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## **A 'social Europe' for workers? Framing analysis of the posted work debate in the Council (2016-2017)**

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I, Mathilde Brunet, hereby declare that this thesis, entitled “A ‘social Europe’ for workers? Framing analysis of the posted work debate in the Council (2016-2017)”, submitted as partial requirement for the MA Programme Euroculture, is my own original work and expressed in my own words. Any use made within this text of works of other authors in any form (e.g. ideas, figures, texts, tables, etc.) are properly acknowledged in the text as well as in the bibliography.

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## **Abstract**

In a context of rising inequalities in the European Union, accompanied by a certain mistrust in the capacity of the European institutions to improve and secure the social conditions of the citizens, the question of ‘social Europe’ is more than ever source of debate and interrogations. Focusing on the revision of the Posting of Workers Directive, proposed by the Commission in 2016, this thesis analyses the way the European Ministers framed this revision and ‘social Europe’ more broadly during the negotiations. This work contributes to the existing research on elite framing and expands this field to ‘negotiations analysis’, a topic which has rarely been addressed. The analysis, based on Helbling’s frame categorisation, shows that workers’ social protection is a divisive issue which opposes two main groups: the proponents (high wage member states) and the opponents (low wage member states). The first group frames ‘social Europe’ as a way to restore trust in the European economic model, jeopardised by the downward pressure on wages and social conditions caused by low wage member states. On the other hand, opponents to the revision frame social policies as disruptive forces damaging the single market’s competitiveness and economic freedoms. They portray themselves as the victims of an unwelcome protectionism orchestrated by high wage member states. These findings question the future of ‘social Europe’, as they bring to light the unwillingness of both sides to rethink the European economic system. In the absence of a strong and positive ‘counter-narrative’, it seems that social policies will continue to be seen as hindering economic freedoms or as a mean to legitimise a system that has proven to be unequal. In that sense, the European social project did not yet reach the ‘status’ of the economic project and is still understood as a side issue that cannot challenge the *status quo*. If framed differently, social welfare in the Union could become a priority and take precedence over the fundamental freedoms that have been defined twenty-five years ago, in a very different socio-economic and political context.

**Keywords: posted work; framing; social Europe; European Council; negotiations**



EPSCO Council – 23 October 2017. Image: Ana Perez

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# 1. Introduction

## 1.1. Background

The 1950 Schuman Declaration sets “the equalization and improvement of the living conditions of workers in [the coal and steel] industries” as one of the objectives of the European Coal and Steel Community [ECSC]. Since then and throughout its history, the later European Union [EU] has devoted an increasing attention to social policies, with the aim of insuring a minimum protection to its population and in particular to its workers. Since 2014, and partly as a response to the growing discontent with the measures taken during the economic crisis, the Juncker Commission has emphasised the need for a “deeper and fairer internal market”<sup>1</sup>, going beyond mere economic exchanges and based on a stronger social protection (though still limited to very specific economic sectors or groups of workers). While many scholars agree on the necessity of building a more social Europe, in particular because of the lasting effects of the economic crisis in terms of inequalities<sup>2</sup>, this opinion is far from being shared by all. Indeed, some argue that the EU lacks democratic legitimisation to deepen its integration or that transferring more competences to the EU would undermine national sovereignty. Despite the widespread use of the terms “European social model” or “social Europe”, these concepts are not consensual and any attempt to move towards greater social protection is highly controversial.

Such an attempt has been made by the Commission in 2016, with the proposal to revise the 1996 Posting of Workers Directive [PWD]. The main goal of the Commission’s proposal was to introduce the “equal pay for equal work” principle, which would ensure equal remuneration for domestic and posted workers. Posted workers are “worker[s] who, for a limited period, carr[y] out [their] work in the territory of a member state other than the state in which [they] usually work”.<sup>3</sup> The following long and heated debates on this revision are a telling example of the deep divisions amongst member states on the issue of social protection. Indeed, the revision of the

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1 ‘The 10 Priorities of the European Commission for 2014-2019’, Text, European Commission - European Commission, accessed 20 July 2018, [https://ec.europa.eu/commission/priorities\\_en](https://ec.europa.eu/commission/priorities_en).

2 Nicola Countouris and Mark Freedland, *Resocialising Europe in a Time of Crisis* (Cambridge University Press, 2013).

3 Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, 1997 O.J. L18/1 [hereinafter Parliament and Council Directive on the Posting of Workers], art [2], at [1].

PWD touches upon a core EU challenge: the difficulty of finding a balance “between protecting workers on one hand, and promoting free provision of services on the other”.<sup>4</sup>

After a year and a half of negotiations, the European Ministers for Labour and Employment and Social Affairs agreed on a revision in October 2017, however without getting unanimous approval. The negotiations of the PWD revision revealed a deep ‘EU trilemma’, i.e. the difficulty – or maybe impossibility – to combine both a deep EU integration, high social protection and wages, and autonomous and heterogeneous welfare states and labour markets (necessary to insure intra-EU trade). So far, this trilemma has resulted in a certain *status quo*, hindering the development of EU-wide social policies.

Often described as “a first decisive step for social Europe”,<sup>5</sup> the revision of the PWD is a textbook case of how social policies are negotiated and perceived by the different member states. As such, the in-depth study of the negotiation process and the obstacles encountered throughout the legislative procedure of the PWD revision can provide insight into the broader issues at stake when developing European-wide social policies.

## **1.2. Aim and scope of the thesis**

The aim of this analysis is to identify the different narratives used by the 28 EU member states (represented by their respective Ministers for Labour and Employment and Social Affairs) to frame the revision and more generally to frame EU level social policies. It contributes to the existing research on elite framing and expands this field to ‘negotiations analysis’, a resourceful topic which has rarely been addressed. Indeed, the vast majority of elite framing studies focus on public speeches and/or on party manifestos and official documents, which does not allow for the understanding of group dynamics (member states alliances for example). This work is limited to the study of ‘frame emission’ and leaves out the ‘frame reception’, which would require to assess the impact of framing on public opinion.

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4 Quoted from the six EPSCO Council sessions, transcribed by the author of this thesis. The full transcript can be accessed on request. Throughout the thesis, this document will be referred to as “EPSCO Council, *Full transcript*”, 11

5 ‘Travailleurs détachés - Vers une Europe sociale plus équitable et plus protectrice. Le nouveau cadre en bref.’ (Ministère du Travail, 2017).



This study answers the following questions: (1) how did the EU member states position themselves on the revision of the PWD over the course of the negotiations? (2) how did both the proponents and opponents to this revision justify their position? (3) what policy frames can be identified when negotiating the text proposal and how are they important for the debates on social Europe?

### **1.3. Outline**

The first section defines the framework of this research, by presenting the evolution of social protection of workers throughout the Union's history, the legal framework of the revision of the Posting of Workers Directive 96/71 and an overview of the posted workers' mobility patterns. The second section presents the concepts that will be used in this thesis, by discussing what framing and frames are. The third section details the methodology used to carry out this research, as well as its limits. Using this methodology, the fourth section presents the result of the quantitative and qualitative analyses of the data collected. The fifth section discusses these results and puts them into the broader perspective of the implementation of social policies at the European level. The last section of this thesis provides conclusions and suggests further research that could complement and deepen the analysis of social policy framing in the EU.

## 2. Research framework

### 2.1. Investigating ‘social Europe’

The agreement reached by the EPSCO Council on 23 October 2017 was described by Muriel Pénicaud, the French minister of Labour, as “a first decisive step for social Europe”.<sup>6</sup> With this kind of statements, Pénicaud and other proponents of the revision of the PWD seem to imply that this revision is an unprecedented event, which will pave the way for more social protection. This vision needs to be nuanced, as the living conditions of workers have been at least mentioned as soon as 1950, in the Schuman Declaration. This section aims at tracing back the roots of ‘social Europe’, by answering the following questions: what have been the key moments for social protection of workers in the history of EU integration? Why has the revision of the PWD been qualified of “a first decisive step” in this regard? To be fully understood, the revision of the PWD has to be seen in a broader context of European social policy development, which we provide for in this section.

On 9 May 1950, Robert Schuman publicly proposed the creation of a European Coal and Steel Community. In this famous speech, despite an overwhelming focus on economic matters, a small reference to living conditions of workers is made:

The task with which this common High Authority will be charged will be that of securing in the shortest possible time the modernization of production and the improvement of its quality; the supply of coal and steel on identical terms to the French and German markets, as well as to the markets of other member countries; the development in common of exports to other countries; *the equalization and improvement of the living conditions of workers in these industries.*<sup>7</sup>

This reference was included a year later in the Treaty Establishing the European Coal and Steel Community (ECSC Treaty), in a somewhat clearer way:

The institutions of the Community shall, within the limits of their respective powers, in the common interest: [...] (e) promote *improved working conditions and an improved standard of living for the workers* in each of the industries for

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6 ‘Travailleurs détachés - Vers une Europe sociale plus équitable et plus protectrice. Le nouveau cadre en bref.’

7 Anonymous, ‘The Schuman Declaration – 9 May 1950 - EUROPA’, Text, European Union, 16 June 2016, [https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration\\_en](https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_en). (italics added)

which it is responsible, so as to make possible their harmonisation while the improvement is being maintained.<sup>8</sup>

This short quote says a lot about the social component of the ECSC at that time. Protecting workers was limited in two ways: first of all, the institutions of the created Community had limited powers in this area, but they were also solely responsible for the coal and steel industries, as these industries were the starting point of the European cooperation. As a consequence, workers falling under the article 3 quoted above amounted to only 1.5% of the total ECSC population.<sup>9</sup>

In 1957, an important step is taken, with the creation of two chapters devoted to social issues in the Treaty establishing the European Economic Community. In these two chapters, articles 117 to 128 describe the social policies provided for by the treaty. It is stated that the equalisation of living and working conditions have to be improved, “not only from the functioning of the Common Market which will favour the harmonisation of social systems, but also from the procedures provided for under this Treaty”.<sup>10</sup> By this statement, it is acknowledged that the Single Market is not enough to ensure an adequate level of social protection: the responsibility of the Community in the protection and improvement of working conditions is therefore engaged. To try and reach this social objective (which is however not clearly defined in the treaty), the European Social Fund is created, “help[ing] workers in sectors that were modernising or converting to new kinds of production by providing them with short term retraining allowances” and by “ma[king] available resettlement help for those out of work who left their region to seek jobs elsewhere”.<sup>11</sup> The European Social Fund still exists today, but it has expanded to other areas (youth employment, education, etc.). However, it must be noted that in the EC Treaty, social provisions are still limited to mere accompanying measures, more than an actual ‘European intervention’ in this domain. This can partly be explained by the diversity of European social models, the low mobility of the

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8 Treaty Establishing the European Coal and Steel Community, Apr. 18, 1951, 261 U.N.T.S. 140 [hereinafter ECSC Treaty], art. 3, at. b. (italics added)

9 Ernst B. Haas, *The Uniting of Europe: Political, Social, and Economic Forces, 1950-1957* (Stanford University Press, 1958), 242.

10 Consolidated Version of the Treaty Establishing the European Community, 2006 O.J. C 321 E/37 [hereinafter EC Treaty], art. 117.

11 ‘European Social Fund - European Commission’, accessed 29 May 2018, <http://ec.europa.eu/esf/main.jsp?catId=62&langId=en>.

citizens, as well as the favourable economic situation at that time.<sup>12</sup> In addition, “the post-war imperatives were rather on reconstructing the European economies and Community founding members’ national strategies were aligned to these imperatives”.<sup>13</sup> Social protection was not a key priority of the EEC.

The thirty years following the EC Treaty did not witness any significant improvement in the provisions on social protection of the workers. In the 1980s, European integration is stagnating due to an atmosphere of political distrust: in the United-Kingdom, Margaret Thatcher is elected while in France, l’Union de la Gauche takes power.<sup>14</sup> It is in this climate, and with the objective to legitimate the Single Market and the integration process, the then president of the Commission Jacques Delors launches the Val Duchesse process, inviting “the chairs and general secretaries of all the national organisations affiliated to the EU-level organisations of employers and workers (UNICE, CEEP and the European Trade Union Confederation)”.<sup>15</sup> This moment represents the emergence of the European social dialogue, because of its lasting impacts: in ten years, “the Val Duchesse process generated 21 joint opinions and declarations, two key agreements and seven high-level summits”.<sup>16</sup> Amongst others, it establishes working groups on two main issues: the functioning of the labour market and the working time on the one hand, and the introduction of new technologies and their social impact on the other. These groups issue joint opinions, at first with no legal effects.

