, badly designed and incorporates perverse incentive structures. The OECD took up this critique in its influential report of 1994 (OECD, 1994) that stressed the opposition between passive and active social expenses. Furthermore, the old welfare state is criticized because, being based on the assumption of family stability and the gender division of labor (male breadwinner model), it preserved gender inequality. Moreover, it was focused on the redistribution of resources, thus neglecting other barriers to equality such as discrimination against women, disabled and migrants. Also, this redistribution took place in form of passive benefits, thus overlooking the agency potential of the beneficiaries. Thus, old welfare state interventions were standardized and incapable of providing individualized support. Finally, despite its aiming at equality, the welfare state has proved to be also source of social inequalities between insiders and outsiders (Emmenegger et al., 2012) and incapable of protecting against the new social risks (family instability, discontinuous working lives, structural unemployment and atypical employment).

Thus, while the neoliberal solution to the “welfare state problem” would be the reduction of social expenditures to a minimum, the social investment solution is identified with a new welfare state focused on activation policies that provide people with the instruments for self-help, following the liberal ideal of the self-sufficient citizen. This clearly involves individual responsibility, which transforms social citizenship from a status to a contract, conditional to the participation in the labour market (Borghini, 2011). Hence, the social investment approach points to the need of reforming the welfare state rather than suppressing it. In this context, a crucial role is played by the concept of structural reform. Structural reforms are presented as necessary steps to adapt to the changed social environment and the emergence of the new social risks. In this way, welfare state reform is presented as a technical problem for which experts should find a technical solution rather than a political task.

Social investment policies and indicators

As outlined above, the main point of the social investment is the “recalibration” of welfare states expenditures from “unproductive”, “passive” and “reparative” instruments towards “active” and “preventive” ones. In other words, in opposition to the classical welfare state, the social investment state does not aim at repairing the social damages caused by the market but rather it provides citizens with the skills and competences which allow them to be competitive in the knowledge economy and in a globalized world. This is why it is central for this approach the investment in human capital through education, training programs and lifelong learning. Investment in skills is seen as the solution to a long list of problems such as social exclusion and unemployment. From this perspective, some important indicators of successful policies implemented at national level are low levels of NEETs (Not in

Employment, Education or Training) and of school dropouts, good results in the Programme for International Student Assessment and so on.

Furthermore, in the social investment policies enabling the work/family balance are important in order to allow women to enter and stay in the labour market. Particular importance is given to a large and high quality childcare provision. On one hand this should increase women's participation in the labour market. On the other hand this allows intervening in a crucial phase of children's development in which it is still possible to break the intergenerational transmission of social disadvantage (Ferrera, 2010). Here some important indicators are the availability of childcare services and the female employment rate.

More generally, in the social investment framework the overall objective of social policy becomes the maximization of employment rate. This is seen as the solution to both the social exclusion problem and the economic unsustainability of the welfare state.

Table 2: Social Investment

Normative Framework: Social Investment		
Doxa/Representations/ Worldviews	Principles/Paradigms	Norms/Policies
<ul style="list-style-type: none"> - <u>Final purpose</u>: economic growth through inclusion (maximization of employment rate) and social cohesion (order); "make the people fit for the market". - <u>Moral philosophy of reference</u>: utilitarianism, Third Way (Giddens): equality of opportunities (precondition) and then market justice. - <u>Conception of freedom</u>: limited positive freedom (people are empowered but they have to use this freedom to participate in the labor market). - <u>Relationship between economic and social spheres</u>: society is a machinery of performance and thus subordinated to the economy. - <u>Individual vs. Collective responsibilities</u>: Individual and collective framework (intensity depending on the kind of welfare: workfare (more individualistic) vs. learnfare (more collectivistic)). Cause of unemployment: lack of skills. - <u>Inequality/Philosophy of social justice</u>: inequality has a positive function because it provides the right incentives. However, the equality of opportunity is required because it is efficient (undistorted competition). - <u>Conception of government</u>: the government should adopt the market logic and intervene only when there is a payoff, a profitable investment and 	<ul style="list-style-type: none"> - <u>Constitutional principles</u>: private property, free price system, freedom of contract, primacy of monetary policy, steadiness and constancy of economic policy. - <u>Regulatory principles</u>: combating monopolies and cartels, income policy, corrective measures, investment in skills. - <u>Language</u>: <i>Structural reforms</i>, aiming at a competitive and inclusive market economy through the development of a <i>flexible</i> and <i>skilled</i> labor force. <i>Activation</i>, rather than protection, is the new task for the welfare state. <i>New social risks</i>: family instability, discontinuous working lives and atypical employment, structural unemployment and long-term poverty, lack of skills. - <u>Conventions</u>: efficiency of the well-organized market order. - <u>Organization of the EU</u>: negative integration, removal of all obstacles to free market and competition. At EU level: development of socioeconomic objectives, benchmarking using indicators of performance, control on structural reform and 	<ul style="list-style-type: none"> - <u>Economic policy</u>: independency of the central bank, price stability, sound public finance, competition policy, competitiveness achieved through structural reforms (e.g. flexible labor market) and investment in human capital. - <u>Instruments and main fields of social policy and redistribution</u>: social policy is an economic investment (e.g. investment in human capital in order to develop a skilled labor force; work/life balance policies in order to allow women entering and staying in the labor market; interruption of the intergenerational transmission of social disadvantage through high-quality childcare services). Progressive income tax, which should not damage the investment. - <u>Macroeconomic Indicators</u>: inflation's target (2%), 3% of GDP for current public deficit, 60% of GDP for public debt. - <u>Social indicators</u>: GDP per head, employment rate, poverty rate, school drop-out rate, NEETs, young

<p>not for social reasons. It should enable citizens to care for themselves rather than caring for them.</p> <ul style="list-style-type: none"> - <u>Conception of Europe</u>: market-oriented system, a competitive “smart, sustainable and inclusive” market economy. - <u>Concept of social Europe</u> social inclusion through employment. - <u>Causes of the current crisis</u>: Inefficient public spending: need for recalibration (less spending, more productive investment); labor market rigidity, unskilled labor force, lack of activating and work/life balance policies. 	<p>on the use of the public budget (Lisbon Strategy, Europe 2020, European Semester).</p> <ul style="list-style-type: none"> - <u>Definitions of social exclusion</u> : exclusion from the labour market - <u>Risks targeted by social policy</u>: new social risks (e.g. lack of skills/outdated skills; long term poverty, family breakdowns). 	<p>and women employment rates, research and development investment rate, PISA indicators on the level of skills, employment protection as indicator of labor market rigidity, spending on passive welfare policies vs. investment in activating policies.</p>
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3. Responses to the crisis: toward a market-oriented European social model.

