

Austria's Welfare State: *Withering Away in the Union?*

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1. Introduction

While the effects of EU membership on Austrian social policy basically confirm what has been expected (see below), it came as a surprise to most observers that EU social policy itself underwent a quite significant change, whose final effects are only to be seen in the future.

Since EU social policy evolved to such a large degree after the Austrian membership application and decision, it seems necessary to give the reader an overview on its overall development (section 2). Subsequently, the expectations and realizations of social aspects of EU adhesion concerning direct effects (3) and indirect effects (4) will be summarized. Then the implications of this shall be analyzed along different redistributive dimensions (5). The final section presents conclusions and an outlook.

2. The Development of EU Social Policy Before and After the Austrian Membership Decision

The 1957 EEC-Treaty did not directly provide for a Europeanization of social policies since too many delegations had opposed this.¹ It only contained a small number of concessions for the more *interventionist* delegations, notably the provisions on equal pay for both sexes (Art. 119, EEC-Treaty) and the establishment of a "European Social Fund" (Art. 123-128, EEC-Treaty). The other provisions of the EEC-Treaty's title III, *social policy*, were rather solemn statements that did not empower the EEC to act. "Underwriting this arrangement was the relative feasibility of nation-state strategies for economic development in the first decades after World War II. The common

market, as it was constructed, was designed to aid and abet such national strategies, not transcend them.”²

Where necessary or functional for market integration, intervention in the social policy field was nevertheless implicitly allowed, via the so-called subsidiary competence provisions (Art. 100 and 235, EEC-Treaty). They provided, from the 1970s onwards, a *backdoor* for social policy harmonization at the EU-level. The necessary unanimous council votes, however, constituted high thresholds for joint action. Accordingly, social regulation slowly became a corollary of the EC's market-making activities. During the 1970s a persistent pro-social-regulation advocacy coalition together with functional pressures brought about a number of spillovers³ from market integration to social policy (which can only be crudely summarized here).⁴

In the field of *gender equality*, the European Court of Justice became a major actor with its extensive interpretation of Article 119 of the EEC-Treaty. Matters such as equal pay and equal treatment of men and women at the workplace were finally even regulated at the EU level in directives.⁵ In the field of *labor law*, a number of directives were adopted during the late 1970s (on collective redundancies, on the transfer of undertakings, and on securing of workers' rights in cases of employer insolvency), and many more followed during the 1990s (worker information on conditions of work contract, working conditions of posted workers⁶ and atypical workers,⁷ parental leave, etc.).

By then, the Single European Act had already come into force as the first major EEC-Treaty revision (in 1987). Like in the 1950s, an economic enterprise had been at the heart of a fresh impetus for European integration. But while the Internal Market Program had been solemnly put on track by the European Commission and the governments, social policy had again constituted a controversial issue: How much social state building should go along with even more far-reaching market integration? In various, so-called *flanking* policy areas, notably environmental and research policy, EEC competence had been formally extended. Not so for social policy: the delegations had not been willing to give the EEC a greater role in this field. Only two exceptions had been made to this general rule. Art. 118b of the EEC-Treaty had provided that “[t]he Commission shall endeavor to develop the dialogue between management and labor at European level which could, if the two sides consider it desirable, lead to relations based on agreement.” The second and crucial concession had been Article 118a of the EEC-Treaty on minimum harmonization related to health and safety of

workers. This one had provided an escape route out of the unanimity requirement that had blocked EC social policy in many instances.⁸ It had allowed, for the first time in European social policy, for directives based on only a qualified majority of the council members. This had been agreeable to all delegations because occupational health and safety was closely connected to the Internal Market.⁹ Quite wrongly, the Thatcher government had not expected this perceivably *technical* issue to significantly facilitate social policy integration in the decade to come. In fact, the EEC increasingly intervened under the heading of *worker health and safety*. Directives included not only protection of workers exposed to emissions and loads, or protection against risks of chemical, physical, and biological agents at work (e.g. lead or asbestos).¹⁰ Beyond these indeed more technical aspects, working conditions in a broader sense were also taken into consideration (e.g. working time).

Although this list of EC social activities may—against the background of an absent social policy agenda in the original treaties (as opposed to the later Maastricht and Amsterdam Treaties)—appear impressive at the first glance, the eclectic character of EC social policy is obvious if compared to national provisions. In the absence of a commonly accepted theory on which parts of the enterprises' *social costs* actually constitute a distortion of competition, the Community has pragmatically followed a step-by-step approach of suggesting selective harmonization of the disparate conditions which both enterprises and citizens find in the various member states of the Common Market. The Council, by contrast, often blocked directives suggested by the European Commission, at least before the Maastricht Treaty reforms.

As mentioned above, there has been a significant change in the character of E(E)C¹¹ social policy since Austria joined the EU, based on the Maastricht Treaty reforms. It is true that the crucial innovations of this 1991 treaty were already known when Austria negotiated its membership. However, they only came into legal force by November 1993 and did not have their full effect until they were integrated in the Amsterdam Treaty in late 1997. By the early 1990s, by contrast, EC social policy seemed in a complete stalemate.

