

Beyond Growth & Jobs? Perspectives for the EU Single Market Policy Framework

Christian Schweiger
Durham University

Abstract

This article provides a critical analysis of the scope and the internal dynamics of the EU-27 Single European Market (SEM) policy framework, which is characterised by the intrinsic tension between application of a hard deregulatory strategy in the area of market liberalisation and the soft approach of the Open Method of Co-ordination (OMC). The latter acknowledges the diversity of national socio-economic models and reluctance of member states to transfer key areas of economic and social policy-making to the EU level. It instead concentrates on promoting best practice on the basis of policy exchange and learning and the overall framework targets set out in the Lisbon Strategy. The lack of commitment amongst member states towards applying the OMC and the Lisbon targets as a basis for national policy development illustrates that the Commission has yet to achieve a consensus amongst the EU-27 member states on common economic and social policy priorities. In the wake of the global economic crisis the SEM policy agenda therefore risks being reduced to a market liberalisation programme with waning levels of support from citizens and national administrations.

Keywords

European Union; Single Market; Open Method of Coordination; Lisbon Strategy

ECONOMIC INTEGRATION HAS ALWAYS BEEN AT THE HEART OF THE EUROPEAN PROJECT. However, in recent years the European Union (EU) has increasingly concentrated on the deepening of the Single European Market (SEM) due to the difficulties in reaching agreement amongst member states in the area of political integration. The SEM is now presented as the centrepiece of the EU integration process and is actively promoted by the European Commission. The increasing liberalisation drive which the Commission has adopted since the creation of the Common Market in the Treaty of Rome in 1957, particularly on the way towards the Single Market in the aftermath of the Single European Act in 1987, has repeatedly clashed with national resistance on the part of the member states. The tendency of member state governments to try to defend the competitive economic advantage of their domestic economies against Commission attempts to create a level playing field for trade and economic competition has been a constant feature of the Single Market. The Commission tried to solve this dilemma by developing a distinguished dual strategy, in which it combines the acceleration of market liberalisation with the acknowledgement of national competences in the area of social policies. This approach was represented in the original Lisbon Agenda which the EU adopted in March 2000 in response to the lack of progress in the completion of key areas of Single Market

integration and noticeable weaknesses in the economic performance of individual member states. Lisbon was hence aimed at turning the EU into the “most competitive and dynamic knowledge-based based economy” by boosting economic growth through quicker market liberalisation and a focus on national job creation on the basis of setting overall employment targets (European Council 2000).

Due to the lack of progress on the part of the member states in pursuing these targets, the newly appointed Barroso Commission relaunched Lisbon in 2005 as a strategy on the basis of the recommendations made in the report issued by the High Level Group under former Dutch Prime Minister Wim Kok. The Kok report called on the EU Commission to concentrate on accelerating economic growth and job creation in the member states by monitoring their performance more rigidly. It also recommended the acceleration of the removal of national barriers towards market liberalisation in order to enhance competition and business activity (European Commission, 2004a: 17 and 24). The Commission subsequently intensified the monitoring of individual member state performances, both in the area of Single Market legislation and in the pursuit of the Lisbon goals. In the former area the Commission has strengthened its “hard” approach of implementing Community legislation and removing national legislative barriers on the basis of compulsory EU directives. Here the Commission has implemented a tight monitoring regime on the basis of scoreboards and a “naming and shaming” strategy, which ultimately results in penalising attempts of member states to delay or water down Single Market legislation. In ‘soft’ policy areas which affect the domestic welfare state tradition of member states, like employment and education, the Commission is avoiding attempts to force member states into a one-size-fits all approach of forced harmonisation. Instead, it has adopted the rather loose “open method of coordination”, which encourages member states to develop their own domestic policy solutions by adopting elements of best practice from other member states through information exchange and policy learning (Büchs 2008: 25).

This article examines the internal mechanisms of the Single Market and argues that the ongoing revision of the Commission’s Single Market legislative framework reflects an inherent dilemma in the process of economic integration. While member states have, in principle, signed up to the ethos of free market competition in the SEM, in practice, they continue to defend national economic monopolies and remain hostile towards attempts to harmonise social policy standards across the EU. This dilemma of trying to achieve consensus amongst an increasing variety of socio-economic models in the enlarged Single Market of 27 member states forces the Commission to pursue a rather complex and contradictory policy framework. The Single Market is thus dominated by a strategy of “negative” integration, where the Commission has successfully established its position as an enforcer of pro-competition framework legislation which ultimately removes national regulatory barriers. This increasingly affects core elements of domestic economic models, particularly in the crucial area of services, where national opposition against removing former public service monopolies remains substantial. While the Commission’s role in developing SEM framework legislation and monitoring its implementation on the micro-level of national governance has grown substantially in recent years, it has not managed to weaken the role of the member states in safeguarding their veto power over the macro-level of strategic economic and social policy-making. The adoption of the OMC in the latter area therefore represents an approach which tries to achieve a workable compromise between the ambition to achieve at least a basic level of policy convergence between member states, who have shown little enthusiasm to pool their national sovereignty in this area (Wallace, 2005: 487). This consensual approach restricts the role of the Commission in the field of economic and social policy to the determination of the overall Lisbon targets in cooperation with the member states in the Council. The targets are aimed at promoting job creation through welfare reform and investment in research and education. Member states are subsequently encouraged to pursue these targets in their national policy

strategies. This policy mode has been described as a “two-level game” (Büchs 2007: 19). It adopts a variation of the concept originally put forward by Putnam (1988) and subsequently adopted by Moravcsik (1993) for his liberal intergovernmentalist analysis of the European integration process. Moravcsik argued that member state governments attempt to influence the policy agenda on the supranational EU level on the basis of a set of national preferences which previously emerged on the domestic level in a process of liberal preference formation. With regard to the OMC, member state governments are thus pursuing a twofold strategy, in which, in the first instance, they attempt to influence the Commission in developing the OMC policy agenda by “uploading” their national priorities (Büchs, 2007: 26). In the second instance, member states tend to introduce those OMC policy recommendations which correspond with their domestic policy agenda and to ignore or water down those that do not (Meyer *et al.* 2007: 213). This leads to a “commitment-implementation” gap between the EU and the national level. It explains why the Commission has to repeatedly point the finger at the lack of collective member state commitment towards the OMC policy agenda under Lisbon. As the OMC is a clear departure from the classic integration method of gradually transferring national sovereignty to the EU level, it accepts differences in the domestic institutional constraints and national preferences amongst member states rather than trying to harmonise them (Borrás and Jacobsson 2004a: 202). The practice of “benchmarking” best performance and trying to encourage member states to achieve policy consensus on the basis of information exchange and learning is frequently hampered by the prevailing differences in the national institutional cultures in the economic, social and legal sphere (Arrowsmith *et al.* 2004: 323). The “soft” coordinative approach has thus failed to lead even to a gradual emergence of a common economic and social policy agenda in the Single Market which goes beyond pure market liberalisation (Meyer and Umbach, 2007: 115). As a result the SEM policy agenda is increasingly facing the risk to be perceived as a rather narrow deregulatory framework, which attempts to undermine existing pillars of national economic and welfare state traditions. This has led the Commission to undertake a review of the Single Market policy agenda in 2007, in which it included reflections from national and supranational stakeholders and also from citizens across the EU (European Commission 2006a). The global economic crisis, following the credit crunch in the United States, has caused member states to push the Commission to focus more on the development of policy solutions beyond the core ‘hard’ deregulatory framework of the internal market mechanisms.