The Single European Act (SEA), signed in February 1986, can be seen as the officialisation of the Val Duchesse process. On the one hand, the SEA provides for the adoption of European norms aiming at protecting workers (especially in terms of safety at work) by qualified majority voting. On the other, it states that “the Commission shall endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it desirable, lead to relations based on

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12 ‘La Construction de l’Europe sociale - L’Europe sociale dans les traités’, RPUE - Représentation Permanente de la France auprès de l’Union européenne, accessed 29 May 2018, <https://ue.delegfrance.org/la-construction-de-l-europe>.

13 Mahamat K. Dodo, ‘Historical Evolution of the Social Dimension of the European Integration : Issues and Future Prospects of the European Social Model’, *L’Europe En Formation*, no. 372 (15 December 2014): 54.

14 Claude Didry, ‘L’émergence du dialogue social en Europe : retour sur une innovation institutionnelle méconnue’, *L’Année sociologique* 59, no. 2 (1 October 2009): 417–47.

15 ‘Val Duchesse’, accessed 31 May 2018, <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/val-duchesse>.

16 Ibid. ‘Val Duchesse’.

agreement”.<sup>17</sup> The article aforementioned sets social dialogue as a possibility. However, social dialogue can be easily avoided if the management does not “consider it desirable”, which leaves the door open for the bogging down of negotiations. At this stage of the European development, social Europe is therefore still in its infancy.

The first document specifically applying to the European workforce is the Community Charter of the Fundamental Social Rights of Workers of 1989, adopted by the then twelve EU member states (except for the United-Kingdom under Thatcher’s government, which adopts the Charter only in 1998). Although not binding, this Charter represents an important political signal for ‘social Europe’.<sup>18</sup> Amongst others, it covers issues such as the free movement, right to social protection and adequate social security, equal treatment for men and women, the protection of children, adolescents, elderly persons, and disabled persons, etc. This document forms the basis for the social chapter later attached to the Treaty on European Union (TEU) in the form of a Protocol for social policy.

This Protocol for social policy, attached to the TEU and therefore signed in 1992, allows the Council to issue minimal standards by qualified majority in areas regarding equality between men and women, the information and consultation of workers, their health and safety and the integration of people excluded from the labour market. Moreover, if the Council is unanimous, it can rule on the questions of social protection of workers, collective representation, financial assistance aiming at promoting employment and terms of employment of third-country nationals.<sup>19</sup> While this document’s content seems to be an important step forward for ‘social Europe’, it has to be noted that its form reveals shortcomings. Indeed, the Protocol is also called the ‘social Chapter’ and only appears in the form of an annex to the TEU. It holds a second-class position in EU legislation and, as mentioned in a study conducted by the Directorate General for Internal Policies in 2016, the “status of the European Social Charter in EU law remains unsatisfactory”.<sup>20</sup> De Schutter identifies two main causes of the weak impact of the so-called ‘social Chapter’. One is “the lack of uniformity of the

17 Single European Act, 1987 O.J. L 169/1, [hereinafter SEA] (amending Treaty Establishing the European Economic Community, Mar. 25, 1957, 298 U.N.T.S. 11 [hereinafter EEC Treaty]), art. 22.

18 ‘Dialogue de Val Duchesse’, accessed 31 May 2018, <https://resume.uni.lu/story/dialogue-de-val-duchesse>.

19 ‘La Construction de l’Europe sociale - L’Europe sociale dans les traités’.

20 Olivier De Schutter, ‘The European Social Charter in the Context of Implementation of the EU Charter of Fundamental Rights’, *Study for the AFCCO Committee, Directorate General for Internal Policies Department C: Citizen’s Rights and Constitutional Affairs, European Parliament*, 2016, 24.

EU Member States' undertakings in the *à la carte* system of the Charter” and the other one is “because the Court of Justice appears to have doubts as to the justiciable nature of the guarantees listed in the European Social Charter”.<sup>21</sup> It seems that twenty-three years after its ratification, the Protocol for social policy is still considered as a potential conflict trigger.

The signature in 1997 of the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts (hereinafter Treaty of Amsterdam) is an important step towards the strengthening of social policies at the European level, as it “placed the employment and social protection at the heart of the Community/Union”.<sup>22</sup> Indeed, the decision of the United-Kingdom to finally sign the Agreement on Social Policy allows for this protocol to be integrated into the Treaty in the form of a ‘Chapter on Social Policy’.<sup>23</sup> Some minor changes are done in the process, including changes in the decision-making procedures and institutional structures. Most importantly, “the co-decision procedure is extended, replacing the cooperation procedure in all areas other than Economic and Monetary Union”.<sup>24</sup> This co-decision procedure increases the powers of the European Parliament in the decision-making, by breaking away from its initial consultative role. Therefore, this increases the democratic legitimacy of the laws in the areas subjected to the co-decision procedure. In terms of employment and social affairs, two articles fall under this new procedure, namely Article 5 on employment incentive measures and Article 119 on equal opportunities and treatment.<sup>25</sup> In addition, qualified majority voting in the Council is extended to the aforementioned articles, as well as to Article 4 of the employment chapter on employment guidelines and Article 118(2) on social exclusion. The responses of the social partners to this Treaty were ambivalent. In particular, the European Trade Union Confederation (ETUC) “called the draft Amsterdam Treaty a minimalist solution to the dilemma facing European labour markets”,<sup>26</sup> despite the welcomed inclusion of the social chapter in the Treaty. However, Tina Weber notes that

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21 De Schutter, 24.

22 Dodo, ‘Historical Evolution of the Social Dimension of the European Integration : Issues and Future Prospects of the European Social Model’, 60.

23 ‘Amsterdam Treaty brings small advances for employment and social policy’, accessed 6 June 2018, <https://www.eurofound.europa.eu/fr/observatories/eurwork/articles/amsterdam-treaty-brings-small-advances-for-employment-and-social-policy>.

24 *Ibid.*

25 *Ibid.*

26 *Ibid.*

“clear advances were made in the area of combating discrimination on the basis of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation, and the extension of qualified majority voting could bring advances in the areas of employment and equal opportunities”.<sup>27</sup> The Treaty of Amsterdam marks the beginning of the politicisation of the issue of social protection in the EU, as it was seen by some as substantial improvement in this domain and criticised by others for not being ambitious enough.

Some years later, and following the rejection of the Treaty establishing a Constitution for Europe by French and Dutch voters in 2005, debates on the EU become very salient and concerns about the social question are also publicly discussed. Indeed, a main cause of the death of this treaty was its “social deficit”, denounced by the Dutch and French socialist parties. But according to the analysis of Nicholas Moussis, the Treaty of Lisbon (a product of all the Community Treaties since 1957<sup>28</sup>) signed in 2007 after a “period of reflection” of the EU member states following this rejection, does not comprise any substantial changes in terms of social provisions.<sup>29</sup> There are however two main changes compared to the Treaty of Amsterdam. Firstly, it clearly states that the EU social policy is an area of shared competence between the Union and its member states (except for education and health).<sup>30</sup> Secondly, member states have “the power to veto decisions in areas such as social security, protection of workers whose contract has been cancelled, representation and collective defence of workers, combating discrimination and employment conditions for third country nationals living in the EU”.<sup>31</sup> Despite these changes, the Lisbon Treaty cannot be described as having contributed to the development of a ‘social Europe’.

Starting in the years 2008-2009, the global economic crises deeply challenges the social component of the EU policy-making. As explained by Dodo, “the declining growth rate and the sovereign debt and public finances crisis are presented by the opponents of a Social Europe as the justification of reforms”<sup>32</sup> of welfare legislation,

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27 ‘Amsterdam Treaty brings small advances for employment and social policy’.

28 Dodo, ‘Historical Evolution of the Social Dimension of the European Integration : Issues and Future Prospects of the European Social Model’, 61.

29 Europedia, ‘The EU Social Policy According to the Treaty of Lisbon’, accessed 6 June 2018, <http://europedia.moussis.eu/discus/discus-1283276094-529725-4160.tkl>.

30 Dodo, ‘Historical Evolution of the Social Dimension of the European Integration : Issues and Future Prospects of the European Social Model’, 61.

31 *Ibid.*, 60

32 *Ibid.*, 62

employment policies and social protection arrangements. These reforms, undertaken in the broader context of austerity measures, amongst other “push for lower levels of social assistance and employment protection, [and] enhanc[e] competitiveness primarily through reducing the unit production cost via reducing or freezing wages”.<sup>33</sup> As a result, it can be said that the ‘social momentum’ has been dissipated, especially since Europe 2020 (EU’s agenda for growth and jobs for the current decade) “has next to nothing to offer in terms of either re-regulation of labour markets or a truly innovative alternative worthy of the term”.<sup>34</sup> In a paper exploring the “prospects of a renaissance of a Delorsian Social Europe agenda”,<sup>35</sup> Menz identifies three hindering factors: the Commission and EU member states’ perception of poverty as a “pathology that can be addressed primarily through inclusion in the labour market” (supply-side approach); the strong tendency to discourage “proactive re-regulatory social policy” (seen as an obstruction); and finally the difficulty to build “successful progressive coalitions”<sup>36</sup> in the Council of Ministers due to its topography and vote distribution system.

The centre-right Juncker Commission, in office since 2014, focuses on ‘Jobs, Growth, Fairness and Democratic Change’. Two of its main ten objectives until 2019 touch upon employment-related policies: ‘a new boost for jobs, growth and investment’ and ‘a deeper and fairer internal market with a strengthened industrial base’. While the first objective clearly expresses the supply-side approach identified by Menz, the second theoretically includes a social component, a will to increase the fairness of the internal market. According to the Juncker guidelines, this fairness is twofold: tax evasion and tax fraud have to be combatted, and remunerations for the same work at the same place have to be equalised.<sup>37</sup> It is in this context that the revision of the PWD was proposed by the Commission in March 2016.

In this chapter, we have shown that the Union has always entailed a (limited) social dimension, which has reached its peak in the 1980-1990s, under Delors socialist presidency and then the signature of the Amsterdam Treaty. The evolution of social policies have been characteristically slow and incremental, without encountering any

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33 Georg Menz and Amandine Crespy, *Social Policy and the Eurocrisis - Quo Vadis Social Europe*, Palgrave Macmillan, n.d., 8.

34 *Ibid.*, 20

35 *Ibid.*, 59

36 *Ibid.*, 60

37 ‘President Juncker’s Political Guidelines’, Text, European Commission, accessed 25 June 2018, [https://ec.europa.eu/commission/publications/president-junckers-political-guidelines\\_en](https://ec.europa.eu/commission/publications/president-junckers-political-guidelines_en).



major backlash up until the global economic crisis starting in the years 2008-2009. From then on, the EU has led and witnessed the degradation of its social protection basis, which has been somehow left out of the equation when trying to solve the crisis and limit its damages. It is therefore untrue to call any social law a “first step towards social Europe”. However, this phrasing could be understood as a way to signify a certain ‘social recovery’ of the EU after the crisis. While Menz and Crespy suggest that “Social Europe has come to a dead end with the euro crisis”,<sup>38</sup> they emphasise that some initiatives, such as the youth guarantee or the debates on a European minimum wage, could stabilise welfare states but also address the problem of steadily rising inequalities in the Union. Is the revision of the PWD one of these initiatives that could pave the way for *more* social Europe, and not ‘for social Europe’ as claimed by Pénicaud and other proponents of the revision? It is clear that the increasing labour mobility within the EU has challenged the development of EU-wide social policies. Indeed, as a consequence of the trans-nationalisation of markets, labour costs have become “an element of economic competition among EU member states”,<sup>39</sup> leading in most cases to a downward pressure on wages. Moreover, in four cases between 2006 and 2008, the European Court of Justice (ECJ) has had to give an interpretation on the balance between the freedom to provide services and the social rights of posted workers.<sup>40</sup> On all four occasions, the ECJ has ruled in favour of transnational service provision, “stressing that this should not be restricted by the exercise of social rights”.<sup>41</sup> By their very nature, social rights of posted workers question the equilibrium between free market and social protection, and are as such at the core of the ‘social Europe’ challenge. How does the EU respond to this challenge? To answer this question, we now turn to the legal framework of the revision.

