From deregulatory pressure to laissez faire:
The (moderate) social implications of the EU
recovery strategy
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Italian Labour Law e-Journal
Special Issue 1, Vol. 15 (2022)
NextGeneration EU in Action: Impact on Social and Labour Policies
ISSN 1561-8048
https://doi.org/10.6092/issn.1561-8048/15705

From deregulatory pressure to laissez faire: the (moderate) social implications of the EU recovery strategy

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Abstract

This article assesses the impact of the EU recovery strategy in (re)aligning the EU with the pursuit of its social objectives, including those defined in the Porto Declaration. First, the focus is on the major innovations introduced by the NextGenerationEU (NGEU) plan and SURE (a temporary instrument aimed at mitigating unemployment risks during the pandemic) in relation to the social dimension of EU integration. Elements such as the incentive for public investments, softer forms of macroeconomic and fiscal conditionality, and the valorisation of the European Pillar of Social Rights constitute fundamental differences from the approach that had characterised the euro crisis. Subsequently, however, the article shows that this greater openness of EU governance towards social and labour protection policies does not translate into a tangible strengthening of safeguards in the national recovery and resilience plans. The article then argues that achieving the EU's social objectives requires the establishment of more effective incentives, and concludes by proposing a roadmap for future reforms.

Keywords: Recovery and resilience facility; European Pillar of Social Rights, EU governance, fiscal conditionality, active labour market policies, employment protection.

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1. Introduction

At the Social Summit of May 2021, the European Council expressed a strong commitment to revitalising the social dimension of EU integration by adopting the Porto Declaration.[1] The accent was on unity, solidarity and social dialogue, essential elements for addressing the recovery strategy that would lead the EU out of the Covid-19 crisis. In that context, the European Pillar of Social Rights (EPSR) was presented as the instrument that would guarantee that the EU recovery would take place in a fair manner, consistent with the values underlying the European Social Model.[2] At the same time of the Porto Declaration, the EU launched an Action Plan to implement the European Pillar of Social Rights,[3] which set ambitious targets to be achieved by 2030 concerning the employment rate (78 per cent),[4] upskilling and reskilling of the working population (at least 60 per cent of adults),[5] and the reduction of the poverty rate (reduction of 15 million).[6]

In the months that followed, the Union shaped and implemented an unprecedented recovery strategy, composed of several financial assistance instruments articulated in both an instrument for 'temporary Support to mitigate Unemployment Risks in an Emergency' (SURE) and the NextGenerationEU (NGEU) plan.[7] The adoption of these mechanisms was received fairly optimistically by many of those observers who had long advocated strengthening the EU's social dimension. The momentum created by the Porto Declaration in fact seemed to have been extended to subsequent initiatives, albeit after difficult and lengthy negotiations between the Commission and the heads of state and government.[8] Among the most remarkable aspects of the EU recovery strategy is the EU's encouragement of public investments (including in the social sphere), the request to Member States to consider the European Pillar of Social Rights in the definition of their prospected reforms,

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[1] European Council, The Porto Declaration, 8 May 2021, https://www.consilium.europa.eu/en/press/press-releases/2021/05/08/the-porto-declaration/.

[2] Fernandes S., Kerneïs K., *The Porto Social Summit: Turning Principles into Actions*, Notre Europe, 3 May 2021, https://institutdelors.eu/en/publications/sommet-social-de-porto-passer-des-principes-a-laction.

[3] European Commission, *The European Pillar of Social Rights Action Plan*, COM(2021)102 final, Brussels, 4 March 2021.

[4] With reference to the population aged 20 to 64.

[5] More precisely, at least 60% of all adults should participate in training every year, and access to basic digital skills must be promoted for at least 80% of people aged 16 to 74.

[6] The targets set out in the Action Plan resemble those previously set out in the Europe 2020 strategy: 75% employment rate, reduction of the number of people at risk of poverty by 20 million, as well as the introduction of an agenda for new skills and jobs (European Commission, *Europe 2020: A Strategy for Smart, Sustainable and Inclusive Growth*, COM(2010) 2020, Brussels, 3 March 2010). According to Eurostat data, these targets have not been reached (*see* Rainone S., Aloisi A., *Time to Deliver? Assessing the Action Plan on the European Pillar of Social Rights*, ETUI Policy Brief, n. 8, 2021).

[7] European Commission, *Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak*, C/2020/1863, Brussels, 20 March 2020; European Commission, *Europe's moment: Repair and Prepare for the Next Generation*, COM(2020)456 final, Brussels, 27 May 2020.

[8] Schmidt V. A., *Economic Crisis Management in the EU*, in Kreuder-Sonnen C., Schmidt V. A., Wetter Ryde A., White J. (eds), *EU Crisis Management*, SIEPS Research Paper, n. 1, 2022; Weeks J., *A 'Hamiltonian Moment' for Europe*, Social Europe, 14 July 2020, https://socialeurope.eu/a-hamiltonian-moment-for-europe; Ferrera M., *Round Table. From Lisbon to Porto: taking stock of developments in EU social policy*, in *Transfer*, 2021, vol. 27, n. 4, 1-7.

and forms of macroeconomic and fiscal conditionality attached to EU financial assistance that are more nuanced than in the past.[9]

The framework outlined in the aftermath of the Covid-19 crisis therefore differs substantially from the one set up in the aftermath of the Euro Crisis.[10] At the time, the strategy the EU promoted was aimed primarily at lowering national public debts and straightening out macroeconomic imbalances that, it was feared, would have risked the stability of the euro area.[11] To this end, forms of financial assistance of a mainly intergovernmental nature were implemented, associated, by means of stringent conditionality, with governance instruments aimed at encouraging spending reviews and deregulation policies. Among the main targets of these austerity reforms were pension and health-care spending, the dismantling of national sectoral collective bargaining systems, and the flexibilisation of employment protection, associated with the idea of wages as a cost.[12]

The recovery strategy inaugurated in 2021, on the other hand, does not insist on commodifying interventions in social and labour policy. Admittedly, the Commission requires the Member States to use EU financial assistance to implement all or most of the 2019 and 2020 country-specific recommendations (CSRs), which in some cases include demands to make public social spending more 'fiscally sustainable'.[13] But there are examples of national governments, such as Italy's, obtaining access to EU funds without committing to the structural measures identified in previous CSRs.[14] The link between EU financial assistance and budgetary austerity therefore does not appear as strong as in the past. At the same time, it is important to note that, apart from asking national governments to consider the European Pillar of Social Rights in defining their national reform plans, the EU has not established a tangible infrastructure geared towards social and labour policies.[15] The question that arises, and which this contribution aims to address, is therefore what paradigm in the

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[9] As it will be further discussed in section 2.2, access to the funds of the Recovery and Resilience Facility (RRF) is conditional to the commitment of national governments to realize investments and reforms that implement all or a significant subset of both the 2019 and 2020 country-specific recommendations (CSRs). While the 2020 CSRs were adopted during the Covid-19 pandemic and have a rather social orientation, the 2019 ones (pre-Covid) still contain requests to implement structural reforms. As argued by Maccarrone and Erne, the link between the RRF and the CSRs can thus be seen as a form of (*ex ante*) conditionality, which in this article is argued to be softer than that which characterized the bailout programmes in the aftermath of the Eurocrisis (Maccarrone V., Erne R., *What's NEGXT? Continuity and Change in the EU Governance of Labour after the Pandemic*, Conference presentation, ILERA 13th European Regional Congress, Barcelona, 8-10 September 2022).

[10] For 'Eurocrisis' is meant the period between 2010 and 2014, although for the purposes of evaluating EU crisis management reference goes especially to the initiatives taken by the European institutions as of 2011.