This is why social policy was one of the crucial areas in the 1991 Intergovernmental Conference (IGC), set up to reform the EEC-Treaty. The originally envisaged extension of the provisions in the EEC social chapter could not be realized because of strong opposition from Great Britain. In order not to endanger the rest of the IGC's compromises, the UK was finally granted an exception (opt-out) from the social policy

measures agreed on by the rest of the member states. In the *Protocol on Social Policy*, appended to the renewed EEC-Treaty, the other (then eleven) member states were authorized to have recourse to the institutions, procedures, and mechanisms of the treaty for the purposes of implementing their *Agreement on Social Policy*.¹²

This so-called *Social Agreement* represented a significant change in governance if compared to the earlier treaty provisions. There is now an explicit *Community competence* for a wide range of social policy issues, including working conditions, information and consultation of workers, equality between men and women with regard to labor market opportunities and treatment at work; and the integration of persons excluded from the labor market. Consequently, both the EU member states and the Community now share the power to act in the social realm. Action under the Social Agreement can in most areas even be taken under the supranational mode of *qualified majority voting*, e.g. in the area of information and consultation of workers as well as on working conditions. Unanimous decisions are restricted to social security and social protection of workers; protection of workers where their employment contract is terminated; representation and collective defense of the interests of workers and employers, including co-determination; conditions of employment for third-country nationals legally residing in Community territory; and financial contributions for the promotion of employment and job creation.

The Agreement in practice shows that the member states which had signed up for the Social Agreement were careful not to endanger the integration process as such, and had particular regard for the unity of EU law. Indeed, the Social Agreement was more frequently used as a legal basis only when it seemed highly probable that the UK would be bound by its effects as the new social directives came into force. The changes to the institutions and the financial consequences of the Agreement were kept as limited as possible.¹³

Nevertheless, to re-establish a single legal basis for EC social policy was a central social policy stake in the IGC in 1996-97 for all governments except the UK. The British government joined these ambitions after the defeat of the Conservatives by Labor in the elections of May 1997, and the inclusion of the Social Agreement into the EC-Treaty (TEC) was agreed on at the Amsterdam Council in June 1996. That this would change the character of EC social policy to a large extent was, however, not yet known when Austria reflected on whether or not to become a member.

3. Social Aspects of Austrian EU Adhesion: Direct Effects in Theory and Practice

The specific character of EU social policy, as described above for the early 1990s, suggested that becoming an EU member would not legally require any major changes in the structure of the Austrian welfare state. The first reason was that by the early 1990s, the EU impinged only marginally in the most costly aspect of national welfare systems, i.e. social security. It is true that various principles restricted the individual member states' sovereignty over some welfare issues (above all, the freedom of movement of workers and equal treatment of EU-nationals at the workplace, as well as the co-ordination of national social security systems to assure the welfare of migrant workers). As long as these principles were respected, however, all basic characteristics of social security were left to be decided at the national level (most importantly, the number and type of insurance or benefit schemes, beneficiaries, as well as the type and level of allowances).¹⁴

The second reason an EU membership would not require major changes was that, while the EU's Council of Ministers had been more active in the field of labor law (see above), these measures were so eclectic that many issues of national labor law were not even touched. Furthermore, they typically followed the principle of minimum harmonization, so member states were allowed to keep or introduce higher standards at any point. Since Austria considered itself a particularly advanced welfare state, little attention was paid to these minimum standards and some were surprised when it became clear that various Austrian laws needed a lifting of standards in order to comply with EU social standards (see below).

Finally, a third reason why social policy played only a small role in the pre-accession debates was that most adaptations were needed and many indeed were already effectuated well before Austrian EU membership. It should be mentioned that the Agreement on the European Economic Area (in effect after 1 January 1994) had already covered most of the EU's social policy measures.

As a consequence of this state of affairs, it was uncontroversial among politicians as well as social scientists that the existing EU social laws would not directly impinge on the quality of the Austrian welfare state after EU accession. In actual fact, the only contested aspect in that regard concerned the prohibition of night work for women. While the Austrian Constitutional Court had only in early 1993 deemed the prohibition of female night work as constitutional and well-founded due

to the presumed particular need for protection of women with double obligations (job and family), it is crucial to mention that most women's organizations actually did not consider abandoning this ban as a lowering of social standards. In any case, long before Austrian EU membership, the European Court of Justice had interpreted the Equal Treatment Directive's basic principle of equal working conditions to mean that a unilateral restriction of nightwork for women was discriminatory.¹⁵ In principle, this had to be accepted as part of the EU law, but in the Austrian membership negotiations, an exception clause was agreed on with the EU. Therefore, the ban on nightwork for women would have to be abolished only by 2001.¹⁶