Jobs and growth centre stage: A critical assessment of the 2005 revised Lisbon Strategy

The original Lisbon Agenda, passed at the Lisbon European Council in 2000, had emerged on the basis of the realisation amongst member states that a consensus on further steps towards policy harmonisation in the social area, particularly employment, could not be reached. At the major intergovernmental conference in Amsterdam in 1997 the newly elected government of French prime minister Jospin had promoted the harmonisation of European employment policies but met the opposition of the German and the British governments, who preferred to strengthen coordination in this area. Jospin threatened to veto the treaty if it did not contain a commitment to joint efforts on the employment front (Umbach 2009: 182). This led to the inclusion of an employment title in the Amsterdam Treaty and the development of a European employment strategy, based on the principle that the future of the social policy in the Single Market should develop on the basis of a loose intergovernmental coordination of best practices. This gave birth to the open method of co-ordination approach of Lisbon, under which member states are expected to follow overall targets developed by the Commission, while the individual implementation in the domestic context remains in the hands of their national administrations. The lack of

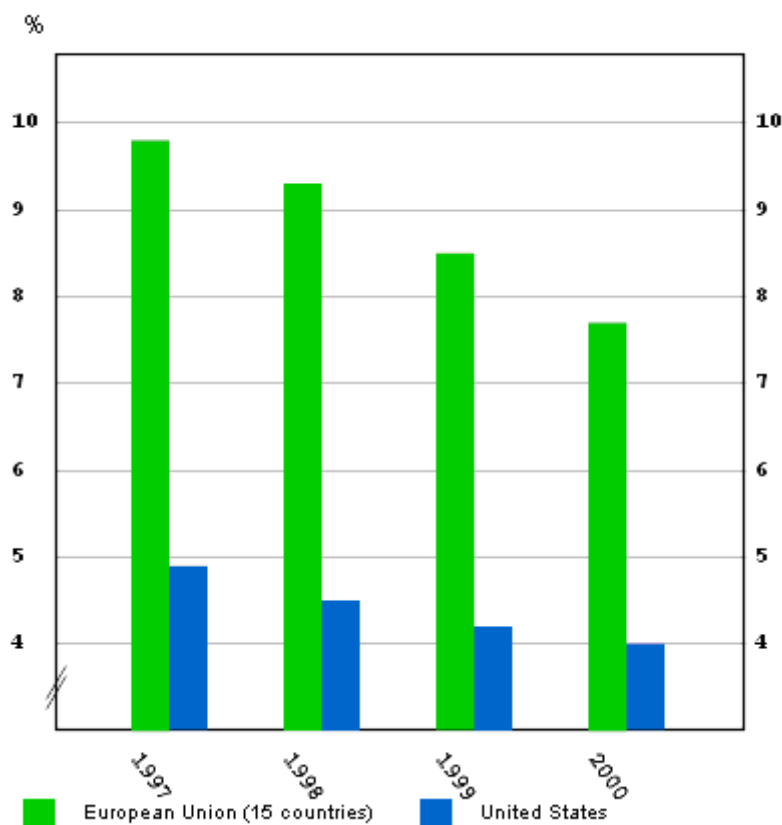
willingness to agree to the pooling of national economic and social policies, in spite of the common global economic challenges which all member states are confronted with, shows that the national level remains the main point of reference for policy development in the EU for both citizens and policy-makers. Member states therefore continue to be adamant to defend their “comparative institutional advantage”, on the basis of the national institutional framework surrounding their economies. This leads to a variety of levels of economic success of individual countries in different contexts and at different points in time, most prominently outlined in the “varieties of capitalism” approach (Hall and Soskice 2001: 37). The absence of binding positive harmonisation of EU-wide labour market regulations and welfare standards contrasts unfavourably with the predominance of negative integration in the area of market liberalisation (Scharpf 1999). In contrast to the assumptions of neofunctionalists in the early days of the integration process that the Community would enter into a quasi-automatic spillover drive towards ever deeper economic, political and social integration (Haas 1968), the EU has witnessed a rather limited pooling of economic sovereignty in the Single Market area. This results from the fact that the aftermath of the Treaty of Rome was characterised by the failure of member states to substantiate the aim of accompanying the establishment of an integrated market with the harmonisation of national economic and social policies. In particular the disagreement over the extent of social integration was also one of the main reasons why the integration process as a whole slowed down considerably in the 1960s and 1970s (Leibfried 2005: 246). The issue of social integration was subsequently mainly considered to be “in a supporting role” for the hard economic considerations targeted at deepening market integration (Hantrais 2007: p. 21). The fundamental changes to the Community’s *acquis communautaire* following the Treaty of Rome were characterised by the priority of accelerating the completing of the Common Market on the basis of a renewed impetus towards the deregulation of domestic legislative restrictions. In the mid-1980s the three largest member states the UK, France and Germany showed a clear correspondence in their interests to achieve rapid economic liberalisation in the European Community as a means to counter rising unemployment in their domestic economies (Moravcsik 1991: 51). The policy framework designed under the Single European Act consequently limited the Community’s ambition in the area of social policy to the expansion of qualified majority voting in areas concerning the Common Market, with an intention to expand supranational powers on social issues in the future (European Community 1987). The SEA set the background for the most fundamental step in the integration process since Rome, the Treaty of Maastricht signed in 1992. Even Maastricht was nevertheless disappointing with regard to its achievement on the social front. The fact that the Social Protocol, which mainly gave the EU soft coordinating powers in promoting social protection and improved living and working conditions, was put in the annex of the treaty on the insistence of the British government, showed that this continued to remain a low priority area for member states. The Delors Commission was therefore forced to abandon any attempts to harmonise social policies and focused on the coordination of national policies through cooperation and policy exchange instead (Leibfried 2005: 249; Hantrais 2007: 30-31).

Those who had hoped that the tying-up exercise at the Amsterdam IGC in 1997 would lead to a correction of the imbalance between market integration and the lack of social integration were bitterly disappointed. French initiatives to strengthen the harmonisation of employment policies in the EU were rejected by the British and German governments, and the compromise that was reached concentrated on loose policy co-ordination in the form of an EU employment committee. The purpose of the employment committee to encourage member states to adopt a method of mutual policy-learning on labour market reform and welfare reform (European Union 1997: article 137, paragraph 2) set the way for the best-practice benchmarking approach of the open method of coordination which was subsequently applied for the European employment strategy.