[11] Degryse C., *The New European Economic Governance*, ETUI Working Paper, n. 14, 2012.

[12] Pecinovsky P., *EU Economic Governance and the Right to Collective Bargaining: Part 2. From Imposed Restrictions of the right by EU Member States Towards a Social Economic Governance*, in *European Labour Law Journal*, 2019, vol. 10, n. 1, 43-68.

[13] European Commission, *Guidance to Member States on Recovery and Resilience Plans*, SWD(2021)12 final PART 1/2, Brussels, 22 January 2021; Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, Article 18(4)b.

[14] Ales E., *National Recovery and Resilience Plan: Italy*, in *Italian Labour Law e-Journal*, vol. 15, S1, 2022, published in this special issue.

[15] Petmesidou M., Branco R., Pavolini E., Begega S.G. Guillén A. M., *The EPSR and the Next Generation EU: Heralding a reconfiguration of social protection in South Europe?* Paper presented at the ESPAnet2022 20th Conference, Vienna, 14-16 September 2022.

social and labour sphere emerges from the EU recovery strategy. And furthermore, whether this paradigm is suitable for the effective achievement of EU social aspirations to promote upward convergence of working and living conditions, and to combat social exclusion, as enshrined in the Treaties and demanded by the Porto targets.

To this end, Section 2 outlines how the main mechanisms put in place in the context of the recovery strategy address employment and social policies. Section 3 investigates how these have been shaped in the national reform plans financed through EU financial assistance. This is followed in Section 4 by reflections on the positioning of the EU recovery strategy with respect to the achievement of social objectives and on the (in)adequacy of the European Pillar of Social Rights alone as the blueprint for a more solidaristic and fair European Union.

2. Social dimension of the EU recovery strategy

SURE and NextGenerationEU constitute the two pillars of the EU's response to the health, social and economic crisis brought about by the Covid-19 pandemic.[16] The Commission proposed SURE in April 2020 and it became operational a few months later. Its function was to support the incomes of employees and self-employed workers by financing national short-time working schemes.[17] It consisted of a 100 billion euro financial assistance instrument set up by the European Commission by borrowing on the financial markets, which Member States could draw on in the form of loans at very low interest rates. The NextGenerationEU plan, on the other hand, is the main pillar of the EU recovery strategy and came into force at the beginning of 2021. NGEU in part replicates the structure of SURE, in that it entails the creation of a fund created with EU resources, but with broader scope and more complexity.[18]

Similar to SURE, NGEU was established by means of unprecedented borrowing (750 billion euros) by the Commission on the financial markets, with the aim of providing financial assistance to the Member States. This was realised mainly through its principal component, the Recovery and Resilience Facility (RRF). Unlike SURE, however, national governments could access the funds not only through low-cost loans (360 billion euros), but

[16] For a detailed analysis of the innovative elements introduced by SURE and NGEU, *see* De Witte B., The *European Union's Covid-19 Recovery Plan: The Legal Engineering of an Economic Policy Shift*, in *Common Market Law Review*, 2021, vol. 58. n. 3, 635-682; Leino-Sandberg P., Ruffert M., *Next Generation EU and its Constitutional Ramifications: A Critical Assessment*, in *Common Market Law Review*, 2022, vol. 59, n. 2, 433-472. The authors explain that the adoption of these instruments was only possible through a creative reading of the public fiscal rules established in the treaties, with the implication that they therefore rest on a fragile architecture.

[17] Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak.

[18] European Commission, *The EU budget powering the recovery plan for Europe*, COM(2020)442 final, Brussels, 27 May 2020; Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU.

https://doi.org/10.6092/issn.1561-8048/15705

also in the form of grants (390 billion euros).[19] In order to obtain financial assistance, Member States were required to submit national recovery and resilience plans (RRPs) in which they had to indicate prospective reforms and investments, 37 per cent of which must be dedicated to green transition and 20 per cent to digital transformation.[20] It follows that national governments could channel the resources obtained through the RRF in multiple directions, including employment and social policies. Action in these areas was also called for in both the RRF Regulation and the Commission's guidelines, which require that RRPs take into consideration the European Pillar of Social Rights and implement 'all or an important subset of the 2019 and 2020 country-specific recommendations (CSRs)', many of which (especially the 2020 ones) addressed social protection and social assistance.[21]

Both SURE and NGEU have therefore helped to give the recovery strategy a potentially solidaristic connotation, especially when compared to the approach adopted during the Euro Crisis.[22] This connotation is examined, in this section, in terms of three different aspects, for which both innovations and potential limitations will be taken into account: enhanced support for public investments, a more nuanced form of macroeconomic and fiscal conditionality, and stronger integration of the European Pillar of Social Rights in the governance structure.

2.1. Enhanced support for public investments

Among the main rationales of both NGEU and SURE is to enable national governments to direct public spending where it is most urgent and necessary to address the health emergency and the resulting economic and social crisis.

SURE has made a crucial contribution in terms of channelling resources to mitigate the pandemic's social repercussions. Beyond the impact of providing income support through job retention schemes, the timely creation of SURE in April 2020 is symptomatic of a greater openness on the part of the EU (and especially the Commission) with regard to income

[19] Council Decision (EU, Euratom) 2020/2053, Article 5. The amounts are expressed in 2018 prices.
[20] Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, Articles 17 to 21. The RRF Regulation does not prevent the states to commit the same resources to the green transition and to the digital transformation, meaning that one euro allocated in the plan can count for both.
[21] On closer inspection, the RRF Regulation only requires that 'the recovery and resilience plans shall be consistent with the relevant country-specific challenges and priorities identified in the context of the European Semester' (Article 17). It is only in the document that gave guidance to national governments in the preparation of their recovery and resilience plans (a non-legislative and therefore not legally binding document) that the Commission explicitly referred to the 2019 and 2020 Semester cycles.
[22] Schelkle W., *Fiscal Integration in an experimental union: how path-breaking was the EU's response to the Covid-19 pandemic?* in *Journal of Common Market Studies*, 2021, vol. 59 n. S1, 44-55; Ladi S., Tsarouhas D., *EU economic governance and Covid-19: Policy learning and windows of opportunity*, in *Journal of European integration*, 2020, vol. 42, n. 8, 1041-1056; Fabbrini F., *The legal architecture of the Economic responses to Covid-19: EMU beyond the Pandemic*, in *Journal of Common Market Studies*, 2022, vol. 60, n. 1, 186-203.

support policies.[23] Until then, such policies had struggled to take hold in the context of EU policymaking. In the past, there had in fact been attempts to establish a European unemployment benefit scheme, but these had not found regulatory or tangible expression.[24] The establishment of SURE therefore had the effect of reconciling the EU with the prospect of playing an active role in the provision of income assistance.[25] It is worth noting that the more positive inclination towards this type of policy also emerges from other interventions undertaken in parallel with SURE. The country-specific recommendations issued at the end of the 2020 European Semester cycle (adopted during one of the worst periods of the pandemic) promoted the creation of short-time working schemes across the Member States and stressed the need to make social safety nets more inclusive.[26] Moreover, the recent Commission proposal for a Council Recommendation on minimum income also goes in the same direction.[27]

The relationship between the promotion of public spending and the NGEU plan is equally evident, because its main objective is to provide 'support to Member States for investments and reforms'.[28] The creation of the RRF as the backbone of NGEU is a clear indicator that the recovery strategy was initiated within the framework of a neo-Keynesian approach.[29] On one hand, the EU has provided a large portion of financial assistance in the form of non-repayable subsidies. These resources can thus be injected into national budgets at virtually zero cost.[30] On the other hand, considering that about half of the RRF is available only through loans, the EU has shown itself to be, at least for now, much more tolerant than in the past towards the eventuality of Member States increasing their public debt if needed to support the real economy.