All other discrepancies between EU gender law and relevant Austrian provisions were not contested with a view to their progressive social character but, if at all, for their costs to employers. It should be mentioned that following a ruling of 6 December 1990 by the Austrian Constitutional Court on the discriminatory quality of unequal pension ages for women and men, a number of compensatory measures for women (whose pension age was subsequently lifted) were agreed on under the leadership of then Minister for Women Affairs Johanna Dohnal. In the framework of a so-called women's package, the equal treatment law was also reformed in December 1992. Since, in view of the European Economic Area and of possible later membership, EU rapprochement was already considered crucial, important parts of the EC's laws were incorporated into Austrian law already then.¹⁷ This included the prohibition of indirect discrimination (unequal treatment on the basis of a presumably objective criterion that, in fact, disadvantages women more than men) and of unequal pay for work of equal value (as opposed to *equal work* only). While these were important improvements to the Austrian equal treatment legislation, it should be noted that other Austrian provisions (e.g. on gender neutral job offers and on a balanced quota in public service) were already more favorable for women than EU gender legislation. However, the legal adaptation to some details of EU legislation (most notably the amount of penalties for breach of the equal treatment principle) was not effectuated as and when it should have been.¹⁸

Other important aspects where labor law had to be adapted to EU standards include most notably health and safety at the workplace. The relevant EU directives went in part far beyond what was known in worker protection before Austrian membership, e.g. concerning digital display units. How to implement these rules raised manifold conflicts

between parties and social partners. A relevant law would long have been required for the European Economic Area but did not come into force until EU membership.¹⁹

4. Social Aspects of Austrian EU Adhesion: Indirect Effects in Theory and Practice

As outlined above, the expectation that existing EC social laws would not harm Austrian social standards (but rather improve some) was not controversial at all. By contrast, two other issues were extremely contested in the Austrian pre-membership debate: the role of decision gaps in EU social policy (1), and the social relevance of EU policies outside the proper social policy realm and their impact on national social policy-making (2). The contested issues hence concerned social *political* aspects in the wider sense, in contrast to the narrower perspective of looking exclusively at the standards of EU social *law*.

1) Some argued that it was necessary to look not only at what the EC did in social policy, but also at what it didn't do (or: had not done, by then).²⁰ This referred above all to the fact that the Internal Market Program effectuated economic liberalization without always securing that corresponding social provisions were also in place. The most frequently cited example was the question of which labor law to apply in cases of posted workers. Should Portuguese construction workers on German sites be paid according to Portuguese rules? If so, the German economy (just like the Austrian and others) would suffer from significant competitive disadvantages, and workers at the same construction site would be treated unequally because of their nationality. This problem had not been regulated in a satisfactory way under the various EU and international rules. Nevertheless, the relevant 1991 European Commission proposal was blocked in the Council until well after Austrian membership.

Another example for a side effect of the Internal Market on social policy, which was not counterbalanced by EU social policy for a long time, was the issue of European works councils (institutions for enterprise-level information and consultation of workers). With increased Europeanization, the national laws on worker information and consultation had de facto become void of substance. Transnational enterprises escaped from their scope because their important decisions were taken outside the national realm. Therefore, only *European* works councils could guarantee that the status quo ante of worker participation

was being upheld in the unified European market. Nevertheless, a Commission draft directive from 1980(!) was waiting to be adopted until late 1994.²¹

Although the issue of decision gaps in EU social policy²² was much debated within the EU,²³ it was not always welcome to bring it up within Austria, where the government had adopted a strategy based on overt advertising for EU membership and not on discussing those aspects where the EU's performance may possibly not (yet) have been optimal. In this context, the publication of an intense 550 page study on various potential social policy effects of EU membership, elaborated for the Austrian Ministry of Labor and Social Affairs, was not allowed.²⁴

After a two-thirds majority of the Austrian population opted for EU membership in the referendum of 12 June 1994, both the directives on posted workers and on European works councils were adopted. The new possibility for majority voting in many social affairs and the new decision rules involving the EU-level social partners (adopted in Maastricht without the UK and extended in the Amsterdam Treaty to all member states) had the effect of finally unblocking almost all Commission draft directives that had not been adopted during the 1980s and early 1990s.²⁵ Despite the *Euro-sceptic* initial assessments of most academic commentators,²⁶ the social dimension of the Internal Market as developed by the European Commission was finally implemented²⁷-- although with great delay compared to the economic liberalization program.