In order to put into perspective the policies implemented in response to the crisis in the Eurozone, we will examine how the ordoliberal tradition has shaped the measures implemented under the leadership of the German government¹². Against this background, the European Commission has launched a “Social Investment Package”¹³, which is supposed to provide “a policy framework for redirecting Member States’[social] policies, where needed, towards investment throughout life, with a view to ensuring the adequacy and sustainability of budgets for social policies and for the government and private sector as whole” (European Commission, 2013a). We will show that the ordoliberal crisis management has led toward a market-oriented European social model. The social investment strategy has supported this path.

3.1 The long shadow of the ordoliberalism¹⁴

Even before the crisis the governance-by-rules approach did not pass the test of reality in the UEM (Pisani-Ferry, 2006). However, the policy response to the Eurozone crisis under the leadership of the Germany could be deemed essentially ordoliberal, that is inspired by an approach, using primarily more binding rules for public finances as well as reinforced competition between national spaces of labour allocation. A prerequisite for competitiveness is the implementation of structural reforms (labour market and social protection) aiming at implementing “internal devaluation”.

Several external and internal factors may explain the role of the German government as a veto player and as the agenda setter (Young, 2013). Germany is the dominant economic power in the eurozone due to its economic weight and performances since 2006. The weakening of French economy also appears as one of the relevant factors at the European level. Moreover, the Maastricht funding compromise has shaped the

¹² The annex gives an overview on the ordoliberal imprint on the treaties of Rome and Maastricht.

¹³ The communication “Towards Social Investment for Growth and Cohesion” was accompanied by a Commission Recommendation on “Investing in Children: breaking the cycle of disadvantage” and a series of Staff Working Documents (Barbier, 2013a). Together they form the “Social Investment Package”.

¹⁴ Title borrowed from Dulian and Guérot (2012)

eurozone according to the German monetary doctrine (Aglietta, 2012; annex of this paper). Yet, whether the emphasis on stability culture has provided a valuable resource for securing Merkel's government objectives within the Eurozone, it has above all satisfied the requirements of domestic politics and institutions (Lechevalier 2011; Bulmer, 2014; Young, 2014).

However, governance reform in the Eurozone has translated into five sets of measures: the "Six-Pack" reforms (November 2011), which includes the European Semester, the Euro-plus Pack, the Fiscal Treaty and the "Two-Pack" reforms. This new regulation focuses on the following three problem areas: tightening the binding rules of fiscal policy, readjusting the macroeconomic imbalances and implementing structural reforms.

Stylized overview of the EU fiscal rules

Enforcement mechanism	Fiscal rule
Preventive arm of the SGP	Medium-Term Objective (MTO) for the structural GG budget balance
	Improve the structural budget balance by 0.5 percentage point of GDP if MTO not met
	<i>If a member state deviates from MTO, the Commission can propose to apply a sanction (interest bearing deposit); decision shall be deemed to be adopted by the Council unless it decides by a qualified majority to reject the Commission's recommendation within 10 days</i>
	<i>Benchmark for expenditure to grow in line with trend GDP</i>
Corrective arm of the SGP	3% of GDP ceiling for the general government (GG) deficit
	60% of GDP ceiling for the GG gross debt
	<i>Reduce debt by 1/20th of excess over 60% ceiling</i>
	<i>A non-interest deposit of up to 0.2% of GDP can be required from a country with an excessive deficit already subject to an interest deposit or if non-compliance is "particularly serious"</i>
"Treaty on Stability, Coordination and Governance ("Fiscal Compact")	<i>GG structural budget balance as MTO</i>
	Improve structural budget balance by 0.5 percentage point of GDP if MTO not met

Note: in italic the "new requirements"

The ordoliberal strategy: toward a market-oriented European social model.

The German government has opted for an ordoliberal approach to crisis, based on binding rules on public finances and structural reforms aiming at boosting the competitiveness of economies. Using already existing rules and combining them with new limitations ("Six-Pack", "Fiscal compact", "Two-Pack") the public finances of the member states are now submitted to a wide range of constraints: absolute deficit not exceeding 3% of GDP, 0.5 % of GDP structural deficit, debt ratio to be curbed down to 60% of GDP, rules on economic growth and spending. It is difficult to know with certainty, which of these rules will provide the main constraint. Simulations run by the OECD show that in the future, the Medium Terms Objective (structural deficit of 0.5% of GDP) will almost always be the binding rule, except for few countries highly indebted like Italy and Portugal. Moreover, the revision of the preventive Stability and Growth Pact (SGP) includes for the first time a path of expenditure, which will be

expected to grow below the medium-term growth rate of potential GDP¹⁵. From an ordoliberal point of view, what would be regarded as the salient element is the possibility to levy sanctions (monetary fines) against member states in case of non-compliance with the rules. Sanctions can now be taken earlier than previously¹⁶ and their use has been simplified by the reverse qualified majority voting (RQMV) procedure¹⁷. The non-implementation of the fiscal rule (“debt break”) included in the Fiscal compact was set to be immediately sanctioned by the European Court of Justice at the request of one or more contracting parties. At the same time access to loans under the European Stability Mechanism was made dependent to the ratification of the Fiscal Pact by the member states concerned. This strategy is supposed to prevent moral hazard behaviours from member states and to restore the confidence of the markets. In conformity with the ordoliberal approach, the German government has blamed too benevolent rules for the failure of the Growth and Stability Pact. A body of rules has been established, which is supposed to be quasi-automatically enforced. Efforts to have national fiscal policies monitored by the European Commission have been backed by the new “European Semester”. The main aim was to reinforce the ex-ante coordination of fiscal policy with an agreement on the time sequence.