As mentioned above, 37 per cent of the funds drawn from the RRF should be directed towards ecological transition and 20 per cent towards digital transformation. The remaining resources can instead be allocated to other areas, provided that the national governments follow the guidelines provided by the (broadly defined) six pillars of the RRF and that past

[23] Andor L., *SURE – EU capacity for stabilising Employment and incomes in the Pandemic*, in *Intereconomics – Review of European Economic Policy*, 2020, vol. 55, n. 3, 139-142; Claeys G*., The European Union's SURE plan to safeguard employment: a small step forward*, Bruegel, 20 May 2020, https://www.bruegel.org/2020/05/the-european-unions-sure-plan-to-safeguard-employment-a-small-step-forward.

[24] De la Porte C., Palier B., *The Politics of European Union Social Investment initiatives*, in Garritzmann J. L., Hausermann S., Palier B. (eds.), *The world politics of social investment: Volume I*, 2022, Oxford University Press, Oxford, 132-170.

[25] Andor L., *European Unemployment Insurance. From Undercurrent to paradigm shift*, in *Transfer,* 2022, vol. 28, n. 2, 267-283; Corti F., Alcidi C., *The Time is Ripe to Make SURE a Permanent Instrument*, CEPS Policy Insights, n. 10, 2021.

[26] Rainone S., *An Overview of the 2020-2021 Country-Specific Recommendations (CSRs) in the Social Field - The Impact of Covid-19*, ETUI Background Analysis, n. 1, 2020.

[27] European Commission, *Proposal for a Council Recommendation on adequate minimum income ensuring active inclusion*, COM(2022)490 final, Brussels, 28 September 2022.

[28] European Commission, *Europe's moment: Repair and Prepare for the Next Generation*, COM(2020)456 final, Brussels, 27 May 2020.

[29] Saraceno F., *The Return of Fiscal Policy - The New Macroeconomic activism and lessons for future reform*, ILO Working paper, n. 59, 2022.

[30] Even if Member States at some point will need to bear some costs in the form of increased transfers to the EU budget or through higher EU taxation, both necessary to provide the EU with sufficient resources to sustain the RRF.

CSRs are taken into account. With regard to labour policies, the RRF imposes only indirect and vague constraints: these must be oriented towards promoting inclusive growth and job creation (third pillar), promoting social cohesion (fourth pillar) and strengthening social resilience (fifth pillar), with the accent on education and skills (sixth pillar).[31]

The way resources are distributed at the national level is outlined in detail in the RRPs proposed by national governments and, after negotiations, approved by the European Commission. Because the disbursement of RRF funds to national governments is anchored in the fulfilment of the milestones indicated in the RRPs, the Union has put in place mechanisms to monitor the implementation of national plans. To this end, it was decided to adapt the existing framework of the European Semester, thus partly transforming its function: from an instrument to promote fiscal and macroeconomic stability to a framework to monitor the expansive public spending policies outlined by national governments in their RRPs.[32] This is one of the elements that most denotes an evolution of the EU executive's approach to relations between economic growth objectives and public debt reduction.

In addition to the greater possibility of public spending obtained as a result of the EU's financial assistance mechanisms, it is important to take into account that, as of March 2020, national governments benefit from a wider margin of flexibility deriving from the activation of the general escape clause of the Stability and Growth Pact (SGP).[33] This allowed Member States to expand their public expenditure even in derogation of the stability objectives pursued in the SGP without necessarily incurring deficit correction measures.[34] Furthermore, among the first measures the Commission took to tackle the pandemic was a relaxation of the EU state aid rules, thus enabling national governments to channel public support to businesses in difficulties.[35]

The link between enhancing national capacity to make public investments and the recovery strategy's social dimension is, at least potentially, quite strong. Indeed, national governments have been given more space to carry out reforms and investments that, due to financing costs and budget constraints, they had previously not been able to implement.[36] It is possible to identify at least two limits on the potential impact of the EU recovery strategy vis-à-vis the social dimension, however. The first is that there is a missing link between

[31] Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, Article 3.

[32] The integration of the RRF into the European Semester is explored in this issue in Bekker S., *The social dimension of EU economic governance after the Covid-19 pandemic: exploring new interlinkages*, in *Italian Labour Law e-Journal,* vol. 15, n. S1, 2022, as well as by Creel J., Leron N., Ragot X., *Embedding the Recovery and Resilience Facility into the European Semester*, ETUI Policy Brief, n. 14, 2021.

[33] European Commission, *Communication to the Council on the activation of the general escape clause of the Stability and Growth Pact*, COM(2020)123 final, Brussels, 20 March 2020.

[34] The SGP establishes that national governments must aim to keep the state deficit below 3% pf GDP and national public debt below 60% GDP. See also European Commission, *Communication on making the best use of the flexibility within the existing rules of the Stability and Growth Pact*, COM(2015)12 final, Brussels, 13 January 2015.

[35] European Commission, *Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak*, C/2020/1863, Brussels, 20 March 2020.

[36] In this special issue, *see*: Corti F., Liscai A., Ruiz T, *The Recovery and Resilience Facility: Boosting Investment in Social Infrastructure in Europe?* In *Italian Labour Law e-Journal,* vol. 15, n. S1, 2022.

financial assistance and the pursuit of social and labour policies.[37] Similar links, by contrast, were introduced with regard to the green transition and digital transformation. They are expressed in terms of both minimum investment percentages and the 'do no significant harm' principle that applies to EU environmental objectives.[38] Conversely, with regard to achieving EU social and labour aspirations (including the Porto Declaration targets), the only explicit incentive is provided by the demand that national governments consider the principles of the European Pillar of Social Rights and, more indirectly, the request to implement the 2019 and 2020 country-specific recommendations, including the social ones. As will be argued in more detail in Section 2.3, these safeguards do not seem sufficient. Or, even worse, they might go in the opposite direction, given the fiscal stability rationale of some of the 2019 CSRs.

The second limitation on the social relevance of the public investment support underpinning the recovery strategy is its temporary nature. All the instruments put in place to cope with the pandemic crisis will expire within a few years. The SGP is expected to be fully reactivated as early as 2023,[39] while the financial assistance provided by SURE and NGEU is constrained both by the limited scope of the funds and their time horizon.[40] For instance, the RRF will finance national reforms and investment only until 2026, which means that its resources cannot subsidise recurring national expenditure, but only relatively short-term investments.[41] Social investments are thus more likely to take the form of ad hoc investments (such as modernisation of employment and social assistance services) than structural forms of assistance (such as unemployment benefits).[42]

[37] This point is elaborated in Vanhercke B., Verdun A., *From the European Semester to the Recovery and Resilience Facility - Some Social Actors Are (not) Resurfacing*, ETUI Working Paper, n. 13, 2021, where it is noted that 'This lack of explicit social targets has occurred despite the debate at the Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council about setting such social targets, notably in the context of the Pillar Action Plan', and despite the attempt of the European Parliament to give the EPSR more prominence in the final RRF Regulation. See also European Parliament (2020) *Report on the proposal for a regulation of the European Parliament and of the Council establishing a Recovery and Resilience Facility*, 10 November 2020, COM(2020)408 – C0-0150/2020 – 2020/0104(COD), A9-0214/2020.

[38] Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, Article 18(4)d. See also Sabato S., Mandelli M., Vanhercke B., *The Socio-ecological dimension of the EU recovery: from the European green deal to the recovery and resilience facility*, in *Eurosocial collection: Social cohesion learning series*, n. 24, 2021.