2) Another very contested aspect in the discussion of the social consequences of an Austrian EU membership was the potential relevance of EU policies outside the proper social policy realm for national social policy-making. In particular, this concerned the liberalization and competition-oriented character of most European integration measures which might draw attention to possible competitive disadvantages stemming from higher social costs. It might also reinforce the public discourse on social spending cuts, which continued to be enforced despite an ever growing economic prosperity and which, in the end, only served the well-to-do.²⁸ The discussion also raised the issue of the Maastricht convergence criteria for Economic and Monetary Union which pointed to the harmonization of monetary and fiscal indicators without paying attention to other classic macro-economic policy goals, notably employment rates.²⁹

Although the need for budgetary consolidation had already been widely acknowledged in Austria during the early 1990s, the additional

external justification of the EU membership was necessary to push through the specific short-term consolidation measures adopted during the second half of the 1990s. As an EU member, Austria was suddenly under the critical supervision of the European Commission and the other member states' governments. That the Austrian government wanted to be among the first countries to join the Economic and Monetary Union also created an immediate need for cutting the budget deficit from 6.2% of Gross Domestic Product (GDP) (1995) to the mere 3% allowed by the Maastricht criteria. The public debt had to be brought down from 69.2% (1995) to 60%. However, while the EU was clearly useful as an external justifier for budgetary consolidation, one should also keep in mind that "an appreciable part of the high budget deficit recorded in 1995 was attributable to the costs of accession; according to Commission estimates, around 2 percentage points of the total 5.2 percent deficit."³⁰

Already in 1995 and 1996, two *austerity packages* were adopted by the then grand coalition government of Social Democrats and Christian Democrats. These packages consisted of some hundred measures touching key aspects of social policy (without, however, changing the structure of Austria's welfare state itself). In some cases, these measures hit low income earners, the unemployed, and single mothers particularly hard, while transfer payments which also benefited those with higher incomes (like subsidies for owned housing, some family transfers) were hardly touched at all.³¹ Quite obviously, though, it is not possible to measure the influence of EU policies in this process or to know which strategies for budgetary consolidation Austrian actors would possibly have chosen outside the Union.

5. Developments Along Different Redistributive Dimensions

According to the classic definition by T.H. Marshall, social policy is the use of political power to supersede, supplement, or modify operations of the economic system in order to achieve results which the economic system would not achieve on its own.³² More specifically, in a welfare state such operations include the redistribution of money, rights, or influence. By differentiating explicitly between various lines of redistribution in the Austrian welfare state, it may be easier to summarize the effects of Europeanization on Austria five years after her entry into the EU.

The most crucial dimensions along which one can conceptualize the impact of the EU on the Austrian welfare state seem to be the following: redistribution between high income and low income earners (1), between employers and employees (2), between the employed and the unemployed (3), between the sexes (4), and between generations (5).³³

(1) Redistribution between *high income and low income earners* can primarily be captured in terms of the level of financial transfers in cases of unemployment or lack of income for other reasons (e.g. invalidity). It is very difficult (and impossible in this chapter) to quantify the changes effectuated during recent years, aggregating across different insurance systems and individual benefits. As mentioned above, however, it is clear that Austrian austerity packages have included some measures that particularly effected the poorer part of the population (e.g. reduced levels of and restricted access to unemployment compensation, increased co-payment levels in health care, non-valorization of benefits in the general care allowance system). Furthermore, the proportion of Austrian wealth spent for social welfare has been decreasing since the mid-1990s (1995: 29.8%; 1998: 28.5%).³⁴ While this was in practice a choice taken at the national level, commentators argued that this choice might not have been politically feasible without the external justifier provided by the Maastricht convergence criteria.³⁵ The EU itself has no binding rules on how to fight poverty and social exclusion, only a number of recommendations (from the early 1990s) and some discussion documents (rapidly increasing in recent years).

(2) Concerning the relationship between *employers and employees*, EU intervention touches on the dimension of employee rights and protection. As outlined above, a number of specific standards of worker protection had to be lifted during the implementation of relevant EC directives (notably in the field of health and safety at the workplace, and concerning parental leave, working time, and other working conditions). In all these fields, dense national rules had already existed in Austria. Although they often went beyond what was demanded by the relevant EU counterparts, amendments were needed to comply with higher EU standards in some particular details. Furthermore, some specific new rights were created at the EU level, most notably, the right to be informed about and consulted on important enterprise-related decisions if one is employed in a multinational enterprise (as defined in the relevant EU directive on the European works councils). While all these aspects improved rights or created new ones for employees, they also accounted for higher corresponding costs for employers.

Beyond this, there are also the indirect effects of EU membership which are hard to measure. In any case, multiple examples show that Austrian employer representatives cite lower standards and lower costs in other countries within the EU's Internal Market in order to gain savings at home—as the highest government official in the field had feared before membership.³⁶ While outright cutbacks seem not to have occurred so far,³⁷ it is impossible to know for sure how much this pressure affected the level of Austrian labor law via potential advances that were not realized. When this essay was written (2000), the new center-right government had just moved the competencies for worker protection from the social to the economic ministry, and cutbacks were on the agenda.