Maastricht had intensified the efforts towards the deepening of economic and monetary integration, with the decision to achieve Economic and Monetary Union by 1999 and the goal to develop a fully integrated Single European Market. The desire of member states to rapidly move towards the completion of Single Market integration was subsequently put into concrete form in the Internal Market Strategy of 1999. The basis for the IMS is a *hard* liberalisation strategy of national economies, based on directives which member states need to implement correctly and within an allocated timeframe if they want to avoid infringement cases against them at the European Court of Justice. Apart from the risk to be “named and shamed” in the regular implementation reports published by the Commission, member states hence face substantial financial penalties if they delay the opening of certain sectors of their domestic market to full internal and external competition.

As a result of the persistently high unemployment figures in many European countries throughout the 1990s, when the EU-15 average total unemployment rate fluctuated between seven and 10 per cent compared with less than five per cent in the United States (**Figure 1**), the EU decided to combine the process of market liberalisation under the IMS with the policy framework passed at the March 2000 Lisbon summit.

Figure 1: Average unemployment rate EU-15 and US (%)



Source: EUROSTAT (2009)

The Lisbon process follows a logic which is build on the premise that rapid market liberalisation and enhanced open competition will ensure persistently high GDP growth

and employment rates across the Single Market. Lisbon promotes a social model for the SEM, which considers employment to be a precondition for the achievement of social cohesion in the societies of the member states (European Council 2000). The problem of this approach lies in the combination of a “hard” Single Market liberalisation programme, which is accompanied by a “soft” best practice benchmarking procedure in the area of employment policies, welfare state reform and also education and training. The Lisbon goal of creating a “knowledge economy”, which is supposed to enable Europe to compete successfully with the rising economic powers in Asia (particularly China and India) in an increasingly fierce global economic environment, has been left under the mechanism of the open method of coordination. Member states are encouraged to exchange good practice in education and training based on the overall targets set by the Commission. One of its more prominent features is the “Bologna” process, which is aimed at gradually converging higher education qualifications between member states and to create a “European Higher Education Area (EHEA)” (European Union 1999).

The target-driven approach of the OMC grants member states a relatively large amount of flexibility with regard to the development of their domestic policies. As outlined at the beginning of this article, the lack of binding policy harmonisation in this area and the emphasis on policy development and implementation on the domestic level leads to a generally slow process of policy coordination with rather fragmented outcomes. At the same time, the various target-driven strategies under the OMC are often excessively ambitious in their timeframe and scope. Member state governments consequently rarely consider them as a framework for their national policy agenda. The relatively weak threat of being “named and shamed” in the case of non-compliance in one of the various progress reports which are issued by the Commission on a regular basis, is thus no substitute for compulsory common standards (particularly in the areas of job quality and welfare provision) as long as the internal dynamics of the SEM remain characterised by “a lack of ‘ownership’ of the Lisbon strategy by politicians, whose political support is mainly determined by their actions at national level” (Dierx and Ilzkovitz 2006: 41).

It is important to note in this respect that the EU applies the OMC in a number of different ways depending on the policy area. This ranges from the very clearly defined stability and growth criteria for the members of the eurozone to softer approaches towards the co-ordination of employment, welfare and education standards (Borrás and Jacobsson 2004: 192). It is frequently argued that due to the diversity of socio-economic models in Europe, the OMC offers the freedom for member states to pick and choose which measures they consider to be suitable for their own domestic reform strategies and “therefore make political action more practicable” (Borrás and Greve 2004: 333). Although the OMC gives member states a large amount of flexibility, it has yet to prove that it is a mechanism which is efficient in embedding market liberalisation with noticeable socially cohesive effects across the different societies of the currently 27 member states. The process of best practice benchmarking too frequently remains at the level of a display of vanity between member states with regard to best performance, which then leads to “an obsession with placings in ‘league tables’ to the detriment of the quality of outcomes” (Arrowsmith, Sisson and Marginson 2004: 321).

This explains why the EU considered it to be necessary to relaunch the whole Lisbon project in 2005. The lack of member state progress on achieving the Lisbon targets, particularly in the area of job creation (70 per cent employment rate by 2010 and 60 per cent for women) was highlighted in the 2004 Kok report, which provided an assessment of the efficiency of the Lisbon Strategy. The report warned member states that it was mainly due to their lack of “determined political action” that the targets of the original 2000 Lisbon Agenda had not been sufficiently met. The report yet also criticised Lisbon’s

“overloaded agenda” and “conflicting priorities”, which would make it harder to find support and consensus amongst member states (European Commission 2004a: 6).

This set the tone for the relaunch of Lisbon under the newly appointed Barroso Commission in 2005. The relaunch of Lisbon was based on the criticism made in the Kok report of an overburdened list of policy objectives in the 2000 Council agenda. The new strategy intended to set this right by concentrating on the priorities of “growth and jobs centre stage”. It was noticeable that the revised strategy adopted a far less balanced tone than the original agenda and clearly referred to a neo-liberal economic viewpoint. This could be seen in its emphasis on the need to develop the Single Market into a “knowledge economy” where the everyone would have to take on greater individual responsibilities by accepting the need for lifelong education and training to be able to “climb up the productivity ladder and guarantee that overall our productivity grows quickly” (European Commission 2005: 13).

The neo-liberal trend of the Lisbon relaunch could be seen in the prioritisation of market liberalisation and the deregulation of national practices, particularly in the three areas of services, corporate governance and financial markets. The 2005 document underlines even more clearly that market liberalisation and unlimited competition must be the top priority for the EU in its pursuit of the Lisbon goals:

Competition is of fundamental importance for the whole partnership for growth and jobs (...) Cutting unnecessary costs, removing obstacles to adaptability and innovation and more competition and employment friendly legislation will help create more conducive conditions for economic growth and improved productivity. (European Commission 2005: 19)

In the area of corporate governance, the new emphasis on deregulation was most obvious in the recommendations of the 2002 Winter Group report, which substantially influenced the direction of the EU corporate governance liberalisation strategy. The report proposed to drastically reduce the regulatory burden for businesses within the Single European Market modelled along the lines of US corporate governance. The report argued that the existing low-level regulatory environment in the US had shown that a *laissez-faire* and self-regulatory approach towards business operations across member state boundaries would be the best mechanism for a dynamic corporate environment. The Winter Group consequently proposed to implement the principle of the freedom of movement for companies and businesses across the SEM, with a minimum of interference from national or supranational regulations on the internal structure and the operation of companies (European Commission 2002). In the area of capital and financial markets, the Commission’s Financial Services Action Plan adopted the principles set out in the 2000 Lamfalussy report on the regulation of European Security Markets, which recommended steps towards the elimination of “administrative, regulatory or other types of obstacles which in practice impede cross-border securities transactions” (European Commission 2000: 5).