[39] Reuters, EU Commission to Propose Keeping Fiscal Rules Suspended in 2023 – officials, 19 May 2022, https://www.reuters.com/markets/europe/eu-commission-propose-keeping-fiscal-rules-suspended-2023-officials-2022-05-19/. It should be noted that a further extension is still quite plausible, considering the economic impact of the war in Ukraine and the unfolding energy crisis.

[40] De Witte B., nt. (17).

[41] Regulation (EU) 2021/241, of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, Recital 20 (reiterated also in Article 5): 'The Facility should support projects that respect the principle of additionality of Union funding. The Facility should not, unless in duly justified cases, be a substitute for recurring national expenditures'. The implication of this principle is further elaborated in this special issue by Corti F., Liscai A., Ruiz T., nt. (37).

[42] These risks leading to paradoxical results as, for instance, member states can use the RRF funds to build childcare facilities but not to hire childcare workers.

2.2. More nuanced macroeconomic and fiscal conditionality

One of the major differences between the forms of financial assistance provided in the context of the Covid-19 crisis and created in response to the Euro Crisis is the more nuanced macroeconomic and fiscal conditionality. The type of conditionality previously dominant was defined by De Witte as clauses pursuing 'an additional policy objective which goes beyond the primary purpose of spending' and oriented towards the correction of national budgetary and macroeconomic imbalances.[43] Such provisions have often been associated with the disbursement of EU funds and have strongly characterised the financial support provided through the intergovernmental instruments set up in the wake of the Financial Crisis, most notable of which was the European Financial Stabilisation Facility (EFSF), replaced by the European Stability Mechanism (ESM).[44] These clauses also found legitimacy in the reasoning of the Court of Justice (CJEU) in the *Pringle* case, in which it was established that EU financial assistance should always be linked to conditions ensuring that the beneficiary Member State follows a sound budgetary policy.[45] As argued by Maccarrone, this type of conditionality can be defined as 'ex post', as the failure to implement the structural reforms required by the Commission (or the other lending authorities) would lead Member States to incur fines.[46]

The forms of financial assistance established in the context of the post-Covid recovery strategy instead partially depart from this approach.[47] Certainly, in order to draw on RRF resources, national governments had to commit (ex ante) to procedural requirements and spending constraints, as noted by Bekker.[48] The states had to submit national Recovery and Resilience Plans (RRPs), which outlined in detail how the funds will be spent, and the adoption of these plans often followed lengthy negotiations with the Commission in relation to their content. Furthermore, as already mentioned, sufficient resources must be devoted to the ecological transition and to the digital transformation, as well as to the implementation of the European Pillar of Social Rights and of the 2019 and 2020 CSRs. And it is worth recalling that in some CSRs (especially those of 2019) Member States were also required to realise reforms aimed at repairing macroeconomic imbalances and lowering public debt and deficits, often in relation to pension and public administration expenditure.[49] In addition, the RRP Regulation creates a system of peer surveillance with respect to the correct implementation of national plans: if one or more of the Member States consider that another

[43] De Witte B., nt. (17), 676.
[44] Treaty establishing the European Stability Mechanism, T/ESM 2012-LT/en 3, Recital 1.
[45] Court of Justice of the European Union, judgment of 27 November 2012*, Thomas Pringle v Government of Ireland and Other*s, C-370/12, ECLI:EU:C:2012:756.
[46] Maccarrone V., Erne, R., nt. (10).
[47] Pisani-Ferry J., *Europe's Recovery Gamble*, Bruegel, 25 September 2020: https://www.bruegel.org/2020/09/europes-recovery-gamble/.
[48] Bekker S., *The EU 's Recovery and Resilience Facility: A Next Phase in EU Socioeconomic governance?* in *Politics and Governance*, 2021, vol. 9, 3, 175-187.
[49] Clauwaert S., *The country-specific recommendations (CSRs) in the social field: An overview and initial comparison. Update including the CSRs 2019-2020*, ETUI Background Analysis 2019.3, Brussels, ETUI.

Member State is deviating substantially from attainment of the milestones defined in its RRP, they may activate a procedure that may result in the suspension of payments.[50]

It is important to note, however, that these requirements are directed mainly at ensuring compliance with the expenditure targets for which the EU financial assistance instruments were set up. The only form of explicit conditionality that clearly corresponds to that defined by De Witte (albeit also applying ex ante) is the beneficiary states' obligation to observe and promote the rule of law.[51] This is in fact the reason why the Hungarian government struggles to reach agreement with the European Commission on its national recovery plan.[52] Admittedly, in the request that national governments include investments and reforms in their RRPs that implement the CSRs it is also possible to identify the further motive of promoting more 'responsible' fiscal and macroeconomic policies, which certainly influenced the initiatives on pension and long-term care systems that appeared in several national plans. Still, an analysis of the Commission's assessment of the RRPs reveals that the connection between access to RRF funds and the implementation of macroeconomic and fiscal CSRs appears to have been, at least with regard to some Member States, rather loose.[53] All RRPs received the highest score ('A') with regard to how they 'contribute to effectively addressing all or a significant subset of challenges identified in the relevant country-specific recommendations, including fiscal aspects thereof'. In its own assessments, however, the Commission identifies gaps and shortcomings that were not properly tackled and indicates that a substantial number of challenges identified in the CSRs, including those concerning public debt sustainability, were only 'partially' and not 'substantially addressed' by the RRPs.[54] The conditionality link between public spending reforms and access to the RRF funds is therefore not necessarily strong, but rather seems to be modulated differently across countries, and probably reflects the outcome of the negotiations between national governments and the Commission in the preparation phase of the RRPs.

Moreover, it is worth noting that, because access to the RRF is characterised by a form of 'ex ante' conditionality,[55] once the Commission's approval of the plans has been obtained, the disbursement of the funds is in principle linked only to the achievement of their milestones and not to further requirements. This is reflected in the fact that, at least so far, no national government has had to present debt restructuring or macroeconomic adjustment plans in order to access the financial assistance provided through the RRF, despite the fact that, as of June 2020, only five Member States had not breached the SGP criteria.[56] This

[50] Regulation (EU) 2021/241, of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, Recital 52; European Council (2020c) *Council Conclusions on the recovery plan and multiannual financial framework for 2021-2027*, EUCO 10/20, Brussels, 17-20 July 2020, par. A19.

[51] European Parliament and Council, Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget.

[52] *See* Gyulavàri T., *National Recovery and Resilience Plan: Hungary*, in *Italian Labour Law e-Journal*, vol. 15, n. S1, 2022.

[53] Petmesidou M., Branco R., Pavolini E., Begega S.G., Guillén A. M., nt. (16).

[54] This is the case for the Italian, Spanish, Portuguese, French, Luxembourgish and Polish RRPs, among others.

[55] Maccarrone V., Erne, R., nt. (10).

[56] These are Denmark, Ireland, Luxembourg, The Netherlands and Sweden.

principle is certainly nuanced by Article 10 of the RRF Regulation, which establishes that, in case of repeated failures by the beneficiary state to adequately address Council Recommendations regarding excessive deficits and macroeconomic and fiscal imbalances, the Commission may propose a suspension of all or part of the payments. This provision was introduced under pressure from the so-called 'frugal states', which were particularly reluctant to accept any form of fiscal integration within the EU.[57] Although it is a fiscal safeguard mechanism that puts some pressure on states' budgets, it does not, at least for the time being, directly anchor the RRF to the implementation of specific reforms to curb public spending through austerity measures. And this is so especially in consideration of the broader spending margin granted by the activation of the general escape clause of the SGP.[58]

For the purpose of delineating the social dimension of the EU recovery strategy, the absence of strict and direct forms of macroeconomic and fiscal conditionality has very relevant implications. It indeed reduces the risk that, in contrast to what was observed during the past crisis, the EU executive subjects national social and employment systems to direct deregulatory pressure.[59] The promotion of austerity policies, which were an integral part of the EU's recipe for exiting the Euro Crisis (and especially for those countries subject to bailout programmes), thus seems to have been, for the moment, averted.