The “Six-Pack” has extended the scope of macro-economic surveillance with a new procedure to correct imbalances in line with the propositions of the Van Rompuy Task Force. A macroeconomic imbalance procedure was introduced as a surveillance mechanism that aims at preventing and correcting macroeconomic imbalances within the EU. It relies on an alert system that uses a scoreboard of indicators and in-depth country studies, binding rules in the form of a new Excessive Imbalance Procedure (EIP), and enforcement in the form of financial sanctions for Eurozone member states that do not comply with the – asymmetric – recommendations.

This approach raises many issues. The new rules have durably and negatively impacted the economic growth. Up to now public debt in percentage of GDP has not been reduced in any country of the Eurozone – except in Germany. Whereas the constitutional rule in Germany had allowed for a deficit up to the level of public investment until the introduction 2009 of the *Schuldenbremse* (debt break), the new rule imposes that public investment should be financed by current revenues. These rules abate even more not only the current growth as shown by the recent studies on fiscal multipliers (Batini et al. 2012), but also the “growth potential” (Aglietta, 2012). Moreover Wypolcz (2012) has demonstrated that rules are never able to cover all contingencies and may therefore become “suboptimal”. Thus, this approach means that the member states are deprived of part of their budgetary sovereignty without compensation. In fact, it was only possible to save the Euro thanks to the heterodox strategy lead by the European Central Bank, despite the prevailing ordoliberal principles and norms.

As opposed to responses based uniquely on public finances, procedures centred around macroeconomic imbalances, as put forward by the Commission despite the

¹⁵ Article 5 of the Regulation N°1466/97 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies.

¹⁶ A fine of up to 0.2% of GDP can be decided by the Council acting under Article 126 (8) of the EU Treaty already with the report of an excessive deficit (Stage 3 of EDP), if the Member State has already been convicted as part of the preventive arm of the SGP to an interest bearing deposit or if non-compliance to SGP is “particularly serious”.

¹⁷ On the critic of fines, see : Sachverständigen p. 135

reluctant attitude of the German government, have the advantage of taking into consideration the root causes of the current crisis. However, the choice of indicators, as well as the asymmetric character of the procedure used to overcome internal disparities within the Eurozone are biased: All member states are invited to follow the policy implemented in Germany under the agenda 2010, aiming at enhancing competitiveness by cutting down the real costs of labour (wages and social benefits).

In the absence of possible readjustment measures on parity, the European governing bodies have increased pressure on wages and public spending. The rule on the extension of public spending, the criteria for cutting down public debt and the MTO on structural deficit has contributed to undermine long-term economic growth and to pressurise the welfare state. Before the crisis, the Open Method of Coordination (MOC) in employment policy and social inclusion was unable to correct the asymmetry between market-creating and market-correcting policies in the EU. The new governance has heightened the asymmetry during the crisis, even marking a new phase where market-correcting measures tend to become more and more abolished. This new governance by focusing on budgetary issues and supply-side reform strategies express a definitive shift of priorities. The strengthening of the rules for central monitoring (*a fortiori* for countries who had to sign a *Memorandum of Understanding* with the “Troika”), increasingly lead to “a sort of codified ‘right path’ on a supranational level”, forcing all member states to converge toward a “liberal European Social Model”, which is created “exclusively from the standpoint of the coordination of economic policies” (Pochet and Degryse, 2013, p. 113).

Without any doubt, this ideology has been supported by a number of actors and interests at the European level (e.g. ECB, economic and finance ministers, DG Ecfm), who have interpreted the crisis as an opportunity to achieve the project of procedural governance and the recalibration of the social models (Degryse, Jepsen, Pochet, 2013). Yet it is also linked to the central role the German economy has played in the wake of the crisis and can be mainly explained by the “long shadow of ordoliberalism” (Dulien and Guérot, 2012).

An interim assessment of the social situation in the Eurozone

The social situation in most of the Eurozone countries has become really worrying. Unemployment in the Euro area has jumped from 11.5 million (representing a rate of 7.6% of the labor force) at the beginning of 2008 to 19.3 million (12.1%) at the end of 2013 – a rise of two thirds. Long term unemployment becomes more and more entrenched, especially unemployment among young people (more than half of the labor force in Spain, Portugal and Greece). Even though the relationship between economic growth and employment rate varies according to the country in question, a stable pattern emerges within the Eurozone: The youngest cohort has the strongest exposure to the business cycle. Moreover, in Italy, Spain, Greece, Ireland, one out of five youths aged 15 to 24 is not in education, employment, or training, (Eichhorst and al., 2013). The rise in youth unemployment has been accompanied by deteriorating working conditions, as reflected by a significant increase in the percentage of temporary and especially part time jobs (Da Paz Campos Lima and Kahanec, 2013). The evolution of total employment is even more significant: at the end of 2013, the level of employment within the Eurozone (without Germany), was still 7 percentage points under its mark from before the crisis (-12 points of percentage in Ireland, -13 in Portugal, -18 in Spain, and -21 in Greece).

Critical assessment of the main aspects – inclusive their democratic character – of labour law reforms implemented in the EU-countries within four main areas (working time, atypical employment, employment protection, industrial relations and collective bargaining), whether proposed by the EU under the umbrella of the “Troika” or on behalf of the members states has been made (Clauwaert and Schömann, 2012). The depth of these measures and their social consequences are unprecedented and affect the heart of national employment regulations. In several cases, the recourse to emergency procedures has led to derogations from collective agreements and to decentralization of collective bargaining, which violates ILO conventions and/or even the provisions offered by the European treaties. Yet this “profound weakening” of fundamental social rights runs the risk of endangering the European project as a whole. The ability of the jurisprudence, including those of constitutional courts, to defend the superiority of constitutionally protected human rights principles over budgetary measures has remained limited to some rare cases (Latvia, Portugal and Lithuania) (European Council, 2013, p.28).

The growing pressure put on wages and collective bargaining deserves special attention because wage policies are explicitly excluded from the (shared) competency of the Union. In spite of that, the EU addressed twelve member states with country specific recommendations concerning the areas of wage and collective bargaining (i.e. wage increases, wage-setting systems, changing of indexation rules) in 2011/2012 (Schulten, 2013). The same can be said for the social protection: In accordance with the new governance framework and especially with the Euro-Plus Pact, pensions and other social benefits have been turned into key variables to be adjusted in order to reduce public expenditure.