The most controversial area of market integration in terms of its impact on national economic and social models is the integration of the services sector. Here the Commission had originally initiated a rather radical approach. The widely debated draft services directive that was developed under the leadership of the former Single Market Commissioner Fritz Bolkestein in 2004, intended to substantially weaken the control of member state authorities over the operation of foreign service providers in their country. The inherent “country of origin” principle of the draft directive intended to allow the operation of services in any member state on the basis of the legal background of the service provider’s country of origin and the supervision by the national authorities in the

country of origin (European Commission 2004b: 9). The directive was widely considered as a legal framework that would undermine national service quality standards and the protection of individual consumer rights for the sake of a swift removal of all restrictions to the free movement of services. The general definition of a service as an “economic activity” and of public services as “services of general interests” (European Commission 2004b: 14) reflected an approach which fundamentally contradicted the traditional public service ethos of many member states. This was reflected in the level of opposition that emerged from the European Parliament and national governments, particularly France and Germany, whose leaders Schröder and Chirac warned that the directive would “terrify” the people of Europe.

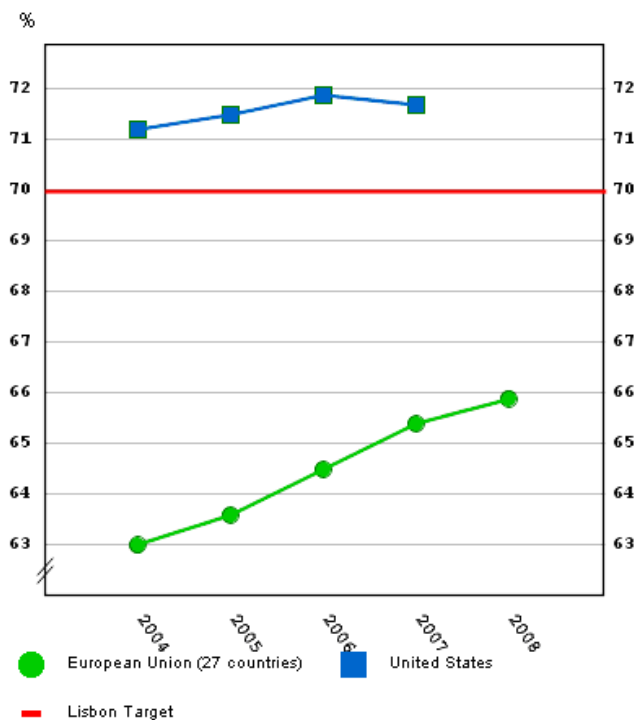
The compromise directive which emerged from these discussions was subsequently adopted by the Council and the European Parliament in December 2006, and should now gradually be implemented in the member states until the end of 2009. It was substantially toned down in terms of its scope and controversial content. Public services as “services of general interest” are generally excluded from the directive (Paragraph 17, preamble, Directive 2006/123/EC), and also the directive specifically does not apply to a number of services which are classified as “services of general economic interest”, such as transport, postal services, healthcare, and also social services, such as housing and childcare (Paragraph 21-27, preamble, Directive 2006/123/EC). The directive also gives member states the right to initiate legislation which protects “the public interest, in particular in relation to social policy objectives” (Paragraph 71, preamble, Directive 2006/123/EC). This provision has proven to be a relatively powerful tool in the hands of member states which allows them to slow down and obstruct the liberalisation of individual service sectors. As Badinger and Maydell’s study of the legal and economic impact of the services directive highlights, “member states keep a high degree of obstructive legislation, both in quantitative as well as qualitative terms, and tend to abuse their margin of discretion” (Badinger and Maydell 2009: 703). In this respect the study highlights that the European Court of Justice has been quite liberal in accepting member state justifications for overriding the general rule of non-discrimination against foreign service providers on the basis of the protection of public interests (Badinger and Maydell 2009: 699).

While the 2006 watered-down services directive seems to have found a compromise between a deregulatory liberalisation approach and the need to protect consumers (Barnard 2008: 323), it has nevertheless become clear that the Commission considers to work towards the removal of current restrictions to the full liberalisation of the services in the Single Market. The Commission continues to pursue the goal of integrating those service areas which are currently still exempt at a later stage. The recent high-level conference on the future of services in the Single Market, organised by the Commission and the Czech Council presidency, highlighted the need for member states to consider “the possibility of applying innovative tools (...) to sectors or aspects not covered by the Services Directive” (European Council 2009b: 4). The Commission drive towards full competition in the area of services is problematic because it affects the core of national social models in member states. The concept of *public space* is an integral part of European societies, and is embedded to a greater or lesser extent in all national economies, most noticeably in continental Europe and Scandinavia. Here the concept of an active state as a provider of high quality public services which are accessible to all citizens is based on the principle that “all citizens should have an equal right to participate in economic and social life” (Hutton 2002: 63). This is connected with the notion of the state as a protector against market forces by granting citizens essential social rights, such as good standards in the provision of healthcare, education and welfare. If the Commission continues to push towards the inclusion of the core public services which are currently excluded from the services directive, it risks provoking growing hostility towards the Single Market policy framework in many member states. This would occur against a background where

national governments are already slowing down the compulsory implementation of Single Market directives, particularly in the area of services, where the Commission had to introduce 18 per cent of all infringement proceedings in 2009 (European Commission 2009a: 21). It remains to be seen if the application of a "single regulatory model" can be effectively applied to the diversity of services that exist within the varieties of economies and social systems in the EU-27 (Badinger and Maydell 2009: 710).