## 2.2. Legal framework of the revision of the Posting of Workers Directive

The status of posted worker was established in 1996 by the Posting of Workers Directive 96/71/EC. This directive defines posted workers as “worker[s] who, for a

38 Menz and Crespy, *Social Policy and the Eurocrisis - Quo Vadis Social Europe*, 200.

39 *Ibid.*, 204

40 Commission v. Luxembourg [2008] E.C.R. I-04323; Rüffert [2008] E.C.R. I-01989; The International Transport Workers' Federation and The Finnish Seamen's Union [2007] E.C.R. I-10779; Laval, [2007] E.C.R. I-11767

41 Christos L. Fasois, ‘Revising the Posted Workers Directive: A Controversial Symbol for the Future of Social Europe’, EuVisions, accessed 25 June 2018, [http://www.euvisions.eu/revising-the-posted-workers-directive-a-controversial-symbol-for-the-future-of-social-europe/](http://www.euvvisions.eu/revising-the-posted-workers-directive-a-controversial-symbol-for-the-future-of-social-europe/).

limited period, carr[y] out [their] work in the territory of a Member State other than the State in which [they] usually work”.<sup>42</sup> At this time, the mobility of intra-EU workforce was increasing and labour laws applicable during the posting needed to be clarified. Indeed, according to the Rome Convention of 1980 (now replaced by the Rome I regulation), workers have to be protected by the law of the member state in which they are employed. A company willing to carry out services throughout the EU would therefore have to adapt to all twenty-eight sets of rules. In order to alleviate this legal burden, the PWD establishes that the host member states (and not the receiving ones) have to guarantee to workers posted to their territory a set of core rules: (a) maximum work periods and minimum rest periods; (b) minimum paid annual holidays; (c) the minimum rates of pay, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes; (d) the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings; (e) health, safety and hygiene at work; (f) protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people; (g) equality of treatment between men and women and other provisions on non-discrimination.

Despite this set of core socio-economic rights of the workers, the permissive framework of posted work quickly led to many abuses. Berntsen and Lillie argue that “regulatory frameworks on intra-EU mobility have created new windows of opportunity for firms to access less restrictive and cheaper regulatory environments while employing foreign labour”.<sup>43</sup> In addition, Cremers points out that “national measures to ensure compliance with the posting rules were not sufficiently well developed”.<sup>44</sup> In a later assessment of the directive in 2011, Cremers finds that the “use of the posting mechanism range[s] from perfectly normal and acceptably long-established partnerships between contracting parties to completely fake letter-box practices consisting of labour-only recruitment”.<sup>45</sup> Abuses of the posted work framework are twofold: firstly, the years

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42 Parliament and Council Directive on the Posting of Workers, art [2], at [1].

43 Lisa Berntsen and Nathan Lillie, ‘Social Dumping at Work: Uses and Abuses of the Posted Work Framework in the EU’ (European Trade Union Institute, 2015), 1.

44 Jan Cremers and Peter Donders, *The Free Movement of Workers in the European Union: Directive 96/71/EC on the Posting of Workers within the Framework of the Provision of Services; Its Implementation, Practical Application and Operation*, vol. 4 (CLR/Reed Business Information, 2004).

45 Jan Cremers, ‘In Search of Cheap Labour in Europe’, *Working and Living Conditions of Posted Workers*. International Books. ISBN 978, no. 90 (2011): 5727.

1996-2016 saw the large-scale development of letter-box companies, defined by the ETUC as “legal entities established in an EU country, where they have no (or minor) economic activities, in order to “regime shop” for lower taxes, wages etc.”.<sup>46</sup> The second type of fraud is called bogus self-employment. It is a disguised employment relationship in which workers are actually “working for a single employer, [but] using the status [of self-employment] to collude with that employer to pay less tax”.<sup>47</sup> In 2014, the approval of an Enforcement Directive tried to address the issue of letter-box companies by providing new instruments for monitoring, enforcement and cooperation in order to fight and sanction circumvention, fraud and abuses.<sup>48</sup> However, its effects are still unknown, considering the fact that member states had until June 2016 to transpose it into national law.

In 2016, the European Commission decided to revise the PWD in an attempt to “ensure fair wage conditions and a level playing field between posting and local companies in the host country”.<sup>49</sup> This revision touches upon the issue of ‘social dumping’, which has always been at the core of the public debates and policymaking circles when discussing posted work. Social dumping is a contested concept, that has been most deeply analysed by Bernaciak, who conceptualises it as a “practice of undermining or evading social norms and regulations, undertaken with the aim of gaining a competitive advantage”.<sup>50</sup> It was a key concept in the negotiations over the revision of the PWD and will be discussed further in this thesis. Concretely, the revision tackles three main issues: the remuneration of posted workers, the rules on temporary work agencies and the long-term posting.

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46 ‘Letterbox-Type Practices: Avoiding Taxes and Exploiting Workers across the EU’, ETUC | European Trade Union Confederation, accessed 26 June 2018, <https://www.etuc.org/en/pressrelease/letterbox-type-practices-avoiding-taxes-and-exploiting-workers-across-eu>.

47 Paul Mason, ‘Bogus Self-Employment Exploits Workers and Scams the Taxman’, *The Guardian*, accessed 20 July 2018, <https://www.theguardian.com/commentisfree/2017/mar/13/bogus-self-employment-exploits-workers-scams-tax-philip-hammond-national-insurance-uneven-taxation>.

48 Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) [hereinafter 2014 Enforcement Directive]

49 ‘The Commission Presents Reform of Posting of Workers – towards a Fair and Truly European Labour Market’, accessed 26 June 2018, <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2488&furtherNews=yes>.

50 Magdalena Bernaciak, ‘Social Dumping and the EU Integration Process’, *ETUI*, 2014, 24.

The revision proposes a new understanding of remuneration, embodied by the ‘equal pay, equal work’ principle. While the article 3.1 of the PWD only requires the posted workers to receive the ‘minimum rates of pay’, the revision uses the term of ‘remuneration’. This means that for an equivalent work, posted workers and local workers will receive an equal pay (not only including the minimum rates of pay, but also other elements such as bonuses or allowances where applicable).<sup>51</sup>

The text proposal also introduces a “mandatory equal treatment clause for posted temporary agency workers: the conditions to be applied to cross-border agencies hiring out workers must be those that are applied to national agencies hiring out workers”.<sup>52</sup> In other words, “national rules on temporary agency work apply when agencies established abroad post workers”.<sup>53</sup> This provision aims at limiting the ‘regime shop’ for less constraining social protection and therefore lower labour costs.

Finally, a limited length of posting is put in place. The Commission proposed to limit it to 24 months, but the Council of Ministers settled on a maximum stay of 12 months, with the possibility to extend it to 18 months upon request from the sending company. “If the duration of posting exceeds 24 months, the labour law conditions of the host Member States will have to be applied, where this is favourable to the posted worker”.<sup>54</sup> However, it has to be noted that the EU average of posted workers delivering a service in another country is less than 4 months (this average can reach 8 months in some countries). The large majority of postings are therefore not affected by this limitation.

To conclude this brief overview of the legal framework of the revision of the PWD, it can be said that the Commission’s proposal focuses on ‘social dumping’, by trying to limit the possibilities of ‘regime shopping’ for the employers. The duration of posting is limited, national rules on temporary agency work are applied and the ‘equal pay equal work’ principle is introduced. As shown in the next section, the ‘equal pay equal work’ principle is a sensitive issue which faced strong resistance, mainly visible through the triggering of a yellow-card procedure. We now turn to this procedure, which

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51 ‘The Commission Presents Reform of Posting of Workers – towards a Fair and Truly European Labour Market’.

52 Marion Schmid-Drüner, ‘Posting of Workers’, European Parliament, 2018, <http://www.europarl.europa.eu/factsheets/en/sheet/37/posting-of-workers>.

53 ‘The Commission Presents Reform of Posting of Workers – towards a Fair and Truly European Labour Market’.

54 *Ibid.*

was a key element in the negotiations' development and which ins and outs need to be clarified.

### **2.3. Subsidiarity control mechanism: triggering yellow-card procedure**

The subsidiarity control mechanism applies in areas where the EU shares competence with member countries and takes the form of reasoned opinion issue by national parliaments.<sup>55</sup> Depending on the number of national parliaments involved, it can lead to 'yellow-card' or 'orange-card' (which has never been triggered yet). In May 2016, eleven member states issued a yellow-card procedure against the proposal for a revision of the directive on the posting of workers.<sup>56</sup> It was only the third time that such procedure was invoked since its creation. Under this 'yellow card' procedure, if a total of one-third of the votes assigned to national parliaments express a negative opinion, the Commission must re-examine its proposal, after which it can choose to amend or withdraw its draft.<sup>57</sup>

During the negotiations, the main focus for criticism was the principle of 'equal pay for equal work'. The opponents of the proposal "believe[d] it [would] impinge on their national jurisdiction in setting wage levels, and want[ed] the text to be withdrawn".<sup>58</sup> This opinion was supported by employers groups such as the employers' federation BusinessEurope and the European Association of Craft, Small and Medium-Sized Enterprise (UEAPME). The arguments raised were the lack of consultation of the social partners, the potential creation of more legal uncertainty "where there are no universally applicable collective agreements",<sup>59</sup> but also the divisive element that the revision represented at a time where EU member states were in need of unity.

To the contrary, the European Trade Union Confederation (ETUC) urged the Commission to go ahead with the proposal. The ETUC had been advocating in favour of a revision of the Directive for a long time. As early as 2009, it had "set up an expert

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55 'Subsidiarity Control Mechanism', Text, European Commission - European Commission, accessed 26 June 2018, [https://ec.europa.eu/info/law-making-process/how-eu-laws-are-adopted/relations-national-parliaments/subsidiarity-control\\_en](https://ec.europa.eu/info/law-making-process/how-eu-laws-are-adopted/relations-national-parliaments/subsidiarity-control_en).

56 Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia.

57 'EU-Level: Posted Workers Proposal Gets "yellow Card" from Member States | Eurofound', accessed 26 June 2018, <https://www.eurofound.europa.eu/observatories/eurwork/articles/industrial-relations/eu-level-posted-workers-proposal-gets-yellow-card-from-member-states>.

58 *Ibid.*

59 *Ibid.*

group on posting composed of academics and trade unionists in order to undertake an in depth assessment of the problems raised by the ECJ judgements and give ETUC advice on possible options and/or recommendations”.<sup>60</sup> After re-examining the proposal, the European Commission “decided to maintain its proposal, given that it did not infringe upon the principle of subsidiarity, the posting of workers being, by definition, a transnational issue”.<sup>61</sup> As mentioned on the Eurofound website, the triggering of the yellow-card procedure was feared to cause “a potentially dangerous split in opinion between EU Member States, leading to a an east–west divide”. As we will see when analysing the content of the negotiations, this fear was partly grounded. We can then wonder why this revision was so divisive and why it got so much attention from media and European citizens in general. While the political reasons are investigated in this thesis through the analysis of the negotiations, the next section aims at presenting the key economic issues at stake. Clarifying the economic importance of posting allows us to then nuance the political statements, which sometimes under- or overstate the numbers.

#### **2.4. Posting: mobility patterns and economic impact**

It is difficult to evaluate the general impact of posting in economic terms, as it varies a lot depending on the country and the economic sector we are talking about. EU-wide, posted workers represent 0.9% of the total workforce (0.4% in full-time equivalent). In 2015, there were 2.05 million posted workers in the EU. It must be noted that some estimates indicate that undeclared work in the EU is one hundred times higher than legal posting.

Posting, contrary to popular misconceptions, does not predominantly happen from ‘low-wage’ to ‘high-wage’ countries.<sup>62</sup> On the contrary, “EU15 member states send more workers than EU12: 60% and 40% respectively”.<sup>63</sup> While Figure 1 confirms that the main receiving member states are ‘high-wage’ countries, the main sending ones

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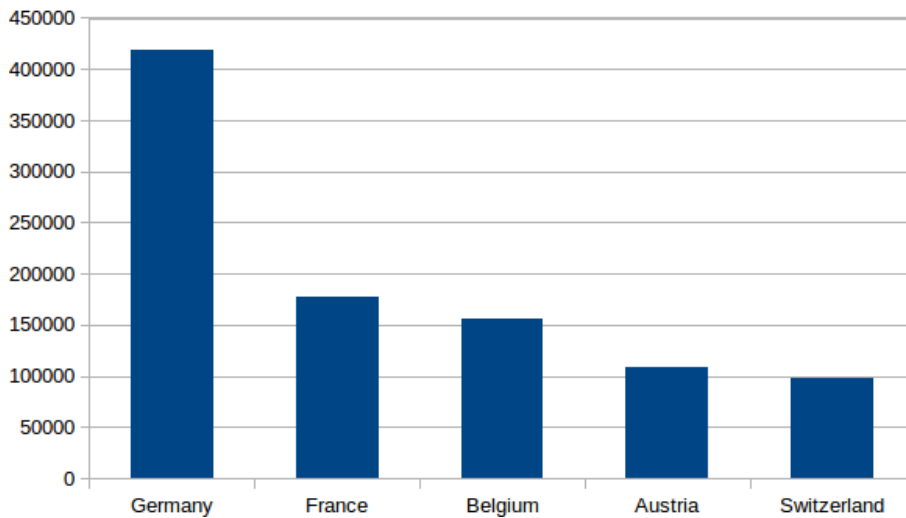
60 ETUC Expert Group on Posting, ‘A Revision of the Posting of Workers Directive: Eight Proposals for Improvement’ (European Trade Union Confederation, 2010).