3.2 Response to the crisis: the role of the SIS

What have been the main responses of the EU Commission to the crisis of Social Europe so far? In its main communication on this topic (European Commission, 2013b) the Commission emphasizes three key issues: “a better coordinating and monitoring employment and social policies as part of the European Semester process”, “enhanced solidarity and action on employment and (cross border) labour mobility” within the EU, and “strengthened social dialogue”.

The first issue endorses the Europe 2020 strategy, which marks above all a deeper embedding of social and employment policy coordination in the context of the European Semester’s overall economic strategy as well as the shrinking of social policies to the reduction of poverty. It also fits in with a “new understanding of social policy as a productive factor to enable the individual to live with and within the market and not to correct and regulate misallocations”. In this context the Commission’s document also mentions the “Social Investment Package” from February 2013 (European Commission, 2013a) as well as the “Youth Employment Package” from December 2012. “The Social Investment Package provides guidance to reach the Europe 2020 targets by establishing a link between social policies, the reforms as recommended in the European Semester to reach Europe 2020 targets and the relevant EU funds (EC 2013a, p.3). Thus the social investment approach is clearly jointed and subordinated to the new governance of the Eurozone.

However the discourse on SIS remains ambiguous when endorsed by the EU Commission. In the main working document published (2013a), the new discourse on social protection mainly focuses on investment and pays little attention to other

functions like those of redistribution and stabilization – which are however mentioned – or to the political and the collective dimension of the topic. The proposed SIS paradigm tends to neglect social policies that are designed to counter social risks or situations that are difficult to cover by activation policies. Moreover, the proposed agenda and the evaluation method used prioritize explicitly targeted, conditional and temporary programs, which cannot be considered as an alternative to the budgetary restraint and the retrenchment policy imposed in countries most affected by the crisis (Barbier, 2013). But not only the instrumental use but the social investment strategy itself has to be put into question. This approach suffers several weaknesses and stalemates.

1) The preventive nature of the social investment interventions is welcomed from a social justice perspective. Indeed, intervening “too late” has not only economic but also human costs. Still, the construction of a fictitious trade-off between the preventive and the reparative welfare state is problematic from a social justice perspective. In contrast to what is often argued by supporters of the social investment, the ‘new social risks’ (such as lack of skills) cumulate on the old ones (such as unemployment); no substitution is taking place between the two kinds of risks. This means that the new welfare state needs to have policy instruments both against the old and the new social risks rather than shifting resources away from policies addressing old social risks towards policies addressing new ones (Allmendinger, 2009).

The final aim of social policy in the social investment is not to promote justice but rather to increase economic competitiveness. In fact, the idea behind social investment is to have an *economic* return on social policy. As Morel et al. (2012) put it: “social or humanitarian rationale for social policy has been replaced by an economic rationale” (p. 16). As Jenson and Saint-Martin (2003, p.92): An investment model implies that social expenditures should have a payoff, a return on investment. Investments are generally undertaken to make profits’.

2) As already seen, in the social investment paradigm, social justice is reduced to a) the equality of opportunities (precondition); b) the contribution principle, which states that a person’s position in the society should reflect her greater contribution to the society’s welfare (Ebert, 2012, p. 157). This doxa raises several issues. First, equality of opportunities and the contribution principle are incompatible. Indeed, since socioeconomic inequalities are the most important determinants of inequalities of opportunities, redistribution of resources is required in order to achieve the equality of chances (Solga, 2012). Both opportunities and merits are unobservable so that it becomes impossible to distinguish exactly between inequality originated from unequal opportunities and those from unequal merits (also because outcomes are influenced by luck, natural talents and other factors beyond individual control)¹⁸. Second, social justice always involves a vision of what constitutes a good human life so that only few people would agree that the sole source of human value should repose on the contribution to society. The market cannot define alone the ‘contribution to society’. The market does not objectively evaluate the contributions according to their economic meaning; rather, their evaluation is always related to the actors’ purchasing power and thus ultimately depends on the distribution of income. (Ebert, 2012). Like for the ordoliberalism, in the perspective of the social investment,

¹⁸ This issue, while marginal in the traditional welfare state where the judgement on inequality was focused on its intensity independently on the factor causing it, becomes central in the new paradigm where the merit is the very unit of measure in evaluating the fairness of inequalities.

the sole true injustice is the exclusion from participation in the market. Furthermore, the causes of this exclusion are not identified with market failures requiring structural interventions but rather with deficits of the individuals who are excluded and with the traditional welfare state and the distorted incentives that it creates. This clearly involves individual responsibility, thus transforming social citizenship from a status to a contract, conditional to the participation in the labour market (Borghi, 2011). This is justified using the notion of reciprocity and finds its concrete application in the use of conditionality on social benefits. As Ben-Ishai (2012) notes, the logic of reciprocity may require some kinds of conditionality on benefits in order not to undermine the spirit of solidarity on which welfare institutions depend. It seems particularly cruel to accord priority to responsibilities over rights precisely for those people who already feel victims of the system and at the margins of society. However, this is the direct consequence of elevating the market – ‘where the economic stronger dominates the weaker’ – to ‘the ideal model for human beings living together’ (Ebert, 2012, p. 204). Hence, in the Third Way ideology the tension existing between the market and social justice is denied by arguing that ‘economic prosperity and social justice are two sides of the same coin’ (Prescott, 2004, cited in Davies, 2012, p. 8). Thus, it seems that the objective of equality of opportunity for the social investment is not really an issue of social justice but rather a way of improving market efficiency through the reduction of the distortions in the competition.

In short, social policy is no longer a means to protect society from the market, to correct the market in order to meet social needs and the social justice objective. Rather, social policies should become means capable of influencing people’s behaviour in order to make them adaptable to the needs of the market and to include in it as many people as possible. This can be seen from the goal at European level of increasing the employment rate that has substituted that of fighting unemployment (Salais, 2006).