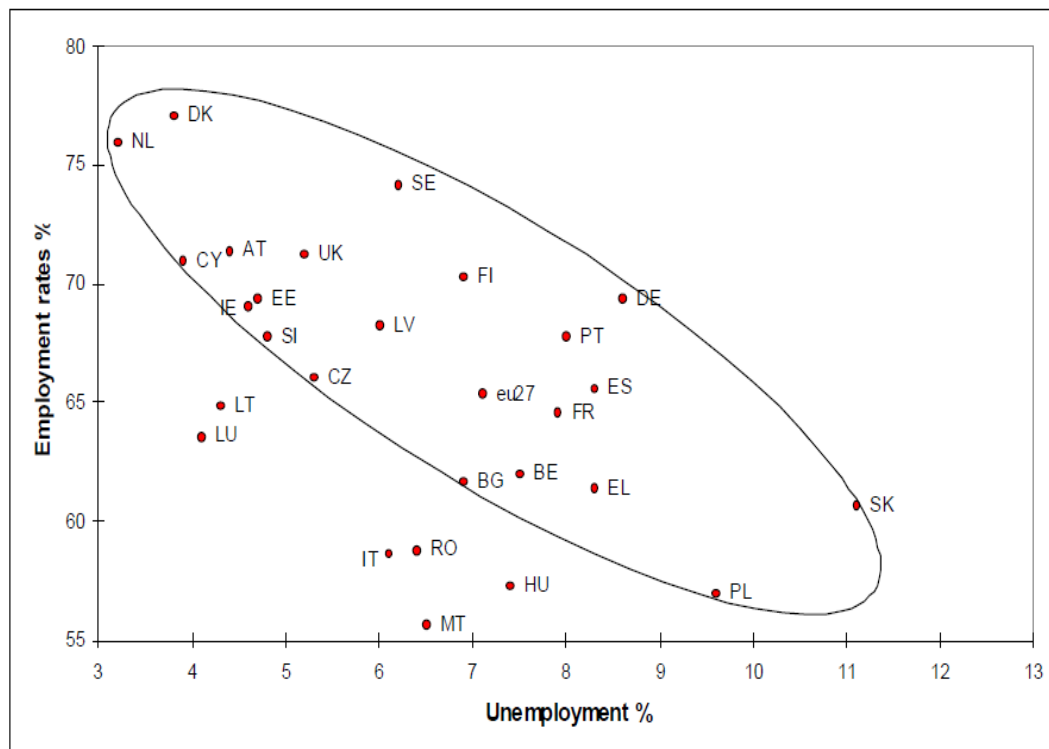
The combination of the pro-competition and privatisation drive in the Internal Market Strategy with the loose coordinative framework of the OMC in the area of employment, welfare and education poses a long-term strategic dilemma in terms of efficiency and level of support in the member states. As Figure 2 shows, the European employment strategy did not manage to initiate a substantial boost to the average employment rate in the enlarged EU-27. Before the current global economic crisis, the average EU-27 employment rate rose from 63 to 66 per cent between 2004 and 2008 and still remains under the Lisbon target of 70 per cent. In contrast, the United States exceeded this permanently before the downturn of 2007/08.

Figure 2: Total Employment Rate EU-27 and US (%)



Source: EUROSTAT (2009)

The latest Joint Employment Report for 2008/09 illustrates that the global economic crisis has made it even harder for most member states to meet the 70 per cent target. The diverse levels of success on the job front amongst individual member states is shown in Figure 3, which reflects national employment and unemployment rates in the EU-27 in 2007. It shows that only a small number of member states (the UK, Austria, Cyprus, Sweden, the Netherlands, Denmark and Finland) managed to reach or exceed the Lisbon target.

Figure 3: *Employment vs. Unemployment rates in the EU-27*

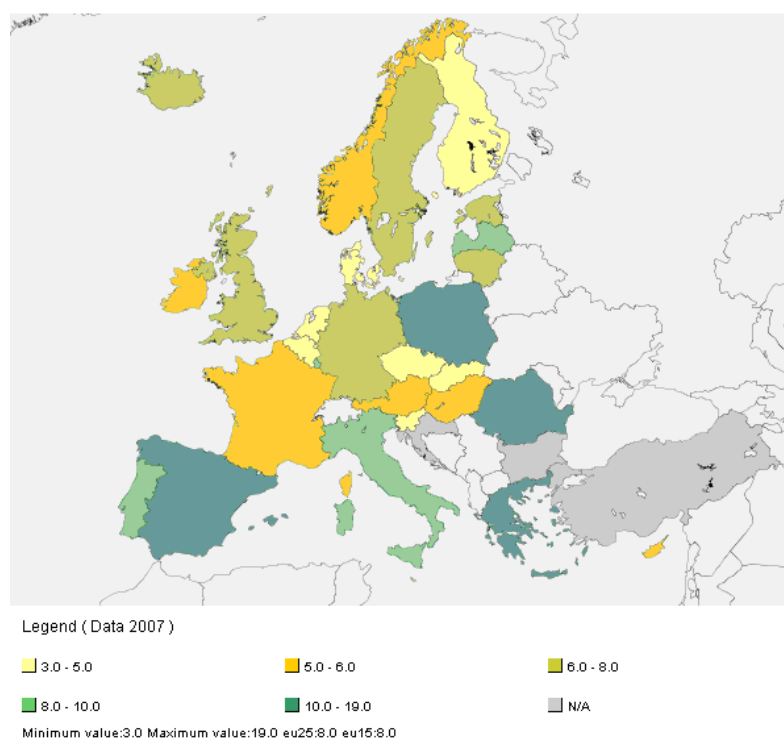
Source: European Council (2009)

This is significant because the employment figures for 2009/10 are likely to be substantially worse and they will occur on the basis of ongoing structural unemployment problems amongst young people and the lack of access to lifelong education and training opportunities in many member states (European Council 2009b: 6). The success of the OMC to coordinate national policy responses to the common challenge of unemployment therefore remains limited. This is acknowledged in the report and underlined by calls for the swift adoption of a new “flexicurity” approach in national employment and welfare state policies to counter the effects of the instability in the global economy. The concept of “flexicurity” is modelled along the lines of the “third way” welfare-to-work strategies which emerged in the late 1990s in the US under President Bill Clinton and the UK under New Labour. The European Commission defined it as a combination between ‘flexibility and security on the labour market’ in its 2006 report ‘Employment in Europe’, with a particular focus on the flexible employment contracts, active labour market policies and the reform of education, training and welfare policies (European Commission 2006b). Modelled along the lines the Danish employment model it is aimed at reintegrating people into the labour market who have previously been registered as long-term unemployed through welfare activation strategies and investment in education and training:

The current economic context reinforces the need for efficient and effective, but especially integrated, flexicurity approaches in all Member States (...) Active inclusion policies and activation policies including labour market training will become more essential to avoid the long-term and persistent unemployment that may otherwise follow. (European Council 2009b: 3)

Under the harsh economic conditions of the global credit crunch, the combination of the deregulatory drive of the Single Market legislation and the promotion of employment as the ultimate strategy against poverty and social exclusion under Lisbon risks losing the support of the citizens in the member states, who seem to view the EU policy agenda as an destructive rather than protective intrusion into the national economic and social policy domain. The view of growing sections of the European public of the EU as a force that “has sufficient political muscle to destabilize existing national systems without the strength, in the employment sphere at least, to build alternative EU-wide systems of regulation” (Arrowsmith *et al* 2004: 6) played a major role in the rejection of the Lisbon Treaty (the former Constitutional Treaty) in public referenda in formerly pro-integrationist countries like France, the Netherlands in 2005 and the Republic of Ireland in 2008. The Irish also initially rejected the Nice Treaty in 2001, but this was mainly due to justified concerns that the impending enlargement towards new member states in Central and Eastern Europe would marginalise smaller EU-15 member states and cut them off from existing structural funds (*Daily Telegraph* 2001). The EU is hence confronted with a new debate on the need to enhance the drive towards economic competition and high levels of employment with a more coherent common social agenda which includes wider set of EU-wide legislative standards for workers in an increasingly integrated borderless labour market in the SEM. The increasing numbers of working poor in the SEM justify doubts about the Commission’s assumption that high levels of employment will quasi-automatically result in high levels of social cohesion in European societies. The latest Eurostat figures (Figure 4) on the levels of people who are in work but are classified to be at risk of falling into poverty because they receive less than 60 per cent of the median income show that in 2007 only seven member states (Belgium, Czech Republic, Denmark, Finland, Slovakia, Slovenia and the Netherlands) had less than five per cent of people who fell into this category. The rest of the EU-27 countries had more than five per cent of their population in work, but at risk of falling into poverty, with seven member states showing levels above eight (Italy, Portugal, Latvia) or even 10 per cent (Spain, Greece, Romania, Poland).