Even in this respect, however, it seems appropriate to be nuanced. The approach to fiscal and macroeconomic conditionality has evolved substantially since the previous crisis, but budgetary and macroeconomic equilibrium are still top EU priorities, as illustrated above. An analysis of the country-specific recommendations issued in the context of the 2022 European Semester cycle in fact shows that the question of the Member States' fiscal and macroeconomic sustainability is resurfacing.[60] Especially in relation to the fiscal safeguards set out in Article 10 of the RRF Regulation, a renewed emphasis on fiscal surveillance may again lead to commodifying interventions in the social and labour spheres. Significantly, the Commission has decided already to resume the excessive deficit procedure (EDP) for Romania.[61] Furthermore, all national governments have been asked to start 'pursuing a fiscal policy aimed at achieving prudent medium-term fiscal positions'.[62] This is in turn reflected in the (re)appearance of requests for states to intervene on pension expenditure by decreasing

[57] General Secretariat of the Council, *Council Conclusions on the recovery plan and multiannual financial framework for 2021-2027*, EUCO 10/20, Brussels, 17-21/7/2020, para. 6. The expression 'frugal' countries refers to The Netherlands, Denmark, Sweden and Austria, which saw any form of debt-sharing and relaxation of budgetary rules as potentially endangering the stability of the Eurozone (*see* Bofinger P., *The 'Frugal Four' Should Save the European Project*, Social Europe, 4 May 2020, https://socialeurope.eu/the-frugal-four-should-save-the-european-project).

[58] Delivorias A., *The 'General escape clause' within the stability and growth pact: fiscal flexibility for severe economic shocks*, Briefing, Think Tank European Parliament, 27 March 2020.

[59] Theodoropoulou S., *National social and labour market policy reforms in the shadow of EU bailout conditionality: the cases of Greece and Portugal*, in Comparative European Politics, 2015, vol. 13, 29-55.

[60] Rainone S., *The 2022 Country-Specific Recommendations (CSRs) in the social field: quo vadis, EU recovery?*, ETUI Report, forthcoming.

[61] European Commission, *Recommendation for a Council Recommendation with a view to bringing an end to the situation of an excessive government deficit in Romania*, COM(2021)530 final, 2 June 2021.

[62] European Commission, Communication on Annual Sustainable Growth Survey 2022, COM(2021) 740 final, 25 November 2021.

it, as well by reducing, compared with 2020, the CSRs' emphasis on the need to reinforce social assistance and social protection systems.[63] It is also logical to expect that the emphasis on budgetary discipline will increase once the general escape clause of the SGP is deactivated.

2.3. European Pillar of Social Rights

The European Pillar of Social Rights can be defined as a non-binding set of 20 principles that the EU institutions adopted in 2017 to establish a blueprint for EU action in the social and employment field. These 20 principles are aimed at orienting EU policies in three areas: equal opportunities and labour market access, fair working conditions, and social protection and inclusion.[64]

According to the institutional declarations that have accompanied EU initiatives to cope with the crisis since Covid-19 – primarily the Porto Declaration – the European Pillar of Social Rights plays a fundamental role in socially embedding the EU recovery.[65] This stems mainly from two elements. First, the pursuit of the employment and social objectives defined in the 2021 Action Plan is grounded in implementation of European Pillar of Social Rights principles. Second, adoption of the Recovery and Resilience Facility strengthened, at least theoretically, the role of the Pillar within EU governance processes and, in particular, within the context of the European Semester. It is especially in relation to this second point that the NGEU strategy might be claimed to have a truly social dimension.

On closer inspection, the Pillar had already been linked to various steps in the European Semester cycle since its proclamation in Gothenburg in 2017.[66] When formulating the Annual Sustainable Growth Strategy (November), the Commission started to pay attention to aligning growth priorities with the EPSR principles. In the Joint Employment Report (drafted in November and adopted in March), the Commission and the Council started to report on key employment and social developments also in relation to the Social Scoreboard, a benchmarking instrument that measures the implementation of the European Pillar of Social Rights. This was also the case in relation to the country reports in which, generally every February, the Commission provides an overview of the Member States' economic, employment and social situation. With the adoption of the Pillar, a section on the country performance against the Social Scoreboard was introduced. This was also supposed to be reflected in the national reform programmes (April), which national governments submit to the Commission in response to the country reports, and in which they were supposed to take

[63] Rainone S., nt. (61).

[64] European Commission, *Communication on the European Pillar of Social Rights*, C(2017) 2600 final, Brussels, 26 April 2017.

[65] European Council, The Porto Declaration, 8 May 2021, https://www.consilium.europa.eu/en/press/press-releases/2021/05/08/the-porto-declaration/, par. 4: 'The European Pillar of Social Rights is a fundamental element of the recovery'; European Commission, *The European Pillar of Social Rights Action Plan*, COM(2021)102 final, Brussels, 4 March 2021.

[66] Garben S., *The European Pillar of Social Rights: Effectively Addressing Displacement?* (2018), in *European Constitutional Law Review*, vol. 14, 1, 2018, 210-230.

https://doi.org/10.6092/issn.1561-8048/15705

the European Pillar of Social Rights into account. Finally, the Semester concludes with the adoption by the Council (at the proposal of the Commission) of country-specific recommendations (CSRs), which call on the Member States to address particular challenges not adequately tackled in their reform programmes. Here again, the CSRs should also aim at improving Member States' performance against the Social Scoreboard.

Until the outbreak of the pandemic, however, the impact of the European Pillar of Social Rights in the European Semester appeared modest, as the consideration of social aspects in CSRs remained rather limited.[67] In contrast, the Semester's social sensitivity was strengthened during the 2020 European Semester cycle.[68] Indeed, the 2020 CSRs were predominantly oriented towards the need to strengthen national social protection and social assistance systems, as well as to establish income retention schemes. Still, that development was read more as a consequence of the activation of the general escape clause of the SGP and a reaction to the social (and emotional) disruption caused by the Covid-19, rather than an actual effect of the EPSR.