61 ‘Yellow Card Procedure’, accessed 29 May 2018, <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/yellow-card-procedure>.

62 High-wage (above EU average wage, year 2012): DK, LU, SE, FI, BE, NL, DE, FR, AT, IT, IE; Medium-wage (around EU average, 2012): CY, ES, EL, MT, SI, PT; Low-wage (less than half of the EU average wage): HR, CZ, EE, PL, SK, HU, LV, LT, RO, BG; no data on the destination of postings from CY, DK, and the UK.

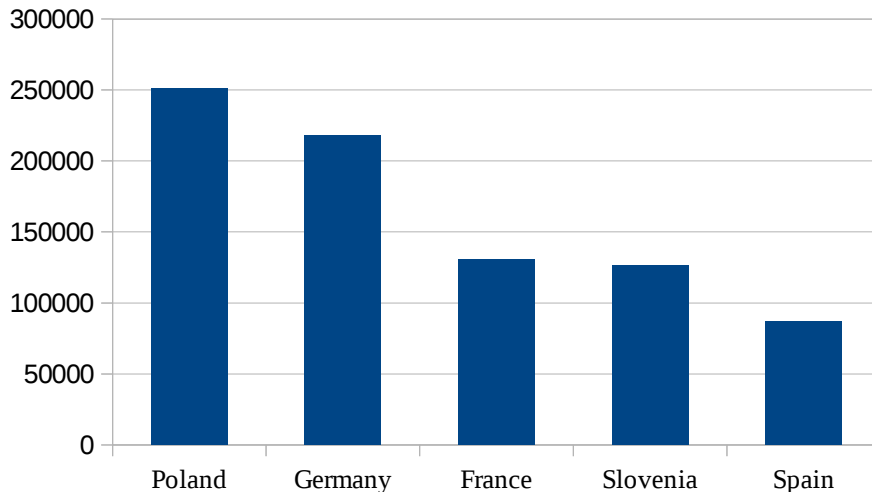
include Germany, France, Slovenia and Spain (see Figure 2). Indeed, according to the 2016 Impact Assessment by the European Commission, 35.8% of workers are posted from ‘high’ to ‘high’ wage countries, and 34.4% from ‘low’ to ‘high’ wage countries. In addition, 5% of posted workers come from ‘high-wage’ countries. Posted workers from ‘low’ to ‘high-wage’ economies therefore represent one third of the total postings, that is 0.13% of the total EU workforce.

Figure 1. Number of posted workers received in 2015



Source: European Commission<sup>64</sup>

Figure 2. Number of posted workers sent in 2015



Source : European Commission<sup>65</sup>

63 Kristina Maslauskaitė, ‘Posted Workers in the EU: State of Play and Regulatory Evolution’, *Policy Paper*, no. 107 (2014): 5.

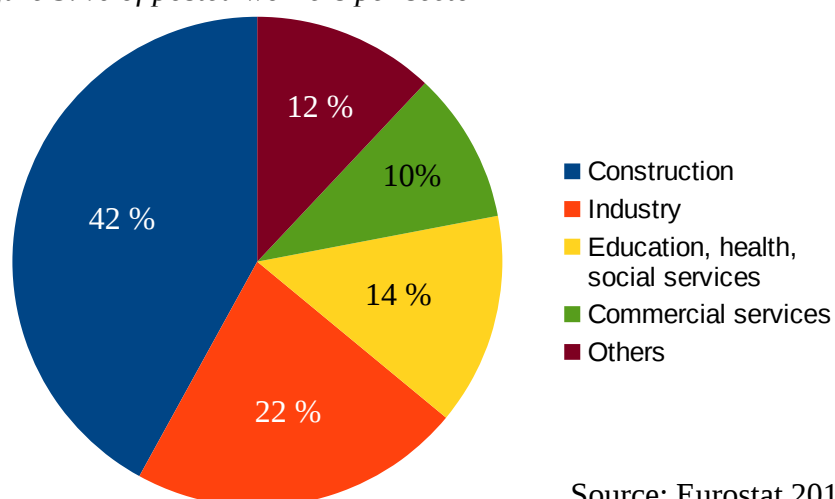
64 ‘Posted Workers in the EU: Factsheet’ (European Commission, 2016).

65 *Ibid.*

As highlighted by Bruegel during a Conference of think tanks on the revision of the posted workers directive, “posting of workers is by far the least important channel for competition between low-wage and high-wage countries”<sup>66</sup> (after importing goods from or offshoring the production to low wages countries). According to the same think tank, the strong politicisation of the issue of posted work is due to four factors: posted workers are more visible, there is a Europe-wide negative attitude towards immigration in general, the level of unemployment is high in some receiving countries and there have been important abuses of the PWD.<sup>67</sup>

In terms of duration of the postings, the European average is 98 days, with important variations depending on the country. In France, Belgium or Luxembourg, the postings do not exceed 33 days, while in Estonia, Hungary or Ireland they can last more than 230 days.<sup>68</sup>

Figure 3. % of posted workers per sector



As illustrated in Figure 3, workers are posted to very specific sectors: more than half of them are employed in the construction sector (42%, by far the largest sector represented), or in the industry (i.e. in the goods production). These sectors comprise a

66 Zsolt Darvas, ‘Could Revising the Posted Workers Directive Improve Social Conditions?’ (31 January 2017), 9.

67 *Ibid.*, 10

68 ‘Travailleurs détachés : combien sont-ils, où travaillent-ils, dans quels secteurs ?’, FIGARO, 23 October 2017, <http://www.lefigaro.fr/economie/le-scan-eco/dessous-chiffres/2017/10/23/29006-20171023ARTFIG00005-travailleurs-detaches-combien-sont-ils-o-travaillent-ils-dans-quels-secteurs.php>.



wide range of qualification levels and therefore of wage levels, and cannot be reduced to 'low-wage-only' sectors. An interesting finding is that "posted workers from the new member states are proportionally distributed across sectors; therefore it cannot be claimed that the presence of posted workers from EU12 in some sectors is disproportionately high",<sup>69</sup> which contradicts the widespread belief that some economic sectors are 'taken-over' by posted workers from 'low-wage' countries.

While Figures 1 et 2 present the phenomenon of posting in real numbers, it is necessary to complement this vision with numbers relative to national employment. Indeed, the population of the different EU member states varies greatly and the impact of posting in national economies cannot be overlooked. From a receiving perspective, posted workers most commonly represent 0 to 1% of national employment. However, some member states follow a different trend: posted workers in Switzerland represent more than 2% of national employment, in Austria 2.5%, in Belgium 3.5% and in Luxembourg, by far the largest share, 8.5%. From a sending perspective, postings correspond to 0 to 2.5% of national employment. Here again, particular patterns can be found: Slovak posted workers represent 4% of the national workforce, Slovenes 14% and Luxembourg almost 25%. This last number is particularly striking as it means that a quarter of the Luxembourg population is posted to another member states, which has an enormous influence of the country's economy.

In conclusion, posting is a very small but growing phenomenon, which is often misperceived. Posted workers equally come from 'high' and 'low-wage' countries and belong to various socio-economic groups. The length of posting, limited to 12 months by the revision of the PWD, rarely exceeds 8 months in practice. Finally, it must be noted that some countries are particularly involved in posted work, be it from the receiving or the sending perspective. One example worth mentioning here is the case of Luxembourg, whose economy is very dependant on posting, as 25% of its population is posted abroad and 8% of the countries' workforce is posted from abroad.

To conclude this chapter laying out the research framework of the thesis, it can be said that posting represents a challenge in terms of social protection, as the latter always has to be balanced with the freedom to provide services. The revision of the PWD, far from

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69 Maslauskaitė, 'Posted Workers in the EU', 7.

being ‘a first decisive step for social Europe’ for the reasons presented in this chapter, is however following the broader development of social Europe: compared to the length and intensity of the negotiations (and the public debates surrounding them), the revision only has a limited impact on the social protection of workers. The ‘equal pay equal work’ principle is nevertheless an important step, even if it applies to a very limited number of European workers. In the next chapter, we clarify the concepts that are used to analyse our data. To do so, an overview of the state of the art in policy framing research is provided, as well as a presentation of the specific frames that will be used throughout the analysis.

### 3. Conceptual framework

#### 3.1. Framing

The term “framing” was first used by Gregory Bateson in 1972. Bateson defines a psychological frame as “[being] or (delimit[ing]) a class or set of messages (or meaningful actions)”, created because of our natural “preference for avoiding the paradoxes of abstraction”.<sup>70</sup> The idea here is that to process new information, an audience has to think within a familiar context, which can be provided for by the source of information. According to Scheufele and Iyengar, “framing defines a dynamic, circumstantially bound process of opinion formation in which the prevailing modes of presentation in elite rhetoric and news media coverage shape mass opinion”.<sup>71</sup> Framing is therefore one of the many opinion-shaping processes, along with education, information processing and other cognitive processes.

Framing theories have been used mainly in communication studies as a tool to analyse agenda-setting by the media, but expanded in the 1980s to the fields of psychology, economics and sociology. Until the 2010s, most studies have been focusing on the question of *how* an issue is framed, particularly in mass media.<sup>72</sup> During the first decade of the twenty-first century, the framing paradigm’s popularity has skyrocketed: “two journals [*Political Communication* and *Journal of Communication*] published a total of thirty-three papers on framing between 1991 and 2000, but eighty-six between 2001 and 2010”.<sup>73</sup> This development, combined with the interdisciplinary use of the concept, has led to some misconceptions about what framing is, and what it is not.<sup>74</sup> For instance, framing has often been confounded with agenda setting (“transfer of salience from mass media to audiences”)<sup>75</sup> or priming (once an issue is salient in public opinion, people will judge governments, policies and candidates for public office according to

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70 Gregory Bateson, *Steps to an Ecology of Mind: Collected Essays in Anthropology, Psychiatry, Evolution, and Epistemology* (University of Chicago Press, 1972), 186, 189.

71 Shanto Iyengar and Dietram A. Scheufele, ‘The State of Framing Research’, in *The Oxford Handbook of Political Communication*, Oxford Handbooks (Oxford University Press, 2017), 1.

72 Holli A. Semetko, Claes H. de Vreese, and Peter Jochen, ‘Europeanised Politics--Europeanised Media? European Integration and Political Communication’, *West European Politics; London* 23, no. 4 (2000): 121–41; Claes H. De Vreese and Hajo G. Boomgaarden, ‘Media Effects on Public Opinion about the Enlargement of the European Union\*’, *Journal of Common Market Studies; Oxford* 44, no. 2 (2006): 419–36.

73 Iyengar and Scheufele, ‘The State of Framing Research’, 2.

74 *Ibid.*, 3

75 *Ibid.*, 5

certain standards).<sup>76</sup> While some scholars such as McCombs or Entman “have proposed to merge the three into a single conceptual framework”<sup>77</sup> (considering that the three concepts are fundamentally linked), this approach has been criticised for leading to imprecisions regarding definitions. For instance, Scheufele and Tewksbury are calling for “a return to a more specific equivalency-based definition of framing”.<sup>78</sup> This school of thought distinguishes between the study of accessibility-based effects (agenda setting and priming) and applicability effect (framing), in which “the mode of presentation of a given piece of information (*i.e.*, frame) makes it more or less likely for that information to be processed using a particular schema”.<sup>79</sup>

It is only in the past decade that scholars started to analyse both *how* and *by whom* the frames were created.<sup>80</sup> This major expansion of the field of research paved the way for numerous studies of how political actors (parties, representatives, institutions) frame certain issues in order to gain support from their electorate or from their peers.<sup>81</sup> This thesis is a part of this approach, as it analyses the way an issue – the revision of the PWD – was framed by national governments’ representatives in the Council of the European Union.