Figure 4: *In work-at-risk-of-poverty rate (%)*



Source: EUROSTAT (2009)

The Single Market Review: A new direction for the SEM after the credit crunch?

The Commission responded to the controversy on the services directive and the growing unease about the direction of the Single Market in the member states by initiating a review of the policy framework in 2006. The review was based on the acknowledgement of concerns regarding “the social and environmental implications of market opening” (European Commission 2007a: 3). The review took place in the context of a public consultation which consisted of survey of the opinions of citizens, stakeholders and interest groups, particularly trade unions. Especially the latter had in previous years criticised the Commission for tailoring Single Market policies too much towards business interests, at the expense of ordinary citizens (European Commission, 2006: 10). In the wake of the review, the Commission has tried to move away from the narrow focus on growth and jobs and highlighted the need to encompass the Single Market into a “renewed social agenda for the 21st century”, which takes into account the pressures on individuals as a result of the global economic crisis. Although the policy solutions and mechanisms the Commission proposes as part of the new social agenda are strongly based on Lisbon (“flexicurity” and OMC), a stronger focus on a formerly neglected aspects of the Single Market are noticeable. The 2008 Social Agenda explicitly takes up the concern of many trade unions that work on its own is, in many cases, not a sufficient means to lift people out of poverty:

Even employment is not a guarantee against poverty: in-work poverty is on the increase with some eight per cent of employed people at risk of poverty. There are barriers and financial disincentives preventing or discouraging certain groups from gaining full access to employment, training, education, housing and health-care. (European Commission 2008a: 12)

The Commission has also started to address the issue of the quality of employment and work-life-balance more explicitly (European Commission 2008b), in response to the realisation that “citizens and stakeholders expect the EU to bring added value to social development” (European Commission 2008b: 15). It nevertheless remains hesitant to adopt a binding legislative approach in these areas and emphasises the continuing focus on the OMC which it claims has “helped Member States to develop a shared vision of social challenges” (European Commission 2008b: 16). The Commission yet plans to adopt a more streamlined “partnership approach” in this area, which focuses on “establishing and maintaining closer cooperation within and between the Member States, and with the Commission, in all areas that are relevant for the single market” (European Commission, 2009b: 3).

Under this approach, the Commission continues to respect the responsibility of the member states for the implementation of Single Market directives and OMC targets at the domestic level. At the same time, it intends to liaise more closely with national administrations in order to ensure that all member states work towards the effective implementation of Single Market goals (European Commission, 2009b: 3). As part of this, the Commission has recently become more active in proposing framework legislation in the employment area. It has proposed the establishment of a “European Works Council”, which is aimed at “ensuring the effectiveness of employees’ transnational information and consultation rights” and “increasing the proportion of European Works Councils” (European Parliament and Council 2009, preamble, paragraph 7) to ensure the improvement of job quality across the Single Market. The directive, which has now been adopted by the European Parliament and the Council, takes into account that in the increasingly integrated Single European Market “procedures for informing and consulting employees as embodied in legislation or practice in the Member States are often not geared to the transnational structure of the entity which takes the decisions affecting those employees” (European Parliament and Council 2009, preamble, paragraph 11). The

directive consequently determines that companies which operate in two or more member states, with at least 1,000 employees in total and at least 150 employees in each member state (Article 2, paragraph 1a and 1c), need to set up European Work Councils or at least “create other suitable procedures for the transnational information and consultation of employees” (preamble, paragraph 14). However, the directive also emphasises that the responsibilities of a European Work Council will be strictly limited to “transnational” issues (Article 1, paragraph 3) and is supposed to promote a “dialogue and exchange of views between employee’s representatives and central management” (Article 2, paragraph 1g) between employer’s organisations and trade unions in transnational business operations. The directive also highlights the subsidiarity principle, under which member states will be able to adapt any provisions made in the directive to the arrangements of their own national industrial relations systems, particularly in relation to the selection of employee representatives (Preamble, article 20). Part of the new concern for the quality of work and the protection of employees in the increasingly borderless labour market of the SEM-27 are attempts to protect new forms of work. The Commission has thus been more active in engaging with member states in preventing the social dumping of workers. It has issued a common position with the Council and the European Parliament on a directive on temporary agency work. The Commission proposal on this issue is aimed at achieving the equal treatment of all agency workers across the EU-27 on the basis of a flexible framework which would still allow “differing national practices as regards labour market conditions and industrial relations practice” (European Commission 2008d: 7). The Commission has also tried to strengthen the application of the directive on the protection of posted workers, particularly in the area of services. Here the Commission aspires to find a middle way between promoting the spirit of the free movement of services set out in the new services directive and the need to protect workers who are posted in service provider branches in other member states. The directive does not, therefore, go beyond the determination of a core set of minimum standards for posted workers, and puts its emphasis on creating “a level playing field as well as a legal certainty” for the free competition between service providers in the Single Market (European Commission 2007b: 3).

Apart from the showing greater concern for the social aspects of the Single Market as part of the renewed social agenda, the Commission was forced to take swift action in the area of financial services regulation. Here its strong support for a deregulatory *laissez-faire* approach was overtaken by the events of the global credit crunch, which revealed the fatal consequences of the application of low levels of regulation in the financial industries in the United States. The Commission responded to the crisis by introducing a new agenda of what it calls “regulatory repair” (European Commission 2009c: 5). Based on the recommendations put forward in the report issued by the High Level Group of financial experts (Larosi re group) in October 2008, the Commission has developed proposals for a new regulatory framework for financial supervision in the Single Market. The Commission accepts that previous arrangements were not suitable to prevent the emergence of the financial crisis, but, at the same time, blames “serious failings in the cooperation, coordination, consistency and trust between national supervisors”, rather than its own deregulatory agenda, as the main reason behind the events that occurred in the financial sector (European Commission 2009d: 2). It has consequently proposed a new regulatory framework for financial industries in the Single Market, which, although it strengthens the level of supranational supervision, mainly concentrates on ensuring the greater efficiency of national regulators. The new “macro-micro” financial supervision architecture consists of a supranational pillar represented by the European Systemic Risk Council (ESRC) and a network of national financial supervisors, the European System of Financial Supervisors (ESFS). The strong interaction between these two bodies is supposed to ensure the emergence of a “common supervisory culture” (European Commission 2009d: 5). The main burden of supervision in this framework falls on the ESFS, which will consist of the