(3) Another important dimension of de facto redistribution in modern welfare states is that between the *employed and the unemployed*. This refers to efforts to create jobs and to improve placement services to speed up transfer into employment. As expected, EU membership brought about beneficial effects in terms of overall budgetary means. Since the European Social Fund (ESF) co-finances the active labor market policies of all member states, accession to the EU led to an increase in the resources available for such projects.³⁸ At the same time, the leeway for unilateral national action withered away since the major part of domestic funds had to be used for co-funding projects accepted under the ESF schemes.³⁹

Since Austria almost directly adopted the EU's priorities, the Union's innovative employment policy, which in recent years went hand in hand with ESF activity, became very important. The 1997 Amsterdam Treaty added a chapter on employment policy to the EC-Treaty. Articles 125 to 130 now specify how the "Member states and the Community shall ... work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labor markets responsive to economic change." The member states "shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council."⁴⁰ Without transferring any specific powers to the Council of Ministers, this provision aims to redirect the member states' hitherto largely independent actions towards mutual adaptation. This is encouraged in a coordination procedure (set out in Article 128 EC-Treaty) that was already informally practiced before the Amsterdam Treaty (in the so-called Essen process⁴¹).

The European Council now monitors the employment situation in the Community, and draws its conclusions from a joint annual report by the Council and the Commission. On the basis of these conclusions, the EC Council of Ministers draws up guidelines to be followed by the member states. Subsequently, each member state must report "the principal measures taken to implement its employment policy in the light of" the Council's guidelines for employment.⁴² The Council examines whether the member states implement policies according to the guidelines for employment; the Council then may make recommendations to member states "if it considers it appropriate in the light of that examination."⁴³ The joint annual report by the Council and the Commission to the European Council, concerning the employment situation in the Community and the implementation of the guidelines for employment, closes the cycle by serving as the relevant input for the next annual employment policy conclusions of the European Council.

According to a decision taken at the so-called Luxembourg Jobs Summit in November 1997, the European employment strategy is built on four main pillars: employability, entrepreneurship, adaptability, and equal opportunities. Every year, a set of guidelines are adopted for each of the pillars, which set out a number of specific targets for member states to achieve in their employment policies. These employment policy guidelines are transposed into concrete and administrative measures by each member state through a National Action Plan for Employment (NAP).⁴⁴

On the one hand, Austria welcomed all these activities as a fresh impetus for her labor market and employment policy. On the other hand, money for activities outside the EU priorities became ever scarcer. At the same time, the quality of some retraining and reintegration measures seemed to suffer, at least in some instances. The new framing of employment policy in terms of employability, the goal of including at least 20% of all unemployed in retraining measures (in principle a good strategy), and the obligation to report periodically on achievements and current unemployment figures may have prompted a system in which ever more long-term unemployed are included in ever more short-term training programs with ever less practical effect (except for erasing those covered by such programs from the statistic of long-term unemployment).

(4) Concerning redistribution between the *sexes*, both rights and money (notably via the social security systems) are crucial. Equal treatment rights are granted in various EC labor law directives. They

have brought important innovations to the Austrian *status quo* (see above). Redistribution of wealth is more difficult to analyze along the gender dimension. However, commentators point to the fact that various aspects (e.g. in the pension reforms) of the austerity packages were exercised with a view to budget consolidation work to the detriment of women, in particular.⁴⁵

(5) Redistribution between *generations* happens notably via the pension system. The EU has, at least to date, no binding rules in this field (exceptions concern the aspects of non-discrimination, in particular of other EU nationals, and women). As outlined above, the various austerity packages, which aimed at (and succeeded in) propelling Austria to become an early member of the Economic and Monetary Union, included some important reforms in this area. However, it should be mentioned that spending on the elderly has extremely increased both before EU adhesion and after, due mainly to demographic factors. Considering that the Austrian government's net spending on the elderly is roughly twice its overall deficit and approximately one fifth of the central government's budget (some 38 percent of all social expenditure),⁴⁶ and that Austria is thus well above the average EU spending in this field,⁴⁷ steps to close this gap are considered indispensable. The misbalance between the generations can hardly be denied even by those who try to block reforms. This makes the role of the EU in legitimating these changes seem smaller than, for example, with the redistribution between rich and poor.

6. Conclusions and Outlook

All in all, the effects of EU membership on the Austrian welfare state did not bring any major surprises within the first five years. Rather, *de facto* developments confirmed scholarly expectations. One surprise was that the EC was, after all, capable of closing the labor law gaps created by the initial lack of *social dimension* in the Internal Market Program of the mid-1980s.⁴⁸ In any case, the basic setup of national social policy was not touched upon, as expected and discussed before 1995. Some labor law standards had to be lifted in order to comply with EU norms, but most aspects of Austrian social law stayed as they were. The more indirect effects on the national welfare state cannot be analyzed as easily as the direct ones. In instances such as those outlined above, EU policies outside the narrow realm of the *social* have a certain impact on national welfare issues. However, it is impossible to discern

the exact degree of this influence (as opposed to the changes in national ideology or government, internationalization in general, or the changes in national demand due to different circumstances, e.g. demographics). One cannot really know what kind of budgetary reform the Austrian grand coalition government, in office during the first five years of EU membership, would have adopted if the EU had not provided an external *justifier*. One can only try to analyze the discourses observable before and after 1995, but no *hard* scientific method is available. Just because these indirect effects cannot be analyzed scientifically, though, it would be a mistake to simply ignore their existence at all.