While framing, agenda setting and priming cannot be confounded, we believe that Entman’s definition remains valid in some cases, for the reason that media framing and elite framing differ. Studying elite framing *de facto* limits the potential confusion between the three concepts. Indeed, elite discourses do not necessarily work in terms of issue salience, especially when it comes to discourses during negotiations that are limited in terms of audience and scope (in our case, limited to the revision of a directive on posted work). While media strongly rely on the flow of information produced, elite discourse is quantitatively limited. In this context, framing is clearly separated from

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76 Donald R. Kinder and Shanto Iyengar, ‘News That Matters: Television and American Opinion’, *University of Chicago Press, Chicago: IL*, 1987, 63.

77 Iyengar and Scheufele, ‘The State of Framing Research’, 6.

78 Bertram Scheufele, ‘Framing-Effects Approach: A Theoretical and Methodological Critique’, *Communications* 29, no. 4 (2004): 401–428.

79 Iyengar and Scheufele, ‘The State of Framing Research’, 8.

80 Marc Helbling, Dominic Hoeglenger, and Bruno Wüest, ‘How Political Parties Frame European Integration’, *European Journal of Political Research; Oxford* 49, no. 4 (2010): 498.

81 Helbling, Hoeglenger, and Wüest, ‘How Political Parties Frame European Integration’; Roman Senninger and Markus Wagner, ‘Political Parties and the EU in National Election Campaigns: Who Talks about Europe, and How?’, *Journal of Common Market Studies; Oxford* 53, no. 6 (2015): 1336–51.

agenda setting. Similarly, when studying elite discourse framing as such, and not in terms of impact on the audience, priming is not a relevant concept.

This line of thought has led us to use Entman's definition in this thesis, which defines framing as a way "to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described".<sup>82</sup> According to Entman, the process of framing is therefore threefold: diagnosis of the problem in question, evaluation of the causes of the problem (agents or forces) and prescription of the remedies that are expected to solve the problem.<sup>83</sup> This definition is the most adapted to our scope of analysis, as it focuses solely on the emission of frames and not on its reception. Our analysis of the negotiations focuses on Entman's three dimensions of framing: diagnosis, evaluation and prescription, which are to be identified with the help of a certain frame typology, which is presented in the next section.

### **3.2. Frame categorisation**

In order to understand how actors (in our case, national governments) diagnose, evaluate and prescribe solutions, we use categorising frames based on Helbling's work, in the continuity of the literature that has applied "Habermas' (1993) distinction of three general types of arguments to media and elite discourses on European integration: utilitarian, identity-related and moral- universalist frames".<sup>84</sup> Very soon in our analysis, the presence of arguments that did not belong to any frame was spotted. To complement these three main "schemata of interpretation",<sup>85</sup> we add the deontological frame, which we define as the use of arguments referring to the "ethical necessity" to uphold a certain set of values (see Table 1). It has to be noted that frames are not necessarily exclusive. On the contrary, what is of interest in this analysis is to identify the different combinations of frames used as well as the rationale behind these choices. If contradicting frames are used, it sheds light on the 'political usage' of arguments, as

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82 Robert M. Entman, 'Framing: Toward Clarification of a Fractured Paradigm', *Journal of Communication*; *New York* 43, no. 4 (1993): 52.

83 *Ibid.*

84 Helbling, Hoeglenger, and Wüest, 'How Political Parties Frame European Integration', 500.

85 Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience*, New York: Free Press, 1974, 21.

opposed to the ‘result-oriented’ usage (which focuses on the facts in what we could call a ‘rational’ way).

*Table 1. Frame categorisation*

Cultural frame	Nationalistic Multicultural-universalist
Economic frame	Labour & social security Economic prosperity
Other utilitarian frame	Political efficiency & efficacy Security & ecology
Deontological frame	Moral principles

The cultural frame is divided into two sub-frames. While *nationalist frames* are “most often mobilised for the preservation of national boundaries and a culturally homogeneous society”, *multicultural-universalist frames* “favour cultural openness, exchange and the peaceful co-existence of various cultural and religious groups within a society or within Europe”.<sup>86</sup>

The economic frame consists of two sub-frames that are not necessarily opposed, but which set different priorities. The *labour and social security frames* use “arguments about fears of unemployment, decreasing wages, retrenchment of the welfare state and social security”<sup>87</sup> (the priority is to protect and develop welfare states further), while *economic prosperity frames* put “European integration in the context of economic wealth and growth, as well as the contexts of international competitiveness and budgetary considerations”.<sup>88</sup> The priority is then to put in place a favourable economic climate based on growth and competitiveness.

In the *other utilitarian frames* category, *political efficiency and efficacy frames* are the ones “referring to the workings of the political system, such as the action capacity of a state, state power and an efficient bureaucracy”. They can be opposed to or combined with *security and ecology frames*, described by Helbling as “little-salient utilitarian arguments, such as references to internal security (crime, corruption) as well

86 Helbling, Hoeglinger, and Wüest, ‘How Political Parties Frame European Integration’, 500.

87 *Ibid.*, 501

88 *Ibid.*

as external security (peace, regional stability), environmental protection and other rarely addressed objectives”.<sup>89</sup>

In the context of this thesis, another type of frame is added to this categorisation: the *deontological frames*. The latter are characterised by arguments based on ethics, with references to higher moral values and objectives that are not necessarily written in the law.

In a nutshell, we use Entman’s definition of framing (while being conscious of the risks of confusion it entails), supported by Helbling’s frame categorisation, which is divided into four main types of frames: cultural, economic, other utilitarian and deontological. By using this conceptual basis, we aim at identifying the different diagnoses, evaluations and prescriptions proposed by the national governments’ representatives when negotiating the revision.

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<sup>89</sup> Helbling, Hoeglinger, and Wüest, ‘How Political Parties Frame European Integration’, 501.

## 4. Methodology

### 4.1. Data collection

In order to get the best overview of the positioning of the EU member states on the revision of the PWD, we chose to focus on negotiations among national governments representatives. Analysing interactions in the Council of the European Union possesses significant methodological advantages. First of all, it allows for fair comparison as the speakers are expressing their government's views in same place, at the same time and with the possibility to publicly intervene whenever requested. Then, it sheds light on the different groups that were formed during the negotiations and their interactions, which gives additional information on framing dynamics at the European level. Finally, it gives insight on how opinions have evolved throughout the nineteen months of negotiations.

The negotiations over the revision of the PWD were spread out from March 2016 to October 2017 and conducted by the Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council. This Council, created in 1997, “brings together ministers responsible for employment, social affairs, health and consumer policy from all EU member states”.<sup>90</sup> The revision of the PWD was officially proposed by Commissioner Thyssen on 7 March 2016 and was on the agenda of six public sessions (see Table 2), for a total duration of 7 hours 57 minutes.

*Table 2. Public sessions of the EPSCO Council: revision of the PWD*

Date	Duration	Presidency
7 March 2016	33 minutes	The Netherlands
16 June 2016	41 minutes	The Netherlands
8 December 2016	1 hour 03 minutes	Slovakia
3 March 2017	52 minutes	Malta
15 June 2017	1 hour 9 minutes	Malta
23 October 2017	3 hours 41 minutes	Estonia

<sup>90</sup> ‘Employment, Social Policy, Health and Consumer Affairs Council Configuration (EPSCO) - Consilium’, accessed 24 May 2018, <http://www.consilium.europa.eu/en/council-eu/configurations/epsco/>.



The videos of the negotiations were streamed from the official website of the European Council, after identification of all sessions which included the revision of the PWD in their agenda. Then, the discussions were transcribed, using the live English translation provided during the Council sessions. To facilitate the reading and provide the most faithful transcription, some specific symbols were used throughout the text (see Table 3). The full transcript is not available online but can be sent on request.

*Table 3. Transcription symbols*

*	Speech instantly translated (originally not in English)
***	One or several words missing (inaudible)
—	Self-correction from the speaker

After the full transcription of the negotiations, all arguments were isolated in order to determine whether they were fitting in the chosen frame categorisation. As a whole range of arguments did not fit Helbling’s categorisation and had some similarities between them, it is at this stage that the *deontological frames* category was added. Then, as a nuancing mechanism, a three-level intensity scale was applied to each argument: belonging “weakly”, “intermediately” or “strongly” to each framing category. This mechanism is further explained in 5.4, when discussing methodological limits and obstacles.

#### **4.2. Quantitative method: computer-assisted text analysis**

In a project proposal written by Mahoney and Baumgartner (both researchers in public policy) for the National Science Foundation in 2010, it is stated that “a combination of cluster and correspondence analysis currently constitutes the most appropriate text analysis technique in order to study framing and dimensionality of legislative debates”.<sup>91</sup> This research method of quantitative text analysis, then developed by Klüver and Mahoney,<sup>92</sup> “is rooted in the so-called ‘bag of words’ approach, which treats words

91 Christine Mahoney and Frank R. Baumgartner, ‘Framing Policy Debates in the European Union’ (NSF Proposal, October 2010), 10.

92 Klüver, H. and Mahoney, C. (2012) Framing Policy Debates in the European Union: New Techniques to Answer Old Questions. Paper prepared for the 6th ECPR SGEU Pan European Conference on EU Politics; Tampere, 13–15 September 2012.

as independent observations”.<sup>93</sup> Using the software T-LAB, frame identification works as follows:

In order to identify frames, a cluster analysis is applied to a text corpus [...]. The input for the analysis is a word frequency matrix that contains the occurrences of words in the different texts in the corpus. The underlying assumption of the research method proposed here is that interest groups that employ the same frames should rely on a similar pool of words. For instance, interest groups that highlight the impact of a legislative proposal on chemical regulations for the environment should use words such as ‘environment’, ‘nature’ and ‘pollution’. By contrast, interest groups that emphasize the impact of the same proposal for the chemical industry will most likely employ terms such as ‘competitiveness’, ‘jobs’ and ‘productivity’. As a result, interest groups that use the same frame should mention similar words while interest groups using an opposing frame should rely on another set of terms. Words that belong to the same frame are mentioned together more often than words that belong to two separate frames.<sup>94</sup>

To conduct the quantitative frame analysis in this thesis, we use the open source software IramuTeQ (0.7 alpha 2), which is a free equivalent of T-LAB. More specifically, we use the Similarity Analysis, displayed with a force-directed algorithm using a Fruchterman-Reingold layout. “This analysis, based on graph theory, is often used by social representations researchers. It allows to identify the words co-occurrences, providing information on the words connectivity thus helping to identify the structure of a text corpus content. It also allows to identify the shared parts and specificities according to the descriptive variables identified in the analysis”.<sup>95</sup> In other words, the Fruchterman-Reingold layout allows a preliminary analysis by providing two main type of information: first, the words that are most used in the corpus (occurrence) and second, how these words are used together (co-occurrence).

### 4.3. Qualitative method

The second and main part of our frame analysis is qualitative. Its methodology follows the four following steps:

(1) Grouping: in order to facilitate the analysis, the twenty-eight EU member states (represented by their respective ministers) are not analysed individually. The

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93 Frida Boräng et al., ‘Identifying Frames: A Comparison of Research Methods’, *Interest Groups & Advocacy; London* 3, no. 2 (2014): 191, <http://dx.doi.org/10.1057/iga.2014.12>.

94 Ibid. Boräng et al., 192.

95 Brigido Vizeu Camargo and Ana Maria Justo, ‘Tutorial para uso do software Iramuteq’ (2016), translated from Portuguese into English by Elena Forte, accessed 28 June 2018, <http://www.iramuteq.org/documentation>.

creation of groups is necessary to provide a better overview of the types of frames used when discussing the revision of a law. Indeed, it is expected that proponents and opponents respectively use the same frames to justify their support or rejection. The first part of the analysis is therefore dedicated to group allocation, according to each member state's position during the negotiations.

(2) Expectations: as a second step, using Helbling's frame categorisation, the hypotheses are presented, answering the following questions: are there a lot of differences within the groups' argumentation (consistency of framing)?<sup>96</sup> What types of frames are used by the proponents and opponents (supporting and opposing frames)? How strong can we expect each frame to be in each group's argumentation (intensity scale)?

(3) Arguments categorisation: in this part, arguments used by all groups are listed and then classified, according to the reference frame categorisation and the intensity scale. They are also counted, in order to analyse them quantitatively.

(4) Mapping the use of frames: controlling for country effects.<sup>97</sup> As the framing of European integration is heavily shaped by a country's history,<sup>98</sup> and that according to Kriesi *et al.*, the issue of European integration (and therefore, the issue of European social integration which is of interest here) has become more salient and more controversial in countries where populists and radical right parties have gained power in the last decade,<sup>99</sup> we need to include this variable in our analysis. This last step can be understood as an attempt to nuance the group categorisation.