Commission and three new supervisory bodies, the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and a European Securities Authority (ESA). While national supervisors will remain in charge of the bulk of the supervision of domestic financial industries, the bodies of the ESFS will monitor these activities on the basis of a set of common supervisory standards. They will also have the right to interfere in case of a disagreement between national supervisory authorities. The ESFS authorities have an ultimate right to override national regulators if they the latter fail to settle their dispute (European Commission 2009d: 9-10). The main task of the ESRC, which will be headed by a president and contain the governors of all national central banks as members, is the supervision of the financial services industries on the macro-level with regard to their stability and efficient interaction with the global financial system. The ESRC will provide an early warning system for national regulators and the ESFS authorities of potential risky developments on the basis of reports and collective or individual recommendations for particular member states. The Commission does not envisage to give the ESRC powers to introduce legally binding recommendations (European Commission 2009d: 6:). The emphasis of the new framework rather lies on "binding cooperation and information sharing procedures between the 'micro' and the 'macro' levels" (European Commission 2009d: 14), which illustrates the similarity to the rather soft approach of the OMC in the social area.

Conclusion

The review of the policy framework, with the new emphasis on a social agenda and the rather limited extension of supervisory powers in the financial services sector, marks a slight change of emphasis in the overall direction of Single Market, but does not represent a radical overhaul of its ideology or its internal dynamics. The Commission neglects the promotion of binding standards in the social area, and the parallel deregulatory drive towards market liberalisation has lead to a situation where the scepticism about the pooling of further powers on the EU regulatory level has grown substantially amongst member state governments and citizens. Therefore, the Commission currently has a rather limited set of options available which it applies to overhaul the direction of the Single Market. The SEM review shows that the Commission now acknowledges that regulation is not necessarily always an efficient mechanism to ensure effective market integration:

Regulation remains important in some areas, but it many not always be necessary or adequate, for instance where obstacles to the functioning of the single market are not primary legal, but mainly behavioural or institutional. (European Commission 2007a: 12)

Due to the lack of consensus between member states on the elements of a common European social agenda, the Commission also seems to be determined to widen the OMC approach to further areas, and to deepen its remit by enhancing the input of citizens and stakeholders through better information and dialogue with the aim "to help build consensus on single market issues" (European Commission 2009b: 4). It remains to be seen if this softer, and more inclusive, approach can indeed create a new consensus between citizens, national policy-makers and the Commission on the future shape of the Single Market, and its role in the global economy. Such a consensus will inevitably depend on the establishment of a shared set of values and integrated standards in the social area, which prevents the SEM from remaining on the level of a borderless free trade area with an increasing diversity of national regulations in the area of employment, welfare, education and training. The current economic crisis shows that the Single Market is hardly likely to function efficiently on the basis of "race to the bottom" competition for low regulatory standards between member states. As national policy-makers and citizens are struggling

to come to terms with the knock-on effects of the global economic crisis on their domestic economies, they have become more defensive over their national regulatory powers and are unlikely to support further intrusion of Single Market legislation in this area. This is mainly the result of the fact that the European integration process has made the inefficiencies of domestic employment and welfare systems to fulfil their traditional functions of preventing mass unemployment and providing citizens with essential welfare provision in the face of globalisation and demographic change more obvious (Esping Andersen 1999; Sapir 2004). As a result, national policy-makers and citizens show a tendency to, at least partially, blame the EU for the increasing lack of employment and welfare security.

The latest Eurobarometer issued in December 2008 shows that citizens across the EU-27 remain sceptical about the role of the EU in protecting them from the negative effects of globalisation (European Commission 2008e). Only 43 per cent consider the EU to fulfil this role, while 37 per cent consider it not to be a safeguard against globalisation. Support for the greater involvement of the EU level in the process of domestic policy-making in the area of social welfare (32 per cent), education (33 per cent) and pensions (26 per cent) also remains low. Overall, a slim majority of citizens in the member states support a greater input of the EU institutions on national economic policy development (51 per cent). The Commission will thus have to make a new positive case for the coordination of national standards on the basis of the "best practice", which will be particularly important for the new member states in Central and Eastern Europe, who continue to struggle with the tensions between integration into the legal EU *acquis* of the SEM, the stability and growth pact of the Eurozone, and domestic calls for the development of higher standards of welfare and education (Goetz 2005: 274). The capacity of national governments to maintain welfare systems which offer high levels of protection for citizens are coming particularly under pressure from the tendency of Single Market to encourage competition for foreign direct investment on the basis of low domestic corporation and capital tax rates. In addition, the principle of the free movement of workers, which is at the heart of the Single Market, has led to a certain degree of "welfare shopping" amongst migrant workers, which poses an additional burden on already overstretched national welfare systems (De Giorgi and Pellizzari 2006; Andersen et al. 2000)

The EU thus needs to move beyond the fixation on growth and jobs in the Lisbon Strategy and concentrate on the preservation of core common values in the various economic and social models that exist in the SEM-27. The recent global financial crisis showed that the deregulation of markets does not automatically lead to increasing wellbeing for citizens. On the contrary, the resulting global economic crisis has highlighted the importance of regulatory intervention at both the national and the supranational institutional level. The ambition to create a level-playing field for competition in the EU-27 Single Market must therefore be accompanied by a more efficient coordination of social policies. As Bertola points out "the EU can hardly continue to strive for one market and one money as long as it features a considerable number of labo(u)r markets, and economic integration will stall if it is perceived to conflict with social policy objectives" (Bertola 2006: 27). In this respect, the combination of the role of an active state, as a promoter and guarantor of *public* space, manifested in public service quality, employment standards, equality, social cohesion and environmental sustainability, with the facilitation of open and dynamic market competition, has the potential to be the backbone for a new European success story in the global economy of the 21st century.