3) The anthropological conception of the social investment involves the ‘capitalization of the sense of life’ (Perilleux, 2005, our translation), by which individuals consider their own life and relationships as a capital (human capital, social capital, emotional capital...). This is the result of the extension of the worries on the employability to all life phases and over the whole life spheres.

For example, the stress on the importance of investing in education tends to instrumentalize children. As Myles and Quadagno (1999) explicitly state: ‘children matter because human capital formation matters’ (cited in Jenson and Saint-Martin, 2003, p. 88). Thus, children are ‘citizen-workers of the future’ rather than ‘citizen-children’ of the present; ‘becomings’ rather than ‘beings’ so that childhood and ‘the child qua child, including the child as a right-bearer’, tend to disappear (Lister, 2003, p. 433). Furthermore, if children are seen to ‘matter instrumentally rather than existentially’ investment in them makes sense only in the presence of a payoff, giving no room for ‘expenditure which merely contributes to the well-being or enjoyment of children as children’ (Polakow, 1993, p. 101, cited in Lister, 2003). In particular, ‘it is the future worker-citizen more than the democratic-citizen who is the prime asset of the social investment state’ (Lister, 2003, p. 433) so that learning is reduced to ‘an economic rather than an educational process’ (Fairclough, 2000, p. 75, cited in Lister, 2003).

In this sense, policies aiming at the inclusion in the labour market at any cost can be defined as ‘illiberal social policies’ (King, 1999). Hence, while classical social policy aimed at de-commodification, distributing welfare according to need regardless of

individuals' market performance, in the many possible kinds of activation (Bifulco et al., 2008, p. 144) policies having as sole objective the inclusion in the labour market involve re-commodification and limit individuals' autonomy (on the possibility to use autonomy as a normative framework for assessing welfare reform, see Bothfeld and Betzelt, 2013; Burchardt et al., 2013).

4) For the social investment perspective, the first concern is social inclusion. From this perspective, the logic behind social inclusion is not that of equality or social justice but that of a 'full utilization of society's resources in the global competition' (Joppke, 2012, p. 17) and to reduce the costs of social protection and welfare so that it seems that people *must* be included (Collins, 2003). Furthermore, the rhetoric of social inclusion 'focuses the attention on a minimum threshold, from which "outsiders" must be helped, induced or forced to cross into mainstream, but it systematically ignores inequalities within that mainstream' (Levitas, 2001, p. 456) and, in particular, the growing inequalities between the included in the labour market.

In this way, while the social investment may be able of increasing GDP and employment rate, it may not be able to reduce poverty because – given that benefits are work-related – social investment policies are often regressive in redistribution terms (Cantillon, 2011).

5) In any conception of social justice at the basis of the welfare state a crucial role is played by the beliefs about the causes of poverty and unemployment and about the deserving and undeserving poor (Ebert, 2012). "At the center of this model [the social investment] is the concept of 'employability' – the collection of worker characteristics that are increasingly seen as *determinants* of employment chances' (Ibid, p. 731). Hence, unemployment is not a matter for public policy anymore but rather a microeconomic problem of finding the right incentive structure for activating the unemployed. "Employability, referring explicitly to individuals' characteristics, implies that unemployment is the result of a *personal failure* and follows an economic rationale: 'By seeking the reasons for long-term unemployment in the person of the unemployed worker, the rhetoric of employability injects individual responsibility into the reasoning behind social risk, although historically the latter was founded on doing away with the notion that the individual was at fault" (Zimmermann, 2006b, p. 36-7). The main point here is that social investment policies aiming at improving individuals' employability 'cannot be expected to create jobs or to solve the macroeconomic problems of the economy.' [...] They would work 'in the context of an expansionary, employment-creating macroeconomic policy' (Peck and Theodore, 2000, p. 741). However, in response to the crisis, the EU has adopted austerity measures, which has undermined the efficacy of the social investment strategy (Van Kersbergen and al., 2014), In conclusion, like the ordoliberal approach, the social investment one reduces the whole society into a 'machinery of performance' (Haahr, 2004) while the role of the state is reduced to providing a market-friendly environment. The idea behind this logic is that economic performance should be the only objective of politics and the only legitimate social goal. One can argued that among the social investment and ordoliberalism, despite the important differences at the policy level, there is a consensus on the most fundamental socioeconomic goals. Indeed, they both envision a state that 'elevates the market over all else and adopts market logics to guide its own conduct' (Brodie, 2007, p. 100).

4. An alternative representation of Social Europe.

The ordoliberal tradition with its key role in framing the institutions of the Economic and Monetary Union as well as in the formulation of the responses to the Eurozone crisis, has worsened the social situation in the Eurozone considerably. The social investment strategy, officially highlighted by the Commission as a social doctrine in response to the crisis, has offered no credible alternative to the austerity and retrenchment policy lead by the ordoliberal doctrine, because both approaches share the same doxa and look for solutions to the social crisis by reinforcing market mechanisms.

Most propositions, made to reform Social Europe, concern the national level and remain compatible with the current logic of financialised capitalism. Even though at different degrees, they all either aimed at reinforcing the principles of benchmarking and at making selective cuts in the expenses, or at redesigning a *dual* social protection system as well as at implementing the logic of the workfare instead of the welfare. By lending top priority to the reduction of public and social spending, and by seeking the greatest flexibility of the labor market, they aim at defending those principles, which have much in common with the dominant doxa and the “structural reforms”, invariably advocated by the EU-institutions (Mathieu and Sterdyniak, 2008).

Credible alternatives to the Social Europe call for another “*Weltanschauung*” which could rest on two main pillars: First, the market is not to be regarded as the exclusive aim of all human activities; second, a deeper degree of political integration at the European level is required. In other words, if we deliberately think at the European level and not at the state level (or at the level of individuals), two main areas of discussion may be considered: the harmonization of national social systems on the one hand, or a new set of priorities, which include the implementation of minimal social norms, on the other hand. The long term project of harmonizing the national social legislation has faced well-known obstacles since the Rome treaty: diversity of national welfare models, juridical issues and a too great disparity in levels of development between member states. Now, the financialised capitalism produces or at least reinforces these disparities by pushing national spaces and social systems in competition with each other, particularly in the Eurozone, where this competition has been organized and promoted. The aim of the harmonization of social systems is therefore incompatible with the functioning of a capitalism that is generating or reinforcing inequalities in the development between a “center” and a “periphery” of the Eurozone, as it has worked so far (Artus, 2013).