#### **4.4. Limits and obstacles**

In an article about the methodology of qualitative news frame analysis, Linström and Marais provide an overview of the problems raised by framing research.<sup>100</sup> While this thesis is not focused on news framing but on policy framing from political actors, some of the limits presented by Linström and Marais are relevant and need to be addressed, namely the questions of validity and subjectivity.

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96 Helbling, Hoeglinger, and Wüest, 'How Political Parties Frame European Integration', 512.

97 *Ibid.*, 505

98 Juan Díez Medrano, *Framing Europe: Attitudes to European Integration in Germany, Spain, and the United Kingdom* (Princeton University Press, 2010).

99 Hanspeter Kriesi et al., *West European Politics in the Age of Globalization* (Cambridge University Press, 2008).

100 Margaret Linström and Willemien Marais, 'Qualitative News Frame Analysis: A Methodology', *Communitas* 17, no. 1 (2012): 21–37.

First of all, the validity of qualitative frame analysis is very much dependant on “how the frames are operationally defined”.<sup>101</sup> Indeed, definitions and concepts must be very clearly defined, as “distinctions between news frames frequently are indistinct”.<sup>102</sup> To avoid this ambiguity, we use a frame categorisation that has already been used for various studies in the same research field, *i.e.* media and elite policy framing in the EU.<sup>103</sup> Of course, the frame categories has to be adapted to the object studied, which is why the *deontological frames* category was added, as some arguments used by national governments representatives did not fit in other categories. However, the validity of the categorisation can still be objected to on the basis of a lack of preciseness. Indeed, dividing complex arguments into seven categories can be limiting, especially if researchers “define frames in a stereotypical or conventional way”, as suggested by Tankard.<sup>104</sup> Recognising that a wider range of frame categories could potentially be identified, this thesis does not claim to map them all. Rather, it aims at providing a comprehensive picture of all member states’ framing choices, including “group positioning” (where several member states take a common position to promote their interests). Further research with different methodological tools could be undertaken in order to identify more frames categories (for instance by focusing exclusively on one member state), which would then allow to get to a more precise understanding of how political actors frame certain issues and why.

Qualitative frame analysis also raises the issue of subjectivity. Indeed, “this approach makes frame identification a rather subjective process”,<sup>105</sup> when “definite categories are not immediately obvious”.<sup>106</sup> In other words, if an argument does not clearly belong to one of the categories, how can it be dealt with? And how far does the researcher play a role in final choice of category? In order to tackle this issue, a nuancing mechanism can be put in place. In this thesis, we chose to apply a three-level

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101 Linström and Marais, 27.

102 Bert Klandermans and Suzanne Staggenborg, *Methods of Social Movement Research* (U of Minnesota Press, 2002), 62.

103 Helene Sjurson, ‘Why Expand? The Question of Legitimacy and Justification in the EU’s Enlargement Policy’, *JCMS* 40, no. 3 (2002): 491–513; Marika Lerch and Guido Schwellnus, ‘Normative by Nature? The Role of Coherence in Justifying the EU’s External Human Rights Policy’, *Journal of European Public Policy* 13, no. 2 (2006): 304–21; Helbling, Hoeglinger, and Wüest, ‘How Political Parties Frame European Integration’.

104 In Stephen D. Reese, Oscar H. Gandy Jr, and August E. Grant, *Framing Public Life: Perspectives on Media and Our Understanding of the Social World* (Routledge, 2001), 98.

105 *Ibid.*, 98

106 Paul D’Angelo and Jim A. Kuypers, *Doing News Framing Analysis: Empirical and Theoretical Perspectives* (Taylor & Francis, 2009), 37.

intensity index, indicated whether an argument belongs “weakly, intermediately or strongly” to each category. In addition, if an argument belongs to two categories, it will be counted twice for the quantitative analysis.

## 5. Data analysis

### 5.1. Group allocation

In order to facilitate the analysis and to provide a better overview of the types of frames used when discussing the revision of a law, we have divided the interventions of the twenty-eight ministers into three groups (see Table 5). These groups were not defined according to the results of the final vote, which are presented in Table 4, as these results do not represent the initial position of the actors but the result of the negotiations.

*Table 4. Results of the final vote of the EPSCO Council on October 23<sup>rd</sup>, 2017*

In favour	21	Austria, Belgium, France, Germany, Greece, Italy, the Netherlands, Portugal, Slovenia, Spain, Sweden, Cyprus, Finland, Luxembourg, Malta, Bulgaria, Czech Republic, Denmark, Estonia, Romania, Slovakia
Abstention	3	Ireland, United-Kingdom, Croatia
Against	4	Hungary, Lithuania, Poland and Latvia

Instead, each minister's interventions were counted, in order to determine the extent of his/her participation. From our observations, eleven member states appear to have actively participated in the debates (more than 6 interventions, 6 included) and clearly stated their will to revise the PWD (Group 1). Six member states had quite a low participation in the debates (less than 6 interventions), and/or did not state clearly their position on the revision of the directive. These member states could be described as 'spectators' of the negotiations. They were put together into one group (Group 2). Among them, four voted in favour of the revision and two abstained (Ireland and the United-Kingdom). Finally, eleven member states actively participated in the negotiations (more than 6 interventions, 6 included) but initially positioned themselves against the revision (Group 3). They initiated a yellow-card procedure, a "procedure under which the national parliaments of EU Member States can object to a draft legislative act on grounds of the principle of subsidiarity".<sup>107</sup> The ins and outs of this yellow-card procedure are described in more depth in 2.3. However, it has to be noted that only four out of eleven member states maintained their original position and voted

<sup>107</sup> 'Yellow Card Procedure'.

against the final version of the revision (Hungary, Lithuania, Poland and Latvia) and one abstained from the vote (Croatia).

As a result, three groups were created. The two main groups (Group 1 and Group 3) are composed of eleven member states each – which is an important observation, as they *de facto* represent equal forces in the negotiations in terms of votes. However, Groups 1 and 3 are very different in terms of relative size and wealth, which has an influence on political negotiations. These differences are illustrated in Table 6. Group 2 is much smaller, with six member states which did not actively participate in the debates. At this stage, it can already be foreseen that studying Group 2 might not be very fruitful (their position being more of a distant one, no particular strategic framing might be used), while the two other groups can be expected to provide a good basis for the frame analysis.

*Table 5. Group allocation: member state and characteristics*

Group 1	Austria, Belgium, France, Germany, Greece, Italy, the Netherlands, Portugal, Slovenia, Spain, Sweden	Supported the revision throughout the negotiations, actively participated in its promotion (more than 6 interventions per member state, 6 included).
Group 2	Cyprus, Finland, Ireland, Luxembourg, Malta, United-Kingdom	No clear positioning on the revision (abstention in the final vote) and/or low participation in the debates (less than 5 interventions per member state, 5 included).
Group 3	Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia	Issued the yellow-card procedure. Among them, four member states voted against the revision.

In order to know whether the geographical location of the member states has an impact on their positioning, they were placed on a map (Figure 4) according to their assigned group. From this map, it is very clear that the group supporting the revision is

exclusively composed of ‘Western’ or ‘old’ member states, while the opposition comprises member states from the 2004 enlargement (with the exception of Cyprus and Malta), plus Denmark. The middle group is composed of five peripheral member states (Ireland, the United-Kingdom, Finland, Cyprus and Malta), plus Luxembourg. Denmark and Luxembourg seem to be ‘anomalies’ in light of this group allocation, which we will discuss further when analysing our corpus qualitatively.

Figure 4. Group allocation: geographical map

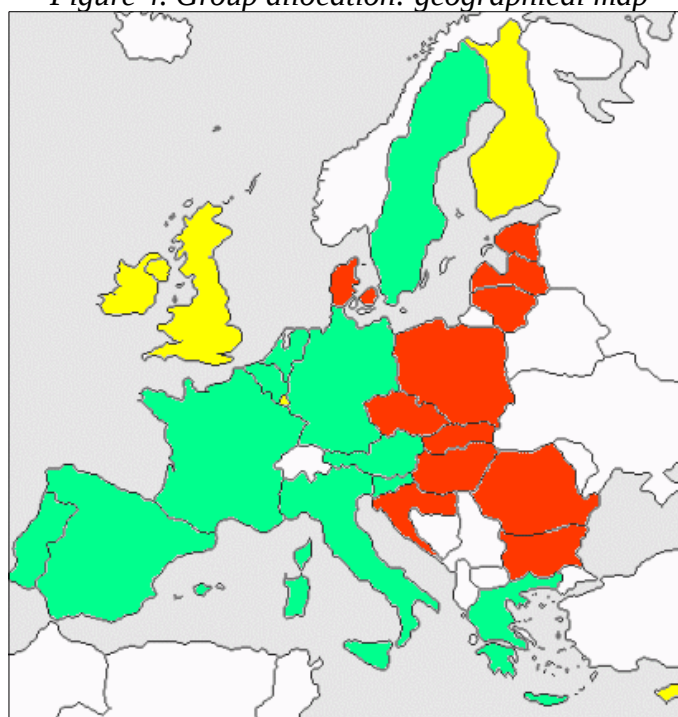


Table 6. Gross Domestic Product, Area and Inhabitants: a comparison

Group	GDP (per capita, average for each group)	Area (km <sup>2</sup> , % of the European area)		Inhabitants (number, % of the European population)	
<b>European Union</b>	29 900 €	4 475 757 km <sup>2</sup>		512 596 403	
<b>Group 1</b>	59 482 €	2 656 082	59.3%	312 879 903	61%
<b>Group 2</b>	46 100 €	677 493	15.1%	80 355 101	15.7%
<b>Group 3</b>	16 655 €	1 142 182	25.6%	116 361 399	23.3%

Source: Eurostat, *Population on 1 January 2018; main GDP aggregates per capita*



## **5.2. Hypotheses**

This thesis aims at answering the following questions: (1) how did the EU member states position themselves on the revision of the PWD over the course of the negotiations? (2) how did both the proponents and opponents to this revision justify their position? (3) what policy frames can be identified when negotiating the text proposal and how are they important for the outcome of the debates? To do so, the following hypotheses are made:

[Hypothesis n°1] Similar frames are used within each groups. The type of argumentation is relatively homogeneous and consistent throughout the negotiations.

[Hypothesis n°2] Member states in favour of the revision use the multicultural-universalist frame, the labour and social security frame, with some presence of the political efficiency and efficacy frame. In terms of semantic field, they are expected to use vocabulary linked to social welfare and equality, focusing on workers.

[Hypothesis n°3] Member states opposed to the revision use nationalistic frame and economic prosperity frame, complemented with the political efficiency and efficacy frame. In terms of semantic field, they are expected to use vocabulary linked to economic welfare and competitiveness, focusing on businesses.

[Hypothesis n°4] The deontological frame that we added to Helbling's frame categorisation is used by member states in favour of the revision, appealing to ethical values of solidarity and fairness.

## **5.3. Quantitative frame analysis**

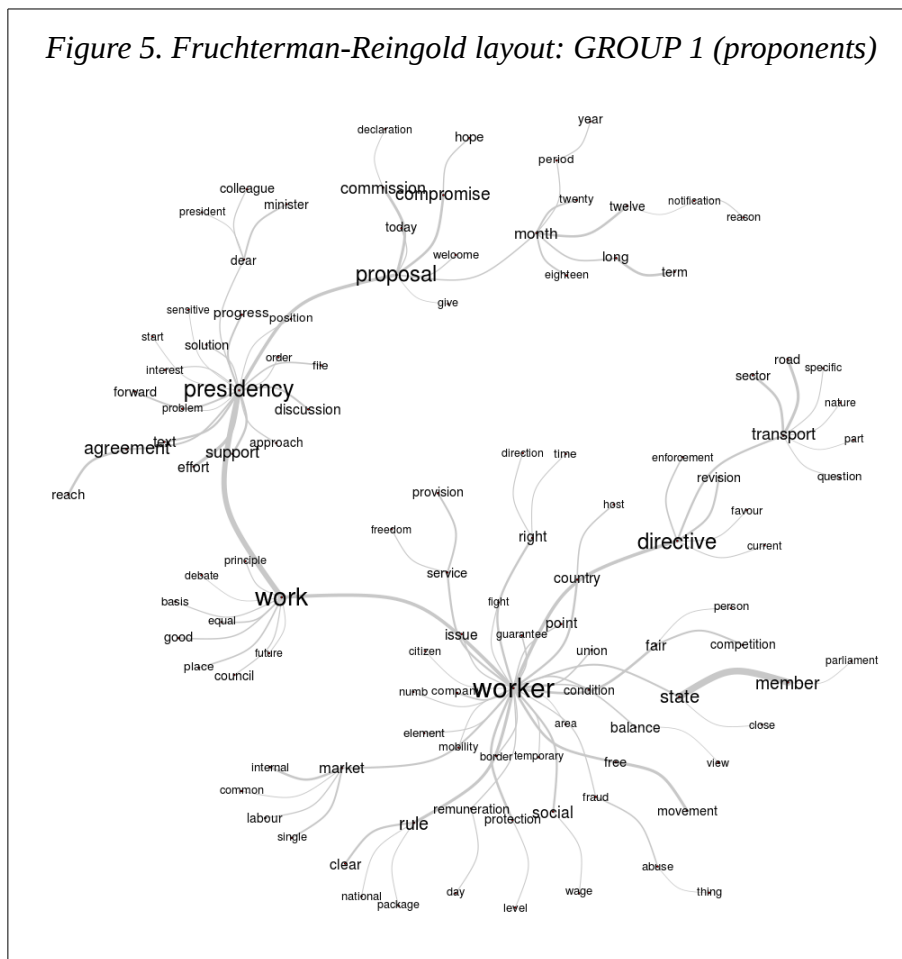
The quantitative analysis is twofold. Firstly, we will present the results of the computer analysis with the software IraMuTeQ, then we will turn to the preliminary results of the frame analysis, laying the basis for the qualitative analysis.