It can therefore only be a positive development that the RRF Regulation required national governments to consider the Pillar when defining their national plans.[69] Indeed, this also implied that the Commission's approval of those plans would consider the effects that future reforms will have on implementation of the Pillar. In its assessments of the RRP, the Commission in fact included a section in which it examined the planned measures against the performance of the various Member States in relation to the Social Scoreboard and, on the basis of that, formulated a score on the national plans' compliance with the Pillar.[70] At least theoretically, this screening by the Commission should mean that all RRPs have a social component. It should also lead to a strengthening of the relevance of the European Pillar of Social Rights in the forthcoming Semester cycles, as it is now dedicated to monitoring the execution of the RRPs, including their social and labour initiatives. This perspective seems to be supported by the analysis of the 2022 CSRs, which emphasise the need to strengthen the social safety net. Notably, four Member States have also received recommendations aimed at decreasing the most flexible and precarious forms of employment.[71]

Also in this respect, however, it should be emphasised that, even with the novelties brought by the RRF, there are important obstacles to an effective 'socialisation' of the Semester and of EU governance by means of the European Pillar of Social Rights.[72] First of

[67] Elomäki A., Gaweda B., *Looking for the 'Social' in the European Semester: The Ambiguous 'Socialisation' of EU Economic Governance in the European Parliament*, in *Journal of Contemporary European Research*, 2022, vol. 18, n. 1, 166-183.
[68] Rainone S., nt. (27).
[69] Petmesidou M., Branco R., Pavolini E., Begega S.G., Guillén A. M., nt. (16*)*; Bekker S., nt. (33).
[70] Regulation (EU) 2021/241, of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, Article 19(3)c.
[71] Those member states are: France, Greece, The Netherlands, and Poland.
[72] Zeitlin J., Vanhercke B., *Socialising the European Semester: EU social and economic policy coordination in crisis and beyond*, in *Journal of European Public Policy*, vol. 25, 2, 2018, 149-174, noted an increased social sensitivity in the European Semester already some years ago, even before the adoption of the EPSR. However, more recently other authors have noted that the socialisation effect of the EPSR is rather moderate: Petmesidou M., Branco R., Pavolini E., Begega S.G., Guillén A. M., nt. (16); Rainone S., A. Aloisi, nt. (7). Maccarrone V., Erne R.,

all, as further elaborated in the next section, it does not appear that the Commission's monitoring of the RRPs' compliance with the Pillar has been thorough. In fact, in terms of EPSR compliance, all RRPs scored the highest (an 'A') even when the planned reforms do not adequately address the challenges emerging from the Social Scoreboard. Moreover, the fact remains that the Pillar has no binding force.[73] Its impact in guiding EU and national policymaking is therefore weak, and it does not constitute a sufficient counterbalance to the EU executive's tendency to address social and labour policies as if they were variables in relation to growth priorities and attaining fiscal and macroeconomic stability.[74] This is well illustrated by the 2022 CSRs' focus on pension systems and on the necessity to reform their functioning in order to reduce their burden on public finances.[75]

Furthermore, this functionality of the social sphere in relation to the economic one is certainly not contrasted by the Pillar's overall approach to the different areas that it addresses. Its principles express an imbalance in favour of active labour market policies above employment protection. A strong emphasis on activation policies also pervades the principles on social protection and inclusion, which risks overshadowing their redistributive rationale. The same imbalance characterised the Social Scoreboard, which only in 2022 was reformed to complement the benchmarking of labour market performances with more encompassing indicators on social protection and inclusion.

3. Labour and social policy initiatives in the RRPs

In the previous section it was discussed how the EU recovery framework potentially leaves room for solidaristic, redistributive and protective measures in the social and labour field but that, at the same time, these are not incentivised, or at least not effectively. The result is a sort of laissez faire approach without a clear stance in favour of a specific model. The RRF Regulation in fact gives only general orientation and delegates the task of providing guidance on the direction of national social and labour policies to the European Pillar of Social Rights.

This section attempts to assess how the EU's abstention from adopting a strong (neither promoting nor repressing) position on employment protection and social assistance systems reverberates in the national recovery and resilience plans. In particular, the aim of the investigation is to evaluate whether the lack of an explicitly deregulatory and commodifying

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Golden D., *The European Union. A significant player in labour policymaking*, on Clegg D., Durazzi N. (eds.) *Research Handbook of Labour Market Policy in Rich Democracies*, Edward Elgar; Adranghi, A., Koutny C., Corti F., Sardo D., O'Dwyer M., Vanheuverzwijn P., *Stuck on the Rubicon? 'Socializing' the European Semester through the European Pillar of Social Rights,* FEPS Yan 6th Cycle, June 2019.

[73] Rasnača Z., *Bridging the Gaps or Falling Short? The European Pillar of Social Rights and What it Can Bring to EU-Level Policymaking*, ETUI Working Paper, n. 5, 2017.

[74] For a reflection on this imbalance, *see* Dawson M., *New Governance and the Displacement of Social Europe: The Case of the European Semester*, in *European Constitutional Law Review*, 2018, vol. 14, 1, 191-209; Degryse C., Jepsen M., Pochet P., *The Eurocrisis and its Impact on National and European Social Policies*, ETUI Working Paper, 2013, among others.

[75] Rainone S., nt. (61).

thrust from the EU executive is sufficient to stimulate, at the national level, the adoption of measures aimed at supporting working conditions and combating social exclusion.[76]

This assessment is grounded on the Commission's assessment of the RRPs. More precisely, the policies pursued in the plans have been mapped on the basis of the Commission's Staff Working Documents accompanying their approval.[77] This methodological approach has both limitations and advantages. As regards their limitations, an analysis conducted solely on the Commission's assessment is based on indirect sources, at the risk of missing relevant elements and being incomplete. This is especially true with regard to social welfare and assistance investments, because, as mentioned in Section 2.1, the RRF cannot be employed to finance Member States' recurring social expenditure. In order to obtain a complete overview of national government interventions in the social sphere, the RRPs should therefore be considered in conjunction with those national reform agendas that are not covered by the RRF. On the other hand, the Commission Staff Working Documents have the advantage of being accessible, whereas national plans are often available only in the original language. Moreover, all Commission assessments follow the same structure, which facilitates comparison.

The measures included in the various plans were 'coded' depending on whether they pertain to social welfare policies or to labour policies, and were then classified according to their approach (Table 1). Employment protection initiatives were thus divided into those aimed at improving working conditions and those aimed at a 'modernisation' or flexibilisation of the labour market. For the initiatives on social welfare and social assistance, the analysis focused only on two aspects, considered illustrative of two opposing approaches: measures that extend social protection to precarious forms of work (denoting a socially-oriented approach) and measures that intervene on pension and long-term care systems to improve their financial sustainability (denoting a fiscally-oriented approach).

[76] The distinction between commodifying and decommodifying pressures by EU governance with respect to employment relations is effectively illustrated by Maccarrone V., Erne R., Golden D., nt. (73).
[77] The Commission Staff Working Documents accompanying the assessment of national recovery and resilience plans are publicly available on the dedicated webpage: https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en#national-recovery-and-resilience-plans.

Table 1 Social and labour policies in the RRPs

RRPs					European Commission		
Active labour market policies (accent on skills and education)	**Employment protection**		**Extension of social protection to precarious forms of work**	**Pension and long-term care reform to improve financial sustainability**	**Social and labour policy shortcomings identified in the RRP and not addressed in 2022 CSRs**	**Expression of concern for excessive social spending and labour costs**	
	Improved working conditions	**'Modernisation' and flexibilization**				**Social spending**	**Labour costs**
AT, BE, BG, HR, CY, CZ, DE, EE, FI, FR, GR, IE, IT, LT, LV, LU, MT, NL, PL, PT, RO, SK, SI, SP, SE	PT, RO, SI, SP	GR, PL, SP, SE	CY, NL, PL	AT, FI, (FR), IE, (LU), RO, SK, SI, SP, SE	BG, DE, HR, (CZ), IE, LT, SK, SP.	AT, BE, CZ, DE, EE, FI, FR, LU, MT, SP, SK	(IT), LU

Note: Author's elaboration. In countries in brackets the issue was addressed only indirectly.

In addition to mapping the content of national plans according to these criteria, the analysis also looked at the Commission's approach to the reforms outlined by national governments. It was noted where the Commission's assessment identified shortcomings in labour and social policy areas, and it was then analysed how these shortcomings have been addressed (or not) in the latest CSRs cycle.[78] Furthermore, the mapping also accounted for instances in which the Commission expressed concern for the impact of welfare and employment policies on the sustainability of states' budgets and on labour market dynamism.