References

- Andersen, T.M., Haldrup, N., Bentolila, S. and van Ours, V. (2000). 'Labour Market Implications of EU Product Market Integration', *Economic Policy*, 15(30), pp. 107-133.
- Arrowsmith, S., K. Sission and P. Marginson (eds) (2004). 'What can "benchmarking" offer the open method of co-ordination', *Journal of European Public Policy*, 11(2), pp. 311-328.
- Barnard, C. (2008). 'Unravelling the Services Directive', *Common Market Law Review*, 45(2), pp. 323-394.
- Baydinger, H. and Maydell, N. (2009). 'Legal and Economic Issues in Completing the EU Internal Market for Services: An Interdisciplinary Perspective', *Journal of Common Market Studies*, 47(4), pp. 693-717.
- Bertola, G. (2006). 'Social and labor market policies in a growing EU', *Swedish Economic Policy Review*, 13(1), pp. 189-231.
- Borrás, S. and K. Jacobsson (2004a). 'The open method of co-ordination and new governance patterns in the EU', *Journal of European Public Policy*, 11(2), pp. 185-208.
- Borrás, S. and Greve B. (2004b). 'Concluding remarks: New method or just cheap talk?', *Journal of European Public Policy*, 11 (2), pp. 329-336.
- Büchs, M. (2007). *New Governance in European Social Policy*. Basingstoke: Palgrave MacMillan.
- Büchs, M. (2008). 'The Open Method of Coordination as a "two-level game"', *Policy & Politics*, 36(1), pp. 21-37.
- Daily Telegraph (ed.) (2001). 'EU scrambles to overcome Irish "no" vote', 10 June 2001.
- De Giorgi, G. and Pellizzari, M. (2006). *Welfare Migration in Europe and the Cost of a Harmonised Social Assistance*. Bonn: Institute for the study of labour, Discussion Paper No. 2094.
- Dierx, A. and F. Ilzkovitz (2006). 'Economic Growth in Europe: Pursuing the Lisbon Strategy', in S. Mundschenk, M.H. Stierle, U. Stierle-von Schütz and I. Traistaru (eds), *Competitiveness and Growth in Europe: Lessons and Policy Implications for the Lisbon Strategy*. Cheltenham: Edward Elgar.
- Esping, Andersen, G. (1999) *The Social Foundations of Postindustrial Economies*. Oxford: University Press.
- European Community (1987). *Single European Act*. Brussels: EU.
- European Union (1997). *Treaty of Amsterdam*. Brussels: EU.
- European Union (1999). *The Bologna Declaration: Joint Declaration of the European Ministers of Education*. Brussels: EHEA.
- European Commission (2000) *Initial Report of the Committee of Wise Men on the Regulation of European Securities Markets*. Brussels: EU.
- European Commission (2002). *Final Report of the High Level Group of Company Law Experts on a modern regulatory framework for company law in Europe*. Brussels: EU.
- European Commission (2004a). *Facing the Challenge: The Lisbon Strategy for Growth and Employment. Report from the High Level Group chaired by Wim Kok*. Brussels: EU.
- European Commission (2004b) *Proposal for a Directive of the European Parliament and of the Council on services in the internal market*. Brussels: EU.
- European Commission (2005). *Working Together for Growth and Jobs: A New Start for the Lisbon Strategy*. Brussels: EU.
- European Commission (2006a). *Public Consultation on a Future Single Market Policy: Summary of Responses*. Brussels: European Union.
- European Commission (2006b) *Employment in Europe Report*. Brussels: EU.
- European Commission (2007a). *A single market for 21st century Europe*. Brussels: EU.
- European Commission (2007b). *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Posting of workers in the Framework of the Provision of*

- Services: Maximising its benefits and potential while guaranteeing the protection of workers.* Brussels: EU.
- European Commission (2008a). *Renewed Social Agenda: Opportunities, Access and Solidarity in 21st century Europe.* Brussels: EU.
- European Commission (2008b). *A better work-life-balance: stronger support for reconciling professional, private and family life.* Brussels: EU.
- European Commission (2008d). *Communication from the Commission to the European Parliament concerning the Common Position of the Council on the Adoption of a European Parliament and Council Directive on temporary agency work.* Brussels: EU.
- European Commission (2008e). *Eurobarometer 70: Public Opinion in the European Union.* Brussels: EU.
- European Commission (2009a). *Internal Market Scoreboard No.19 July 2009.* Brussels: EU.
- European Commission (2009b). *Commission Recommendation on Measures to improve the Functioning of the Single market.* Brussels: EU.
- European Commission (2009c). *Communication from the Commission: European Financial Supervision.* Brussels: EU.
- European Commission (2009d). *Communication for the Spring European Council: Driving European Recovery.* Brussels: EU.
- European Council (2000). *Lisbon Council Presidency Conclusions.* Brussels: EU.
- European Council (2009a). *Joint Employment Report 2008/2009.* Brussels: European Union. Available at: <http://ec.europa.eu/social/BlobServlet?docId=2121&langId=en>, last accessed 10 December 2009.
- European Council (2009b). *The Future of Services in the Internal Market Conference: Conclusions of the Presidency.* Brussels: EU. Available at: http://ec.europa.eu/internal_market/services/docs/servicesdir/conferences/02022009_conclusions_en.pdf, last accessed 10 December 2009.
- European Parliament and Council (2009). *Directive 2009/38/EC.* 6 May 2009.
- Goetz, K.H. (2005). 'The New Member States and the EU: Responding to Europe', in S. Bulmer and C. Lequesne (eds), *The Member States of the European Union.* Oxford: University Press.
- Haas, E.B. (1968). *The Uniting of Europe: Political, Social and Economic Forces, 1950-1957.* Stanford: Stanford University Press.
- Hall, P.A. and D. Soskice (eds) (2001). *Varieties of Capitalism: the institutional foundations of comparative advantage.* Oxford: University Press.
- Hantrais, L. (2007). *Social Policy in the European Union.* Basingstoke: Palgrave MacMillan.
- Leibfried, S. (2005) 'Social Policy: Left to the Judges and the Markets' in H. Wallace, W. Wallace and M.A. Pollack (eds), *Policy-Making in the European Union.* Oxford: University Press.
- Meyer, C.O., I. Linseman and W.T. Wessels (2007). 'The Limitations of European Economic Governance: Loose Policy Co-ordination and the Commitment-Implementation Gap', in I. Linseman, C. O. Meyer and W.T. Wessels (eds), *Economic Government of the EU: A Balance Sheet of New Modes of Policy Coordination.* Basingstoke: Palgrave MacMillan.
- Meyer, C.O. and G. Umbach (2007). 'Europeanisation of National Economic Governance Through Policy Co-ordination? Gains and Pains of a New Policy Instrument', in I. Linseman, C. O. Meyer and W.T. Wessels (eds), *Economic Government of the EU: A Balance Sheet of New Modes of Policy Coordination.* Basingstoke: Palgrave MacMillan.
- Moravcsik, A. (1991). 'Negotiating the Single European Act', in R.O. Keohane and S. Hoffmann (eds), *The New European Community: Decisionmaking and Institutional Change.* Boulder, CO: Westview Press.
- Moravcsik, A. (1993). 'Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach', *Journal of Common Market Studies*, 31 (4), pp. 473-519.

- Putnam, R.D. (1988). 'Diplomacy and domestic politics: the logic of two-level games', *International Organization*, 42 (3), pp. 427-60.
- Scharpf, F.W. (1999). *Governing in Europe: Effective and Democratic?*. Oxford: University Press.
- Umbach, G. (2009) *Intent and Reality of the European Employment Strategy: Europeanisation of National Employment Policies and Policy-Making?* Baden-Baden: Nomos.
- Wallace, W. (2005). 'Post-Sovereign Governance', in H. Wallace, W. Wallace and M.A. Pollack (eds), *Policy-Making in the European Union*. Oxford: University Press.