### 5.3.1. Corpus analysis: occurrence and co-occurrence

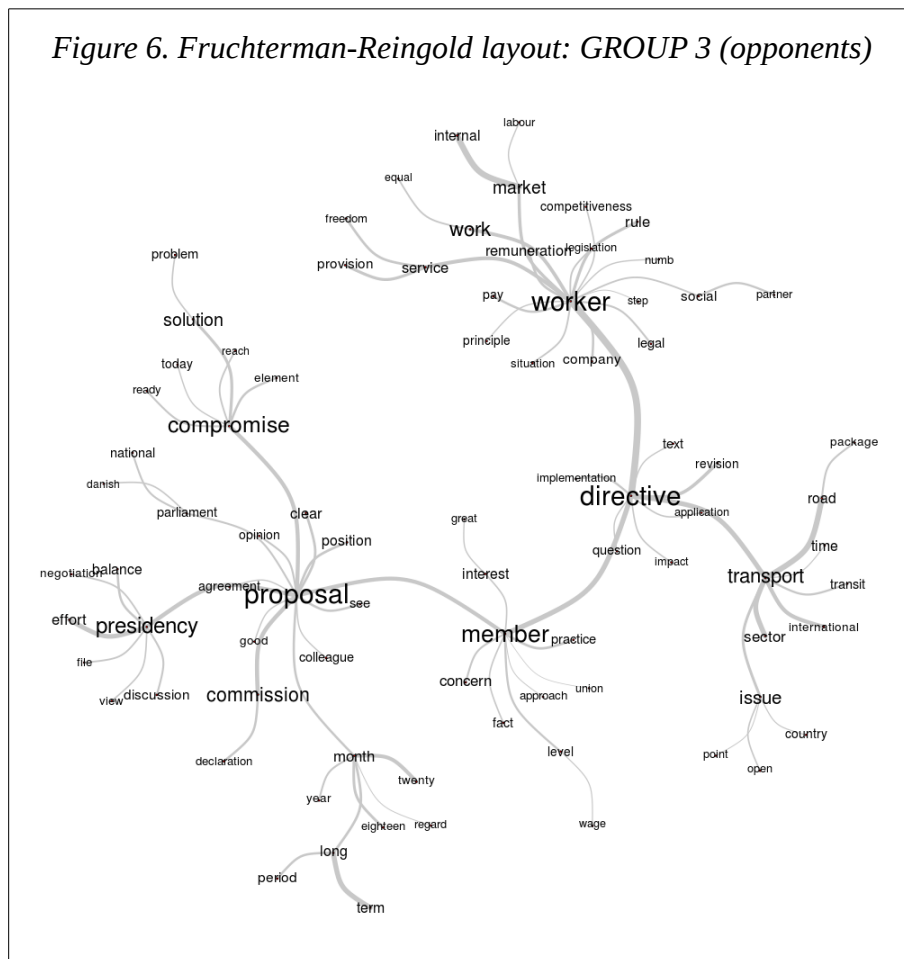
After running the computer analysis, the Fruchterman-Reingold layout for Groups 1 and 3 appears as shown in Figures 5 and 6. The results for Group 2 are not presented here as the text compiling the interventions for this group was not long enough to conduct a conclusive quantitative analysis (this group being characterised by a low participation in the negotiations), but they can be found in Appendix 1.

The size of a word represents its occurrence in the text (all speeches of the members of a given group combined), while the thickness of a connecting line represents co-occurrence of two words, i.e. how often two words have been used together in a sentence. For example, in Figure 5, the words ‘proposal’, ‘presidency’, ‘work’, ‘worker’ and ‘directive’ have been used most often. ‘Presidency’ and ‘work’ have been used together very often. In this case, it is due to frequent use of the formula ‘the presidency’s work’.

The first general observation that can be made from the computer analysis is the general similarity of the two layouts. Indeed, the words ‘proposal’, ‘directive’ and ‘worker’ appear to be among the most frequent in the two groups. In addition, a lot of less frequent words are present in the discourses of both groups. While the two layouts naturally differ, they have a lot in common and their belonging to one or the other group is not obvious at first sight.



One of the main differences observed is the strong emphasis on workers, when it comes to Group 1. The term 'worker' is clearly at the centre of this group's argumentation and has a wide range of concepts attached to it. To understand how the proponents present the revision, it is therefore necessary to have a look at how they frame workers. As expected, 'worker' is attached to positive nouns and adjectives, such as 'freedom', 'right', 'protection', 'social', 'clear', 'free', 'fair', 'balance', 'guarantee'. These terms show that to support the revision, Group 1 frames it in two ways: it will protect better the workers and provide more security, clarity and fairness. Only two elements co-occurring with the term 'worker' are negative: 'abuse' and 'fraud', highlighting them as problems for workers that need to be addressed. 'Work' also occurs with positive terms, such as 'good', 'equal', 'future'. The idea of work is therefore presented as a priority, a value that needs to be protected.



When comparing this vision to the one in Group 3, the difference is striking: 'worker' is combined with positive terms too, but emphasising the market dimension

through the use of ‘competitiveness’, ‘internal market’, ‘provision’ of ‘service(s)’, ‘company’, ‘partner’, ‘pay’. The term ‘social’ is also used, but in relation to the term ‘partner’, which means that the social dimension is integrated mostly when mentioning social partners (and their role and opinion in the revision). The term ‘work’ does not occur as much as in the Group 1 layout. This argumentation frames workers as an important component of the EU market economy and its competitiveness, leaving aside the social dimension. In this frame, a certain emphasis is put on legal concerns, through the use of ‘legal’, ‘principle’ and ‘legislation’. It shows a certain down-to-earth approach, a utilitarian understanding of the concept of work and workers. Another difference lies in the presentation of the presidencies’ work. Group 3 simply emphasises the importance of the ‘effort’, of the ‘negotiation’ and ‘discussion’ in order to reach a ‘balance’. On the other hand, Group 1 insists on the agreement in itself that has to be reached. This argumentation focuses again on positive nouns, such as ‘progress’, ‘forward’, ‘support’, ‘solution’, ‘interest’. Proponents also use the terms ‘problem’ and ‘sensitive’, highlighting the political dimension of the negotiations. In short, the proponents focus on the solutions while the opponents focus on the decision-making process in itself. This last observation is confirmed by the strong presence of the term ‘compromise’ in the second group’s argumentation (one of the five most frequently occurring terms), which is also present in Group 1 but on a smaller scale.

Interestingly, Group 3 mentions the ‘proposal’ a lot, linked to positive words, such as ‘good’ and ‘clear’. A possible explanation could be that it has been repeated a lot that the opponents would like a ‘good’ and ‘clear’ proposal and not that they appreciate the current proposal. Here, our interpretation is limited by the type of analysis used, which only shows a partial picture of the argumentation, by displaying words and not sentences.

Finally, the term ‘transport’ is present in both argumentation, though it is more consequent in Group 3. This can be explained by the long and heated discussions on whether the transport should be included in the scope of the revision or not, which was strongly argued against by Group 3 and ultimately excluded from the revision. While Group 1 only makes a passing reference to it (to the ‘specific nature’ of the ‘road transport sector’), the layout of Group 3 shows its importance for this group. Indeed, the agreement was reached mainly as a result of a compromise on this issue.

In conclusion, this introductory corpus analysis gives information on the aspects of the revision each group decided to highlight. The proponents strongly emphasised the social security aspect and the need to respect workers and value their work, while the opponents relied on economic prosperity arguments such as the competitiveness of the European market that could be damaged by the revision. The first group spoke positively of the agreement and its outcome, and the second brought to the fore the importance of negotiations and compromise as such. As it appears in this analyse, the negotiations were not conducted in a binary opposition, as both groups used positive expressions in their framing. On the contrary, the negotiators positively emphasised two important dimensions of the EU: its economic model (Group 3) and its social component (Group 1). Further analysis will bring more nuance to this first broad picture of framing strategies.

### *5.3.2. Frame analysis: preliminary results*

Now that we have determined what words occurred most – and how they were linked together – in both groups, we can start the frame analysis, which uses Helbling’s frame categorisation. As presented in the methodology section, arguments from all three groups are listed and integrated to one of the seven frame categories that are used. As none of them belong to the ‘nationalistic’ or the ‘security and ecology’ frames, these two frames are removed from the analysis. There are therefore five frames left to analyse. In order to quantitatively respond to our hypotheses, all arguments were counted, even when they had been mentioned already. This method allows us to see how extensively each frame has been used and the evolution of this use throughout the six meetings. This analysis leaves Group 2 out, as the low participation of the member states in this group does not allow for a statistical analysis. Figures 7 and 8 summarise our findings. The detailed data sheet can be found in Appendix 2.

Figure 7. Distribution of frames in Group 1 during the six meetings

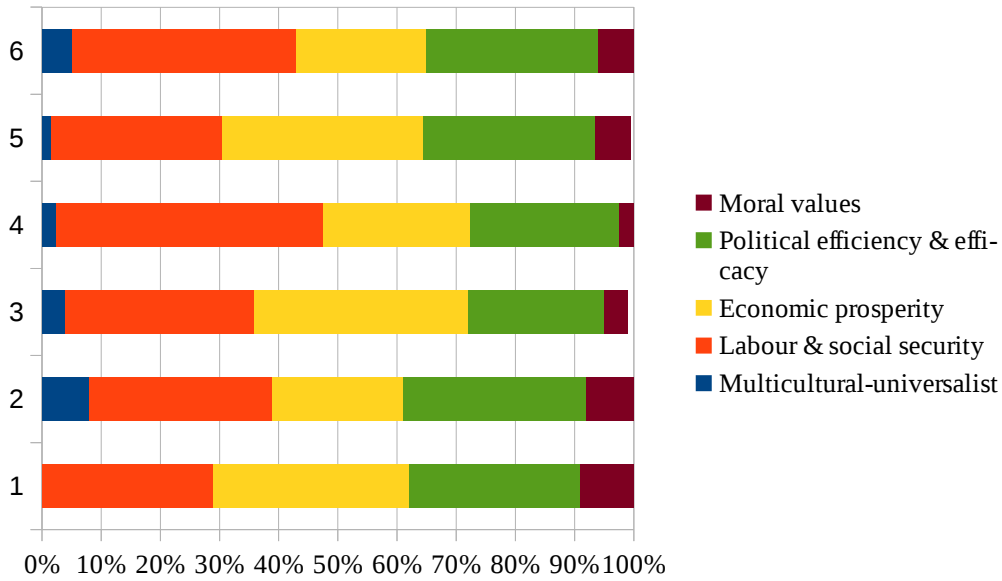
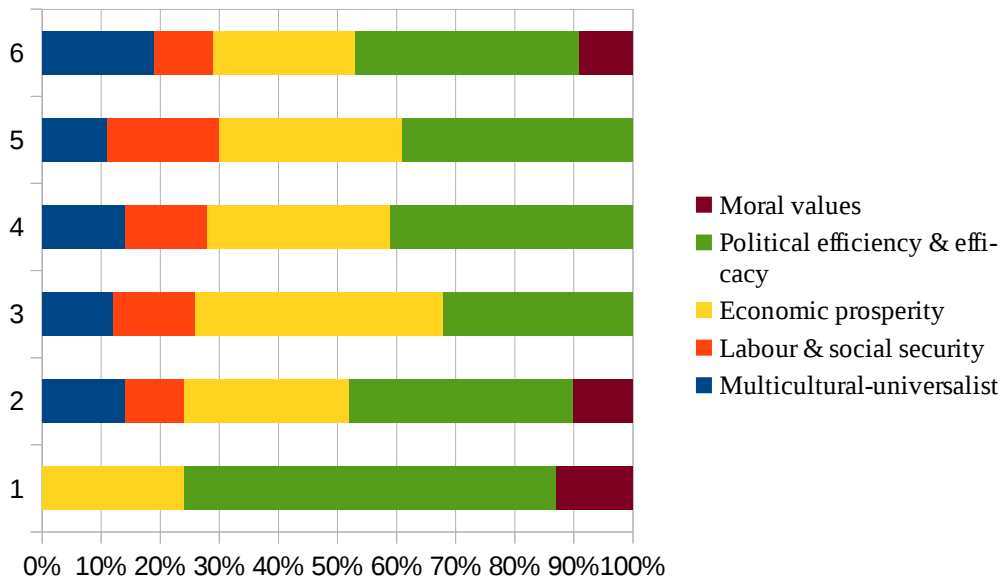


Figure 8. Distribution of frames in Group 3 during the six meetings



These results show that both groups present clear patterns of argumentation, but also a certain continuity. The distribution of frames in each group is consistent, except for the first meeting which was also the shortest and therefore less representative. This first observation allows us to validate our first hypothesis (*i.e.* “similar frames are used within each groups and he type of argumentation is relatively homogeneous and consistent throughout the negotiations.”).