The analysis, condensed in Table 1, shows that all Member States except one (Denmark) have included in their RRPs substantial investments and reforms explicitly aimed at strengthening labour market inclusion. The active labour market policies outlined in the plans range from initiatives on the digitalisation of employment centres, to tax interventions to disincentivise early retirement, to improving access to childcare facilities as a means of encouraging female employment.[79] There are, however, two recurring elements in all RRPs: measures directed at re- and up-skilling the workforce and initiatives to improve the labour market relevance of education. Not least, these are two of the priorities indicated in the RRF Regulation, as the sixth pillar of the facility.

Employment protection, on the other hand, appears to be paid far less attention in the national plans. It is worth noting that only three governments have included reforms aimed at improving working conditions. Portugal adopted a Decent Work Agenda, which includes

[78] The 2022 Country-Specific Recommendation can be found here: https://www.consilium.europa.eu/en/press/press-releases/2022/06/17/european-semester-2022-country-specific-recommendations-agreed/.

[79] This emerges also from the analysis of Petmesidou M., Branco R., Pavolini E., Begega S.G., Guillén A. M., nt. (16), and Corti F., Liscai A., Ruiz T., nt. (37).

the promotion of collective bargaining, the establishment of adequate wages and decent income through social dialogue, incentives for permanent employment and a plan to regulate new forms of work.[80] Slovenia promised to implement a short-time working scheme,[81] while Spain's RRP refers to a reform aimed at reducing the high share of temporary contracts and envisages initiatives on short-time working schemes to regulate teleworking and legislative intervention in relation to platform workers (already implemented).[82] Romania has instead included in the plan a reform aimed at ensuring adequate minimum wage setting.[83] However, it is also interesting to note that, unlike in the aftermath of the Euro Crisis, 'only' four RRPs contain potentially deregulatory interventions, which have been presented as measures to 'modernise' the Labour Code and industrial relations systems. The Polish, Greek and Swedish plans include reforms to promote flexible forms of employment and to adapt employment protection legislation in order to increase the resilience and the dynamism of the labour market.[84] Greece also included interventions in the collective bargaining system. The same is found in the Spanish RRP, which envisages a reform to modernise collective bargaining, the details of which are left open to reflect the outcome of social dialogue.[85] According to the Commission Staff Working Document, this reform is aimed at supporting competitiveness and job creation, and ensuring that wages are responsive to productivity developments in the medium term.

As far as social welfare initiatives are concerned, it should be noted that Table 1 does not do justice to the RRPs' scope. All national plans in fact include measures that, to a greater or lesser extent, aim at reinforcing the social safety net.[86] Nevertheless, even in this sphere there is a potentially problematic imbalance. On one hand, eight countries include in their RRP a reform of the pension and/or long-term care system with the aim of limiting public expenditure. At least two other states (France and Luxembourg) foresee similar interventions, but have not included them in their RRP. Perhaps unsurprisingly, most of these states (all except Finland and Sweden) in 2019 received CSRs advising them to make their pension systems more fiscally sustainable.[87] On the other hand, only three Member States use the RRF resources to extend the scope of social protection to the most precarious forms of work. This imbalance is partly caused by the prohibition on using EU funds for

[80] Commission Staff Working Document, *Analysis of the recovery and resilience plan of Portugal*, SWD(2021)146 final, Brussels, 54.
[81] Commission Staff Working Document, *Analysis of the recovery and resilience plan of Slovenia*, SWD(2021)184 final, Brussels, 21
[82] Commission Staff Working Document, *Analysis of the recovery and resilience plan of Spain*, SWD(2021)147 final, Brussels, 38.
[83] Commission Staff Working Document, Analysis of the recovery and resilience plan of Romania, SWD(2021)276 final, Brussels, 40.
[84] Commission Staff Working Document: *Analysis of the recovery and resilience plan of Poland*, SWD(2021)161, 32; Commission Staff Working Document: *Analysis of the recovery and resilience plan of Greece,* SWD(2021)155, 28; Commission Staff Working Document, *Analysis of the recovery and resilience plan of Sweden*, SWD(2021)102, 48.
[85] Commission Staff Working Document, *Analysis of the recovery and resilience plan of Greece*, SWD(2021)155, 60; Commission Staff Working Document: *Analysis of the recovery and resilience plan of Spain*, SWD(2021)147 final, Brussels, 47.
[86] Corti F., Liscai A., Ruiz T., nt. (37).
[87] Clauwaert S., nt. (50).

recurring social expenditure.[88] It is also quite representative of the tangible impact of that form of conditionality – albeit softer and ex ante – that links the RRF to the macroeconomic and fiscal prescriptions expressed in past CSRs. It thus emerges that, besides not reversing the fiscal perspective with respect to national welfare policies, the wider fiscal margin provided by the RRF has not been reflected in an effective strengthening of social protection coverage.

Finally, it is interesting to look at the Commission's comments on the measures outlined in the national plans. Analysis of the Staff Working Documents brought to light that it is not uncommon for the Commission to identify aspects that were not sufficiently addressed in the RRPs, especially when considered in light of a country's performance against the Social Scoreboard. A cross-analysis of the Commission's assessments and the 2022 CSRs, however, shows that only for a minority of states did the challenges highlighted in the Staff Working Documents later reappear in the recommendations.[89] This seems to corroborate what had already been found in reference to the fact that all RRPs scored 'A' for their compliance with the European Pillar of Social Rights, namely that the Commission has approached the social implications of the national plans rather superficially.

In connection with this, it is also interesting to note that for a not insignificant number of Member States the Commission raised concerns about the fiscal sustainability of national social and labour policies (last two columns of Table 1). This suggests that if employment or welfare systems are deemed to be taking countries away from a fiscally 'responsible' path or from a labour market-centred growth strategy, then they should be corrected. For most cases, the Commission's observations concern the level of public expenditure, which in its view needs to be reduced through interventions on pensions, long-term care or other aspects of the social welfare system. For just two Member States (Luxembourg and, more indirectly, Italy), the Commission instead expressed remarks regarding the employment protection system and its (in)compatibility with the labour market's requirements of competitiveness and dynamism. For Luxemburg, the Commission included the unit labour cost among the elements that may lead to macroeconomic imbalances, warning that in 2019 and 2020 the indicative threshold was exceeded.[90] In relation to Italy, the Commission did not express its views with reference to specific interventions, but highlighted the importance of creating a sufficiently flexible labour market.[91]

All in all, it is clear from the general picture that the potential innovations in the EU recovery strategy in the social sphere, illustrated in Section 2, have not led to tangible changes in the type of policies pursued at national level. Active labour market policies are still at the forefront, and social welfare still risks being approached through a budgetary standpoint, especially in relation to pensions and long-term care. Although the deregulatory emphasis with regard to employment protection is now undoubtedly milder than during the Euro

[88] *See* above in section 2.2 of this contribution.
[89] Rainone S., nt. (61).
[90] Commission Staff Working Document, *Analysis of the recovery and resilience plan of Luxembourg,* SWD(2021)159, 8.
[91] Commission Staff Working Document, *Analysis of the recovery and resilience plan of Italy,* SWD(2021)165, 57.

Crisis, only in a few exceptional instances have national governments chosen to channel the RRF resources to improve working conditions. And in those cases, the determining factor seems to have been the political colour of the government in office (social democrats in both Spain and Portugal) rather than an incentive stemming from the EU governance framework.

It thus seems that the general laissez faire of the EU recovery strategy on labour and social issues has not resulted in a re-regulatory momentum on the part of national governments. The framework established in the context of the EU recovery strategy, although not accompanied by an austerity narrative, has therefore not led to an effective strengthening of labour and welfare systems and to repairing the dismantling carried out in the aftermath of the Euro Crisis.