It is important to stress that even at the turn of the millennium national influences are still much more decisive in welfare state reform than supranational ones. In other words, a national government with preferences other than welfare and social justice can induce many more relevant changes than the EU membership could bring about. As I pointed out almost a decade ago, this policy would even be easier within the EU. The EU's rather neo-liberal bias can help to justify such measures, and its non-transparent character can serve to blur real responsibility. (The EU can easily be used for such blame avoidance since the distribution of competencies, especially but not exclusively in social policy, is not transparent for the uninitiated.) Finally, such a government can block many social policy initiatives at the EU level, either alone (where unanimity is still the rule) or with ready coalition partners, such as the UK. While EU membership *per se* never constituted a profound danger to the national welfare state (for most problematic issues appropriate measures for countersteering seemed, at least potentially, available), the twin conditions of EU membership and a welfare-adverse national government in Austria could easily alter the traditional social policy balance in a profound manner.⁴⁹

For this reason, the forthcoming five years of EU membership may possibly be more interesting to watch than the last ones. This is further underlined by the latest developments in the so-called *social dimension of European integration*. Currently, the preferred method of EU intervention in social affairs (in the wider sense) is changing rather fundamentally. As previously outlined through the example of employment policy, other means than regulative action are now being employed, and similar patterns shall be used for fighting poverty and for social security reform. This new method of *open coordination* is based on benchmarking, advertising best practice, establishing hegemonic discourses, and peer pressure at the EU level, but leaves regulative

action to the national and sub-national levels. What actually results from such “neo-voluntaristic”⁵⁰ social policy-making in terms of concrete actions crucially depends, once again, on the individual national governments. For better or for worse (and this will differ from country to country), the EU will help the specific governments in office to more easily effectuate reforms, even against the protest of some national interests.

Notes

1. For a background on these negotiations and the opposing camps of neo-liberal marketers (notably in the German delegation) versus social-interventionists (predominantly in the French delegation) see for example Bengt Beutler et al., *Die Europäische Union. Rechtsordnung und Politik*, 4th ed. (Baden-Baden: Nomos, 1993).
2. George Ross, “Assessing the Delors Era and Social Policy,” in *European Social Policy: Between Fragmentation and Integration*, ed. Stephan Leibfried and Paul Pierson (Washington, DC: The Brookings Institution, 1995), 360.
3. In a simple formulation by Ernst Haas, the *founding father* of neo-functionalism, “spillover” refers to a situation where “policies made in carrying out an initial task and grant of power can be made real only if the task itself is expanded.” See Ernst B. Haas, *Beyond the Nation-State. Functionalism and International Organization* (California: Stanford University Press, 1964), 111.
4. For more details see for example Gerda Falkner, “European Integration and Social Policy: Between Stalemate and Spillover,” in *The European Yearbook of Comparative Government and Public Administration*, ed. Joachim Jens Hesse and Theo A.J. Toonen (Baden-Baden: Nomos, 1997).
5. Catherine Hoskyns, *Integrating Gender* (London: Verso, 1996); Gerda Falkner, *Supranationalität trotz Einstimmigkeit? Entscheidungsmuster der EU am Beispiel Sozialpolitik* (Bonn: Europa Union Verlag, 1994).
6. E.g. Portuguese construction workers building houses in Belgium.
7. Part-time, fixed-term and temporary workers who, according to the new directives, may not be discriminated.
8. An extensive use of this provision was possible mainly because the wording and the definition of key terms of Article 118a were all but unequivocal.
9. If all goods should circulate freely, there has to be some common policy with a view to the security of those goods which are later on used in factories (e.g. machines) and constitute an important factor of human security. The elimination of “technical barriers to trade” made Community action attractive in the perception of relevant policy-makers; see Otto Schulz, *Maastricht und die Grundlagen einer Europäischen Sozialpolitik* (Cologne: Heymans, 1996), 18f.
10. Gerhard Schnorr and Johann Egger, “European Communities,” in *International Encyclopaedia for Labour Law and Industrial Relations Supplement*, ed. Roger Blanpain (Deventer/Boston: Kluwer Law and Taxation, 1990), 82.
11. Note that the European Economic Community (EEC) was renamed European Community (EC) in the Maastricht Treaty, which also introduced the encompassing name European Union (EU) for all three European communities.

12. For details see Gerda Falkner, *EU Social Policy in the 1990s: Towards a Corporatist Policy Community* (London: Routledge, 1998).