Alternative representations of Social Europe need to conceive other *principles of social justice* and they have to *call into question the dynamic of the financialised capitalism*. First, in order to construct an alternative representation of Social Europe we refer here to Amartya Sen’s capability approach (CA). Indeed, this normative approach allows overcoming the ideologies that reduce people to human capital, making the case for an economy serving human beings rather than the opposite. Indeed, while for the social investment economic growth is the only political objective and legitimate social goal, for the CA, development is a ‘good social change’ (Crocker, 1992, p. 585) assessed on ‘its human consequences’ (Lambert et al., 2012, p. 4). From this perspective, as Orton (2011) puts it, the CA ‘offers an alternative conceptualization of the very purpose of public policy, focusing on the shaping of the socio-economic context so as to enable citizens to have opportunities and freedom to choose what for them constitutes a flourishing life.’ (p. 358). Thus, from a CA perspective, it seems that individuals should enjoy some basic social rights

independently from their performance in the market. This would allow people to develop genuine preferences and to choose to work – and to choose a job that they have reasons to value – but also to engage in other valuable activities such as caregiving. In this sense, the CA supports a ‘life-first approach’ rather than a work-first one (Dean, 2003). Also, individuals’ freedom and responsibility are not taken for granted – as in neoliberalism – but rather they are a political goal and the very purpose of public action. Indeed, if individual responsibility is assumed then the issue is one of bad will and the solution is searched in sanctions, tough conditionality and lower benefits. However, once responsibility is interpreted as the final goal of public action, it becomes a matter of creating the conditions for responsible behaviour helping people gaining autonomy (Bonvin and Farvaque, 2004). From this perspective, ‘the argument for social support in expanding people’s freedom can [...] be seen as an argument for individual responsibility, not against it.’ In fact, ‘Without the substantive freedom and capacity to do something, a person cannot be responsible for doing it’ (Sen, 1999a, p. 284). In particular, ‘employability without employment does not make sense in a capabilities perspective’ (Orton, 2011, p. 357).

Furthermore, what is needed is a re-interpretation of the meaning of work that ‘is not defined as a commodity, but as a valuable common good’ (Bonvin and Orton, 2009, p. 572). Indeed, the CA ‘calls for redeployment of the problematic of human beings at work, viewing them as the final purpose of economic activity’ (Zimmermann, 2012, p. 21). Finally, the CA stresses the need for democratic participation (Sen, 1999a,b, 2009) instead of reducing welfare reform to a purely technical matter requiring technical solutions developed by experts in a top-down manner.

Second, the essential logic of financialised capitalism consists, in our opinion, in the linkage of two main facts (Colletis, 2013). The first one is that the various factors of production (capital, skilled or unskilled labour) have different degree of mobility. While the capital displays – more than ever before – the highest speed of mobility, unskilled workers do not even move between countries, or if they do so, only in a context of precariousness or even clandestineness. The second fact, which characterizes financialised capitalism, is that remuneration of the factors of production depends on the speed of the factors mobility. The most mobile factor comes first and gets better paid. The linkage between these two facts does explain the nowadays very strong and fast growing income inequalities (Piketty, 2014). Therefore, in order to reinsert some social balancing, there is no other way than that to restrain the mobility of financial capital and to increase the mobility of labor as much as possible. We can here hardly present all available means to restrain the mobility of capital, yet we would still like to insist that one of the best means to increase worker mobility is that to secure an unprecedented investment in education and training of the work force. Workers are even more professionally mobile, (that) than they are well trained.

From this view, there has been a central contradiction regarding the past and the current (social) situation of the European Union. Since the treaty of Rome, the European Union has always officially promoted the mobility of labour. Yet the EU and the member states have always been able to avoid a deeper social integration process (or even a harmonization of legislation), particularly because the mobility of labour between the member states has remained very weak¹⁹. However, the issue of mobility

¹⁹ The issue has recently been raised again in Germany, in the context of the drafting of a new government bill aiming at restricting the – so called – “benefits tourism” from Eastern Europe.

should not be understood only, or even mainly, in spatial terms but rather as a form of vocational mobility, as an ability to switch from one task to another. In this perspective, the labour forces should no longer be perceived merely as a cost, yet primarily as a source of wealth and innovation.

If we look, against this background, for a different representation of the Social Europe issue, it needs to focus on and eventually concretely solve at least three key issues. The first one has to do with the type of federalism. The aim here should be to break with the current “market preserving federalism”. On the basis of the current institutional configuration and the veto power it gives to each member state in an enlarged and increasingly heterogeneous EU, only the use of the “enhanced cooperation” procedure (as displayed recently in the context of the implementation of a financial transaction tax) appears to be suitable for social issues. Yet it supposes new mechanisms of legitimization and democratic control.

The second problem concerns the establishment of a new macroeconomic framework to put an end to the “social devaluation” at work in response to the euro crisis. The main measures should consist in postponing discretionary fiscal consolidation until demand is stronger, in using EU-level tools to protect countries from bond markets’ speculation and to promote economic growth, and in implementing a coordination of fiscal policy. On this basis, the third problem concerns the criteria of coordination in the field of labour law and social policy, as well as their extension onto the European level. Several propositions have already been made: a social scoreboard within the “European Semester” procedure, the reestablishment of an efficient Open Method of Coordination, the launching of a “European Social Stability Pact” and a renaissance of the Macroeconomic Dialogue. But a deeper social integration requires furthermore a new set of minimal norms, as well as new mechanisms of redistribution and of stabilization at the European level. The setting at the Eurozone level of a minimum wage and of minimum social benefits – set as a percentage of the median wage in each member state – should reduce the possibilities of social dumping (Trésor, 2014). Other propositions aim at implementing a (partial) unemployment insurance that might enable it to become a true embodiment of social Europe, while at the same time strengthening the macroeconomic stabilization process of the Eurozone as a whole (Dulien, 2013). To restructure the eurozone, EU social policy need to be strengthened considerably: not only because it’s the best way to re-legitimize the European integration, but also because ambitious social policies are necessary to secure effective convergence of economic performance within the monetary union (Grahl and Teague, 2013).