4. Concluding reflections: still a long way to go for the EU social objectives

In this contribution, the analysis of the RRPs has aimed at assessing whether the EU recovery strategy's approach to labour and social policies places the EU on a promising path towards achieving its social objectives.

As mentioned in the introduction, these objectives are explicitly outlined in the Treaties. They require that the EU seek full employment and social progress, combat social exclusion and discrimination, and promote social justice (Article 3 TEU), as well as the upward convergence of living and working conditions, proper social protection and social dialogue (Article 151 TFEU). Ambitious goals were also established with the Porto Declaration, whereby the EU committed itself not only to increase the rate of employment and those in training, but also to a substantial reduction in the rate of poverty and social exclusion.

How does the framework outlined in the previous sections relate to the EU's mission in the social sphere? In Section 3 it was pointed out that despite the greater scope for action allowed by financial assistance and the general escape clause of the SGP, the RRPs do not deviate from the socio-economic model that the EU has actively promoted in the past. Only a few states included measures to reinforce workers' rights, while some actually promised interventions to further flexibilise their employment protection models. What emerges is the dominance of policy prescriptions in the form of flexicurity, in which the emphasis is put more on strengthening active labour market policies than on establishing adequate social safety nets.[92]

It is difficult to say to what extent this trend is the result of EU influence or coincides with the Member States' political priorities. What emerges, however, is that the framework established in the context of the recovery strategy has not incentivised an improvement in social and employment protection systems as much as it has valorised active labour market policies and sound economic governance. Suffice it to mention that skills enhancement is part of the priorities of the RRF (sixth pillar), while social investment policies or the fight

[92] In this regard, an interesting analysis focusing on the Italian RRP is provided in Tassinari A., *Labour market policy in Italy's recovery and resilience plan. Same old or a new departure?,* in *Comparative Italian Politics*, vol. 14, n. 4, 2022, 441-457.

against precarious labour relations are not included. It was also discussed that social public spending in the RRPs was viewed with scepticism by the Commission if the fiscal sustainability of the public finance is considered at risk. And it is also interesting to note that, beside the eight countries that have included a pension reform in their RRP, in the 2022 CSRs the Commission has targeted another seven countries with a request to make their pension systems more efficient and fiscally sustainable. This suggests that, while the EU has distanced itself from the commodifying approach prevalent during the Euro Crisis, it has not fully rejected it.

In light of these reflections, the recovery strategy seems to have brought the EU closer to only a part of its social goals. On one hand, the creation of the RRF has incentivised national governments to strengthen active labour market policies, including upskilling and reskilling programmes, intervention in the education system and strengthening employment centres, among other things. This puts the EU on the right track towards the Porto target on skills and training, and potentially also with regard to the employment rate target. With regard to the latter, the Union also seems to count on the dynamism of the labour market and on the "modernisation" ‘f employment regulation, as well as on the employment creation effect of the investments related to the green and digital transitions. Much more uncertain, however, is the EU's performance in relation to objectives whose rationale is more purely social, namely the upward convergence of working and living conditions and fighting social exclusion and poverty. Measures to limit precariousness in labour relations and in-work poverty are in fact very meagre. Moreover, the degree to which RRPs intervene in social protection varies greatly from country to country. In this regard, it was noted in Sections 2 and 3 that the conformity of the RRPs with the principles of the European Pillar of Social Rights has been assessed by the Commission rather superficially.

To realign the EU with its social objectives, it may therefore be necessary to further reshape the EU governance framework.[93] To this end, it might be helpful to address the limitations that were identified in Section 2, in which the three main innovations concerning the social dimension of the EU recovery strategy were first discussed. As for the support for public investment, it was noted in Section 2.1 that there are no spending constraints in relation to social policies and that the social impact is limited because the RRF is a temporary instrument. A roadmap for a stronger Social Europe should therefore include solutions to establish structural forms of financial assistance, with a mandatory minimum social destination.[94]

Section 2.2 discussed how the Member States’ fiscal and macroeconomic stability is again being closely monitored by the Commission. In consideration of the link between the RRF and economic governance, this could result in the promotion of forms of austerity targeting social and labour policies. In this respect, intervening on the EU budgetary rules would be a game changer.[95] Reform of EU economic governance is ongoing, but the conservative stance

[93] Rainone S., Pochet P., *The EU Recovery Strategy: A blueprint for a more Social Europe or a house of cards?* ETUI Working Paper, n. 18, 2022.
[94] The establishment of a permanent facility is supported by A. V. Schmidt, nt. (9), among others.
[95] ETUC, *Letter to EU Leaders on the 30th Anniversary of the Maastricht Treaty*, Brussels, 7 February 2022.

https://doi.org/10.6092/issn.1561-8048/15705

of some states (first and foremost Germany) does not suggest radical changes on the horizon.[96] This might change in consideration of the protracted energy crisis and the resulting increase in living costs, however.

Finally, in Section 2.3 it was discussed that the European Pillar of Social Rights is too weak to effectively steer the EU and national social and labour policies towards the upward convergence demanded by the Treaties. As argued more extensively elsewhere, effective socialisation of EU governance could be achieved through the introduction of more tangible forms of social conditionality that are based not only on the European Pillar of Social Rights, but more broadly on the EU social *acquis*. This should also involve putting in place safeguards to ensure that policies pursued in the context of EU governance do not lead to a lowering of working and living conditions.[97] A first step in this direction has been made with the adoption of the EU directive on minimum wages.[98] Beside promoting upward convergence with legislation, it may also be worth considering expanding the 'do no significant harm' principle, currently adopted in the RRF in relation to environmental policies, to the social sphere. This would prevent reforms implemented by national governments with EU contributions having a regressive effect on the existing level of labour and social protection.

Not taking action in these directions would mean failing to capitalise on the progress made so far. To conclude, the recovery strategy certainly presents interesting aspects from the point of view of the EU social dimension as, in comparison to the previous crisis, it has given national governments scope to implement potentially significant reforms and initiatives in the social and labour sphere.[99] The trends emerging from the RRPs, however, suggest that few Member States have done that, and that the EU is still far from achieving its social goals. Identifying how best to approach this process will most likely be among the most daunting challenges of the coming years. Among the main insights emerging from this contribution and, more generally, from the mapping work carried out in this special issue, is the importance of not measuring the social significance of EU reforms in isolation from their actual impact at the national level. If the valorisation of social goals at EU level is not accompanied by effective incentives for national governments, the results may be moderate; in other words, a laissez faire approach does not seem to be enough.

[96] European Commission, *Economic Governance Review*, COM(2020) 55 final, Brussels, 5 February 2020.
[97] The possibility to create a social imbalance procedure, to complement and counterbalance the existing macroeconomic imbalance procedure has been explored in Sabato S., Vanhercke B., Guio A.C., *A 'Social Imbalances Procedure' for the EU*, ETUI Working Paper, vol. 9, 2022.
[98] Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union. Still, the impact of the directive in terms of upward convergence might not be significant: see Menegatti E., *Much ado about little: The Commission proposal for a directive on adequate wages*, in *Italian Labour Law e-Journa*l, 2021, vol. 14, n. 1, 21-32.
[99] Rainone S., Aloisi A., nt. (7).

Acknowledgments: This contribution builds in part also on a study conducted at the ETUI: Rainone S., Pochet P., *The EU Recovery Strategy: A blueprint for a more Social Europe or a house of cards?* ETUI Working Paper, n. 19, 2022. Special acknowledgments go to Professor Bruno De Witte and Dr Vincenzo Maccarrone for their helpful review and comments.