13. In fact, the British members of all institutions except the council kept their full rights even under the Social Agreement. Despite a "technical solution" to the problem of potentially administering a part of the EC budget without UK contributions, no financial consequences of the Social Agreement occurred; see Gerda Falkner, "Das Maastrichter Sozialprotokoll: Differenzierte Integration wider Willen," in *Zur Zukunft flexibler Integration in Europa: Einheit oder "Europe à la Carte"?*, ed. Fritz Breuss and Stefan Griller, *Schriftenreihe der ECSA-Austria* (Vienna: Springer, 1998)

14. On indirect pressures in these fields see Stephan Leibfried and Paul Pierson, "Social Policy. Left to Court and Markets?," in *Policy-Making in the European Union*, ed. Helen Wallace and William Wallace, *The New European Union Series* (Oxford: Oxford University Press, 2000).

15. Judgement C-345/89; see for example Birgitt Haller, "Zwischen Paternalismus und 'Gleichmacherei' - Frauennacharbeit im europäischen Vergleich," *Österreichische Zeitschrift für Politikwissenschaft* 22, no. 3 (1993): 277-90.

16. See for example Ingrid Mairhuber, "Gleichbehandlungs- und Frauenförderpolitik: Zu große Erwartungen oder frauenpolitischer Backlash?," in *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, ed. Emmerich Tálos and Gerda Falkner (Vienna: Manz, 1996).

17. See for example Gerda Falkner, "Österreichische Gleichbehandlungspolitik und das EU-Recht," in *Frauenbericht 1995* (Vienna: Bundesministerium für Frauenangelegenheiten, 1995): 416022; Mairhuber, "Gleichbehandlungs- und Frauenförderpolitik."

18. Falkner, "Österreichische Gleichbehandlungspolitik und das EU-Recht."

19. See for example European Industrial Relations Review (EIRR), ed. Andrew Brode (London), 259/25.

20. Gerda Falkner, *Die Sozial- und Arbeitsmarktpolitik der Europäischen Gemeinschaft und ihre Auswirkungen auf Österreich im Fall eines Beitritts* (Vienna: Bundesministeriums für Arbeit und Soziales, 1992), 377-480; see also various authors in Klaus Firlei, ed., *Soziales Risiko EG?* (Salzburg: Kammer für Arbeiter und Angestellte für Salzburg, 1991).

21. For the genesis and contents of the European Works Councils Directive see for example Gerda Falkner, "European Works Councils and the Maastricht Social Agreement: Towards a New Policy Style?," *Journal of European Public Policy* 3, no. 2 (1996): 192-208.

22. For the concept of a "joint decision trap" see Fritz W. Scharpf, "The Joint-Decision Trap: Lessons from German Federalism and European Integration," *Public Administration* 66, no. 3 (1988): 239-278; for the "corporatist decision gap" see Wolfgang Streeck, "Politikverflechtung und Entscheidungslücke. Zum Verhältnis von zwischenstaatlichen Beziehungen und sozialen Interessen im europäischen Binnenmarkt," in *Die Reformfähigkeit von Industriegesellschaften. Fritz W. Scharpf - Festschrift zu seinem 60. Geburtstag*, ed. Karlheinz Bentele, Bernd Reissert, and Ronald Schettkat (Frankfurt: Campus, 1995), 101-30; for a discussion of both concepts with a view to EC social policy see: Falkner, *EU Social Policy in the 1990s*.

23. See for example Wolfgang Däubler, ed., *Sozialstaat EG? Die andere Dimension des Binnenmarktes* (Gütersloh: Verlag Bertelsmann Stiftung, 1989); Franz Steinkühler, ed., *Europa '92 - Industriestandort oder sozialer Lebensraum* (Hamburg: VSA-Verlag, 1989); Eliane Vogel-Polsky, "Maastricht ou la voie étroite du social," in *Quelle union sociale européenne?*, ed. Mario Telò (Bruxelles: Editions de l'Université de Bruxelles, 1994).