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Annex - From Messina to Maastricht: The ordoliberal imprint.

The European integration is without doubt the result of several compromises between member states with divergent interests (Moravcsik, 1998) and between rival ideological orientations, notably concerning the institutional architecture of the EU. Nevertheless the ordolibérale imprint is the most important as shown by the negotiations and the content of the treaties of Rome and Maastricht: “ordoliberalism has represented the genuine ideological matrix of the European institutions” (Strassl, 2000, p.3).

Impact of Ordoliberalism on the Treaty of Rome

Advocates of ordoliberalism, like Ludwig Erhard himself, exercised a tremendous influence during the constitutional phase of the Federal Republic of Germany, and, more precisely, in 1949, when the Christian Democratic Party (CDU) adopted this doctrine. At that time, two issues were on the political agenda: the completion of the political order and the European issue. As a result, advocates of ordoliberalism have been closely associated with the building of Europe, giving it the imprint of their school of thoughts. In his capacity as head of the department for fundamental issues at the Federal Ministry of Economics, Alfred Müller-Armack had a pivotal influence in the two political fields (Breker 2002, p. 113), whereas Ludwig Erhard, who was the Minister of Economics, was the one bearing political responsibility.

The European issue came back on the agenda when Robert Schuman tabled his proposal in May 1950. Negotiations leading to the *European Coal and Steel Community* (ECSC Treaty) were taking place at that time and France still assumed a leading position compared to Germany. The latter was mainly concerned with negotiating its readmission into the European community of nations (Bilger 1998). This is the reason why the ECSC was established under the auspices of Jean Monnet and Konrad Adenauer, though economic circles, including Erhard, showed a strong reluctance to engage on this path. Erhard finally joined in, taking into consideration competition clauses (articles 60 and 61). Considering the ECSC, ordoliberals such as Wilhelm Röpke and Erhard saw the imprint of French dirigisme, planned economy and protectionism whereas they considered European integration as the first step towards the establishment of a global free-trade zone. After the failure of the European Political Community (Vayssiere 2005) and the European Defence Community (EDC), negotiations in which Müller-Armack had taken part as the representative of the Ministry for Economics, as it was the case for all negotiations that led to the Treaty of Rome, paved the way for economic integration on the bases of the propositions tabled by the Spaak’s committee in April 1955. The Treaties of Rome actually are the products of a twofold compromise: within the German government on the one hand and between France and Germany on the other (Laval, 2006; Drexler, 2011).

The preparatory process for the negotiations was led by the Ministry of Economics; it involved various expert panels and required some exhaustive work on issues and strategies (von der Groeben 1979). Müller-Armack worked on behalf of the German government on a common position based on the compromise hammered out at Eicherscheid between the federalist faction and ordoliberal one. This led to an approach to European integration according to which the next stages would be the

implementation of sectoral policies (European Atomic Energy Community (EAEC or Euratom) as a concession to France under the leadership of Monnet) and the establishment of a common market, including the free circulation of goods, service and capital as well as currency convertibility (the second scheme most in line with German interests). In his "Considerations on the issue of cooperation versus integration", Erhard wrote in May 1955 that Europe should aim at functional integration, i.e. on larger scale trade liberation of goods and capitals, currency convertibility, excluding the creation of new institutions (Laval 2006, p. 17). This compromise would serve as the basis for the Messina conference. Then came the French-German compromise: during the negotiations leading to Treaties of Rome, the starting point of which was the Spaak's report which was a strong advocate of supranational integration, the French government put again forward proposals for a supranational organisation accompanied by common sectoral policies (e.g. on agriculture, transport) and a market protected by high external tariffs. Germany, which for the first time participated as a free and equal partner (von der Groeben 1979, p. 496) in the negotiations, strongly rejected the sectoral approach which it deemed too "*dirigiste*" (Moravcsik 1998, p. 140) and advocated the adoption at European level of the principle of competitive, open, market economy (Bilder 1998). In the institutional fields, German liberals opposed the proposals included in the Spaak's report, by fear of dirigisme. Under the instruction of Erhard, Müller-Armarck, seconded by the French, succeeded in watering down the powers of the European Commission, which were limited to tabling proposals, to the benefit of the Council of the Ministers (Council of the European Union). The ordoliberal approach prevailed in the architecture of the Treaty of Rome: the German Minister of Economics succeeded in imposing his views on market liberation without previous fiscal and social harmonisation²⁰ as well as precise and constraining rules on competition commitments in favour of a liberal policy. "This influence can mainly be explained by the hierarchical framework in which objectives are ordered and the relations between the clear legal instruments provided by the Treaty and these objectives" (Drexler 2011, p. 437) – and these instruments have hardly been modified since then. At the top level appear the several objectives, which are operationalized at the intermediate level, that is in Article 3 on the policies to be implemented by the Community (ibid.): it included the establishment of a European internal market – the four main liberties and "undistorted" competition – and since the Maastricht Treaty, the Economic and Monetary Union. At a lower level, what prevailed were operational rules for the establishment of the European internal market and competition policy.

"During all phases of negotiations the essential principles of a market-oriented system were successfully put forward and embodied in the EEC treaty. This has occasionally been denied because the Treaty does not contain *expressis verbis* any paragraph concerning the economic order. However, if we consider the totality of the

²⁰ „In exchange for accepting an industrial customs union, the French government forwarded the demands of the Patronat – prior harmonization of social regulations concerning the length of paid vacation, gender equality of wages and the workweek, the right to withdraw of veto continuation to the ‚second stage‘ after the first 25 percent tariff cut, the right to invoke clauses and impose border taxes in the case of a balance of payment crisis – plus an agriculture policy. (...) By late October 1956 (...) France renounced the right to withdraw unilaterally and conceded that social policy might be harmonized at the beginning of the second stage, but reasserted its positions on safeguards and the veto. Erhard, apparently seeking to block the EC and mobilize German business behind the Free Trade Agreement, rejected the compromise" (Moravcsik, 1998, p. 144).

goals specified in the treaty and the rules and institutions for their realization, it clearly appears that they not only contain all essential characteristics of a market-oriented system but also include rules that considerably limit the freedom of intervention of member states” (von der Groeben 1979, p. 497): abolition of all impediments to trade and the free movement of the production factors and goods, European rules about effective competition and against discrimination, the freedom to establish a business, free access to any market, etc. In addition, in view of the jurisprudence of the Court of Justice of the European Communities, it can be said that the ordoliberal approach has shown a remarkable level of continuity and resilience, also against recent economic theories (Drexl 2011). The legacy of the ordoliberalism in the field of the European competition policy has been meanwhile broadly acknowledged (Denord, 2008).