24. Falkner, "Die Sozial- und Arbeitsmarktpolitik."

25. For a detailed overview see Falkner, *EU Social Policy in the 1990s*.
26. See in particular Berndt Keller, "European Integration, Worker's Participation, and Collective Bargaining: A Euro-Pessimistic View," in *Convergence or Diversity? Internationalization and Economic Policy Response*, ed. Brigitte Unger and Frans van Waarden (Hants/Avebury: Aldershot, 1995), 252-77.
27. Gerda Falkner, "EG-Sozialpolitik nach Verflechtungsfalle und Entscheidungslücke: Bewertungsmaßstäbe und Entwicklungstrends," *Politische Vierteljahresschrift* 41, no. 2 (2000): 279-301.
28. Klaus Busch, *Umbruch in Europa. Die ökonomischen, ökologischen und sozialen Perspektiven des einheitlichen Binnenmarktes*, 2nd ed. (Cologne: Bund-Verlag, 1992).
29. See for example Alexander Van der Bellen, "Budget: Entgleisung im Schatten von Maastricht," in *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, ed. Emmerich Tálos and Gerda Falkner (Vienna: Manz, 1996); Klaus Busch, "Europäische Integration und Tarifpolitik. Lohnpolitische Konsequenzen der Wirtschafts- und Währungsunion," (Cologne: Bund Verlag, 1994), Gerda Falkner, "Perspektiven der und Alternativen zur Sozialpolitik in der Europäischen Wirtschafts- und Währungsunion," in *Europäische Integration nach ökologischen und sozialen Kriterien (Sonderheft der Zeitschrift Kurswechsel)* (Vienna: Beirat für wirtschafts-, gesellschafts- und umweltpolitische Alternativen, 1994).
30. Emmerich Tálos and Christoph Badelt, "The Welfare State between New Stimuli and New Pressures: Austrian Social Policy and the EU," *Journal of European Social Policy* 9, no. 4 (1999): 354; Van der Bellen, "Budget: Entgleisung im Schatten von Maastricht," 128.
31. Tálos and Badelt, "The Welfare State between New Stimuli and New Pressures," 355.
32. See for example Paul Pierson and Stephan Leibfried, "Multitiered Institutions and the Making of Social Policy," in *European Social Policy: Between Fragmentation and Integration*, ed. Stephan Leibfried and Paul Pierson (Washington, DC: The Brookings Institution, 1995), 3.
33. A quite different category, which could nevertheless be framed in terms of *redistribution* (i.e. redistribution in terms of the political power balance), runs between labor and capital as organized groups. For the effects of EU membership on Austrian corporatism see Gerda Falkner, "How Pervasive Are Euro-Politics? Effects of EU Membership on a New Member State," *Journal of Common Market Studies* 38, no. 2 (2000): 223-50; Gerda Falkner, "Korporatismus auf österreichischer und europäischer Ebene: Verflechtung ohne Osmose?," in *Sozialpartnerschaft: Wandel und Reformfähigkeit*, ed. Ferdinand Karlhofer and Emmerich Tálos (Vienna: Signum, 1999): 215-40; Tálos and Badelt, "The Welfare State between New Stimuli and New Pressures"; Bernhard Kittel and Emmerich Tálos, "Interessenvermittlung und politischer Entscheidungsprozess: Sozialpartnerschaft in den 1990er Jahren," in *Zukunft der Sozialpartnerschaft: Veränderungsdynamik und Reformbedarf*, ed. Ferdinand Karlhofer and Emmerich Tálos (Vienna: Signum, 1999), 95-136. In addition to the dimensions outlined above, Marshall's wide definition of *social policy* would also include redistribution between regions within the EU, but in most academic settings this falls within the realm of regional policy (not social policy) and cannot be included here. For more information on this topic see Gabriele Tondl, "Regionalpolitik: Neue Impulse durch die EU-Strukturfonds," in *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, ed. Emmerich Tálos and Gerda Falkner (Vienna: Manz, 1996), 165-83.
34. *Der Standard*, 20 October 2000.
35. Tálos and Badelt, "The Welfare State between New Stimuli and New Pressures," 354.

36. Eva-Elisabeth Szymanski, "Arbeitnehmerschutz und EG-Recht," in *Österreichisches Arbeitsrecht und das Recht der EG*, ed. Ulrich Runggaldier (Vienna: Orac, 1990), 317.
37. That is, such cutbacks have not occurred on the legal level, and it is impossible to evaluate here the practice of controlling the application of norms.
38. Tálos and Badelt, "The Welfare State between New Stimuli and New Pressures," 356; Ehrenfried Natter, "Arbeitsmarktpolitik: Erweiterung und Veränderung durch den Europäischen Sozialfonds," in *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, ed. Emmerich Tálos and Gerda Falkner (Vienna: Manz, 1996), 184-200.
39. Natter, "Arbeitsmarktpolitik," 195.
40. Article 126 paragraph 2 TEC.
41. See for example Stefan Griller et al., *The Treaty of Amsterdam. Facts, Analysis, Prospects*, vol. 15, *Series of the Research Institute for European Affairs* (Vienna: Springer, 2000), 527-48.
42. Article 128 paragraph 3 TEC.
43. Ibid.
44. The Joint Annual Reports, the Employment Guidelines, the National Action Plans for Employment, and the European Employment Pact launched at the 1999 Cologne Summit are published on the Commission Directorate General V homepage (http://europa.eu.int/comm/dg05/empl&esf/ees_en.htm).
45. Tálos and Badelt, "The Welfare State between New Stimuli and New Pressures," 355; Mairhuber, "Gleichbehandlungs- und Frauenförderpolitik," 233.
46. For further references see Tálos and Badelt, "The Welfare State between New Stimuli and New Pressures," 354. See also *Der Standard*, 20 October 2000.
47. *Der Standard*, 20 October 2000.
48. Falkner, "EG-Sozialpolitik," 290-2.
49. Falkner, "Die Sozial- und Arbeitsmarktpolitik," 505.
50. Wolfgang Streeck, "Neo-Voluntarism: A New European Social Policy Regime?," *European Law Journal* 1, no. 1 (1995): 31-59.



Good times in Europe - Austria's advertisement campaign for Europe during the Austrian EU-Presidency (photo Harald Hofmeister, *Die Presse*)