In this context, what was the role assigned to the European Community in the social field? In the framework of a global approach conformed with the principle of subsidiarity, social and redistribution policies still remain the responsibilities of the Members States. The guiding thought (Art. 117 of the Treaty of Rome) was that social progress, viewed as the “harmonisation of social systems”, could be heralded as the result of the “good functioning of the market” and to a lesser extent to the “procedures included in the treaty”. This constitutes the “dichotomy” between the social dimension which remains an area determined by the national legal framework, on the one hand, and the establishment of the European free trade system (Joerges 2005, p.18), on the other: The two processes shift away from each other, very much in accordance with the wishes of the liberals.

Ordoliberalism and Maastricht

In the negotiations leading to the Treaty of Maastricht, Germany was not willing to agree to any sharing of monetary sovereignty under the EMU, unless this would be deeply rooted in an institutional framework in which “governing rules” would prevail without encroaching on the independence and the mandate of the European Central Bank (ECB). This construct was seen as a way to avoid any discretionary political choices at European level and redistribution mechanisms between member states.

Even before the fall of the Berlin wall and the debate on the anchorage of reunited Germany in the European Union (EU), the issue at stake for the successive governments of the Deutschmark zone and first and foremost for the French government was to put an end to the asymmetric functioning of the European Monetary System (EMS) and to the hegemony of the Bundesbank. The Bundesbank policy, which was logically defined within the scope of the German context only, meant that the central banks of the other EMS member states, *a fortiori* with a view to create free markets for capitals, had to conform to the policy of the Bundesbank in order to defend their currency against the Deutsche Mark – according to the incompatibility triangle of Mundell. This had a major influence on Germany’s options on the path to the future treaty which itself is the result of a compromise between the Bundesbank anti-inflation policy, and the demands of German business interests and the Chancellery for a competitive exchange rate and macroeconomic simulation (Moravcsik 1998). Therefore, as soon as 1988, the German government agreed to share German monetary sovereignty while imposing binding rules based on institutional ordoliberal principals and “new classical macroeconomics”.

Deeply influential in the Delors report, the “fundamentalist approach” of the Bundesbank which was advocated by Karl-Otto Pöhl had paved the way for such a development. The characteristics of the “Economic Union” in conjunction with the Monetary Union have endowed the unrestricted common market *with a set of rules* that are indispensable to its proper working. In this sense, the Economic Union can be described as being based on four basic elements: the single market within which persons, goods, services and capital can move freely; competition policy and other measures aimed at strengthening market mechanisms; common policies designed to foster structural change and regional development; and finally, macroeconomic policy coordination, including binding rules for budgetary policies (Delors report, p. 16). Relying on its dominant position in the negotiation process and appearing as the negotiation partner endowed with the greater asset and who could therefore suffer the greatest loss, Germany was successful in making its views prevail in the majority of the key issues: (1) the right to opt out, (2) nominal “convergence” criteria for participation, (3) the schedule and procedure for the transmission to EMU, (4) the nature of transitional or “second-stage” institutions such as the European Monetary Institute, (5) the autonomy, mandate and voting procedures of the ECB, (6) the site of the ECB and the name of the currency, (7) controls and sanctions on excessive national deficits, and (8) provisions for bailouts and other financial transfers (Moravcsik 1998, pp. 441-442). The strongest initiatives came from the most interested country, France, and Germany was in the position to impose conditions. Several factors contributed to this: “the German government’s structural power, which in turn resulted from a relatively attractive alternative to the agreement (Moravcsik 1998, p. 466), the sheer size of Germany and the Deutsche Mark and the unique federal structure of the Bundesbank; strong theoretical support, based on a blend of German ordoliberal and mainstream Anglo-Saxon ideas; the successful story of German monetary policy (Maes 2002, p. 25).

Based on “binding rules” and born out of it, the institutional framework of EMU is aimed at subjecting the functioning of the Eurozone to the inflation target defined by the European Central Bank, the constitution of which were inspired by the Bundesbank mode (Strassl 2009). In order for this objective to be “credible”, the ECB must be independent and granted a quasi-exclusive mandate. However, economic growth remains an objective that is subordinated to price stability and the ECB has no mandate in relation to monitoring financial markets. In addition to the Maastricht criteria, which were later anchored in the Stability and Growth Pact (SGP), national budget policies are meant to be limited to the role of a shock absorber to smooth out conjunctural fluctuations. The sanction mechanisms are meant to ensure that discretionary spending policy in the member states will not damage the objectives of the ECB. The interdiction made to the ECB to monetarise sovereign debt and the *no bailout* clause between member states in the case of crises of solvability affecting one of them, contribute to the same finality: they aimed at prohibiting *moral hazard* behaviours from member states prone to “overspending”. As a result of the existence of such a regulatory framework, there should be no need of a political body in charge of defining the optimal policy mix, i.e. the optimal combination of monetary and fiscal policies, and coordinating the latter according to the economic context in the whole zone and in the various countries. Based on a monetary policy targeting a low inflation rate (2%) and budgetary policies that must remain neutral throughout an economic cycle, growth and employment are expected to be the outcome of “structural reforms”. The prerequisites are deregulation of the product and job

markets as well as labour costs, with a view to enhancing competitiveness. With the Agenda 2010, successive governments and companies have drawn all the consequences of this new context.

The influence of German ordoliberalism has been overwhelming in the emergence of EMU and focussed on competition policy and monetary stability as central pieces of the treaties. Nevertheless, compared to the German federal system, two important components are missing (Laval 2006): a central budgetary policy to ensure stabilisation and redistribution and fiscal transfers between states. This architecture, which tends to “market making federalism” is highly problematic for national social models (Barbier 2012).