The proponents of the revision, consistently put the emphasis on labour and social security (representing a third of their argumentation on average), which is directly related to the social purpose of the revision and had been identified in the corpus analysis. The rest of their argumentation is based on economic prosperity and political efficiency arguments (representing together an average of 50% of the arguments). Interestingly, the multicultural-universalist and the deontological frames are not very much used (respectively 3.5% and 5.9% on average). If we compare these results with the first part of our second hypothesis ('member states in favour of the revision use the multicultural-universalist frame, the labour and social security frame, with some presence of the political efficiency and efficacy frame'), they do not exactly fit. Indeed, while we had expected a strong multicultural-universalist frame, it does not have a important role in the proponents' framing. On the other hand, even if we had anticipated some presence of the political efficiency and efficacy frame, we had underestimated its place in the argumentation.

The group opposing the revision leaves the labour and social security frame on the side (11.2% on average) and builds its argumentation around two main frames: 'political efficiency and efficacy' and 'economic prosperity'. In comparison with the other group, the multicultural-universalist frame is more often used (11.7% on average), making it as (non) important as the labour and social security frame. If we compare these results with the first part of our third hypothesis (member states opposed to the revision use nationalistic frame and economic prosperity frame, complemented with the political efficiency and efficacy frame), they also do not meet our expectations. While the economic prosperity frame is indeed major in the opponents' argumentation, the nationalistic frame is outright missing. The political efficiency frame, despite being correctly identified, has been underestimated. What do these results tell us about concrete framing strategies of both groups?

Our result show that even though the revision was driven by a will to improve social conditions in the EU, the supportive member states chose to diversify their argumentation. At this stage, we can guess that in order to have more leverage in the negotiations, the emphasis had to be put on the economic benefits that would flow from the revision, but also on the increased efficiency of the European legislation resulting from it. The relatively small proportion of social arguments is still striking (especially

considering the fact that one argument can be counted more than once) and needs to be further investigated. On the opponents' side, it seems logical to put social considerations on the side. Indeed, proving that this revision is harmful for social conditions of workers is not really feasible, and focusing on trying to prove how inefficient the revision would be, but also how it would damage economic prosperity, seems to be the best way for to oppose it. An intriguing result is the relatively strong presence of multicultural-universalist arguments, which does not really fit into the expected pattern of opponents to social measures at the EU level.

As we have seen, this preliminary analysis gives an insight into the distribution of frames but does not allow for in-depth understanding of the frames themselves. The detailed content of the arguments is analysed in the next section, devoted to qualitative analysis.

#### **5.4. Qualitative frame analysis**

##### *5.4.1. Economic prosperity frame: contradictory statements*

As we have seen in the preliminary results, the economic prosperity frame has been central in both groups' argumentation (28.7% in group 1, 30.2% in group 3). So how did the different groups present the economic impact of the revision?

First of all, it is important to note that in 2014, the EPSCO Council had negotiated the terms of the Enforcement Directive, which aimed at tackling abuses of posting such as letterbox companies or bogus self-employment. As member states had until June 2016 to transpose it into national law, the economic impacts of this directive are still unknown. Some member states have expressed doubts about the relevance of the revision without having access to any report on the effects of the 2014 Enforcement Directive. While the proponents of the revision claimed that the two directives were not necessarily interdependent, the analysis of the negotiations reveals a significant lack of economic forecast regarding the revision. This lack is blatant when economic arguments from both sides are compared. While we had expected the two groups to "select some aspects of [the] perceived reality and make them more salient"<sup>108</sup> in their speeches, we

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108 Entman, 'Framing: Toward Clarification of a Fractured Paradigm', 52.



find that both groups actually focus on the same aspects, but present contradictory statements.

The first point of disagreement is the impact of the revision on competitiveness. For instance, while Hungary claims that “the new proposal to revise the Posting of Workers Directive will undermine the principle of the free movement of services and it would cause serious irreversible damages to the competitiveness of the EU”,<sup>109</sup> Spain says that they “believe that with this step forward we will be heading in the direction of improving the protection for European workers and also encouraging the competitiveness of our economy”.<sup>110</sup> Ireland, part of the intermediary group, “consider[s] that those proposals would have had a severe and negative impact on the functioning of the internal market and on the competitiveness of the SME market in particular”.<sup>111</sup>

The second point is the impact of the revision on the number of postings. Proponents, like Sweden, argue that “we need more cross-border mobility, we need more posting, we need a true common labour market”,<sup>112</sup> implying that the revision can help achieve this goal. On the contrary, opponents insist on the fact that the proposal “threatens to virtually eliminate posting”,<sup>113</sup> or at least to limit it because of the legal burden the new text represents, especially for small and medium-sized enterprises (SMEs). As a result, opponents believe that the revision “undermine[s] the principle of the free movement of services”, while the Commission claims that it aims at “removing barriers to cross-border service provision”.<sup>114</sup>

In terms of job creation, proponents argue that the proposal will “creat[e] jobs based on increased efficiency” and “improve economic growth”.<sup>115</sup> Quite the contrary, Lithuania (supported by other member states) thinks that it “reduces the internal market growth potential”.<sup>116</sup> Contradictory statements are also found when discussing broader economic impacts and concepts.

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109 EPSCO Council, *Full transcript*, 14

110 *Ibid.*, 116

111 *Ibid.*, 89

112 *Ibid.*, 18

113 *Ibid.*, 33

114 *Ibid.*, 14, 2

115 *Ibid.*, 15, 33

116 *Ibid.*, 20

For instance, proponents frame the revision as a “significant tool for convergence among the member states”,<sup>117</sup> in terms of remuneration and social conditions. Czech Republic challenges this statement by saying the opposite. According to them, “this wage equalisation aimed furthermore on only one side of the Union, will not help fair competition. It undermines the ongoing economic and social convergence between member states”.<sup>118</sup> They think that the revision is “not an appropriate way for wage convergence across the EU”.<sup>119</sup> Poland adds that the proposal is very likely to cause the “fragmentation of the internal market”<sup>120</sup> because it jeopardises its principles. This argument is also countered by the Netherlands, who believe that the proposal will lead to the “further deepening of the internal market”.<sup>121</sup>

Finally, the Commission claims that the proposal will tackle “unfairness and market distortions”, thereby “insur[ing] a level playing field”, re-establishing the “non-discriminatory treatment of workers” and “improv[ing] fair competition”.<sup>122</sup> Romania on the other hand believes that “it will lead to an unfair and less competitive internal market”.<sup>123</sup>

The analysis of each groups’ argumentation shows that for absolutely every ‘economic prosperity’ argument used, we can find its contrary in the other group. More importantly, economic arguments are never backed by any data or examples. This observation implies that either the data available to foresee the economic impact of the revision was too scarce, or that one of the two groups is purely and simply lying. In the light of the content of the negotiations, we tend to believe that the first assumption is true and that despite the lack of economic data, the Commission pushed the file forward in order to make progress on a social level. The economic prosperity frame, representing a third of each group’s argumentation, therefore seems to be based on uncertainty and doubts regarding the impact of the revision. It is characterised by a strong dichotomy that can be misleading to European citizens. Naturally, this opposition does not only appear in the economic prosperity frame, but also when discussing key concepts such as social dumping.

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117 EPSCO Council, *Full transcript*, 7

118 *Ibid.*, 15

119 *Ibid.*, 86

120 *Ibid.*, 30

121 *Ibid.*, 70

122 *Ibid.*, 3, 1, 40, 29

123 *Ibid.*, 14

#### 5.4.2. *Social dumping, a contested concept*

Throughout the negotiations, the use of the term ‘social dumping’ has been very controversial. While it has never been officially presented by the Commissioner as an issue that needs to be tackled by the revision, several proponents (Austria, Greece, Slovenia, Sweden and Luxembourg) repeatedly mentioned it as a priority objective. For instance, Greece stated that “it is a common ground that the posting of workers cannot operate as an instrument for social dumping”.<sup>124</sup> On the other hand, Hungary and Romania argued that “the term social dumping [which] is sometimes in this debate, is not only incorrect, but also profoundly unfair in the context of cross-border service provision”<sup>125</sup> and urged their colleagues to stop using it (which they did not). So why is the use of social dumping so contested and divisive in this particular context?

Sweden stated that “public support for free movement is dependant on concrete actions to avoid social dumping and ensure that workers can have an upward convergence of working conditions”.<sup>126</sup> This sentence illustrates the fear of some wealthier member states to see decreasing working conditions in the EU. Convergence, which first appeared in the Maastricht Treaty in 1992,<sup>127</sup> is one of the main objectives of the EU. With the 2004 enlargement, economic and social conditions were expected to ‘converge upwards’ through market integration, reaching the ‘Western levels’ of wealth and social protection. Economically, this upward convergence did happen to a certain extent (though it was slowed down by the economic crisis in 2008). In terms of social convergence however, the role of the EU “is not immediately obvious”.<sup>128</sup> In the last decade, there have been “concerns about a slowdown in between-Member State convergence” and these concerns were very much expressed during the negotiations. Amongst others, social dumping has been presented as hindering upwards convergence and fair competition.

According to Bernaciak, who most extensively researched the topic, social dumping takes place when firms “can consciously strategize across different regulatory systems between and within countries in search of the lowest cost structure for

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124 EPSCO Council, *Full transcript*, 29

125 *Ibid.*, 14

126 *Ibid.*, 33

127 ‘Converging Economies, Diverging Societies? Upward Convergence in the EU - Foundation Forum

2017: Background Paper | Eurofound’, accessed 7 July 2018,

<https://www.eurofound.europa.eu/publications/other/2017/converging-economies-diverging-societies-upward-convergence-in-the-eu-foundation-forum-2017>.

128 *Ibid.*, 13

employing workers”.<sup>129</sup> From the European perspective, wage and social system differentials between ‘old’ and ‘new’ member states combined with the free movement of workers certainly opened the door to such behaviours. However, despite some beliefs, social dumping is not an exclusive domain of actors coming from ‘new’ EU member states. As stressed by Hungary, “a legitimate wage advantage of companies does not constitute social dumping nor does it give firms an unfair competitive edge”.<sup>130</sup> Social dumping can indeed be confounded with competitive advantage, which simply represents “the conditions that make a business more successful than the businesses it is competing with”.<sup>131</sup> But going back to Bernaciak’s definition, it has to be proven that a firm “consciously strategize[s] across different regulatory systems” in order to label a behaviour as social dumping.

In the case of posted work, social dumping is much present but is still far from representing the majority of posting practices. Saying that the revision of the PWD “gives [...] a better opportunity to fight wage and social dumping and especially unfair competition”<sup>132</sup> is not wrong (fraudulent companies have less incentive to strategize if remuneration is homogeneous), but somehow implies that wage differentials essentially represent unfair competition. Framing wage differential as unfair competition in turn supposes that lower wage member states are responsible for this alleged ‘dumping’. This is the fallacy behind this argumentation: social dumping practices are initiated by individual businesses and member states cannot be blamed for structurally having lower wages. What member states (but also the EU) can be blamed for is the weak monitoring and sanctioning of such practices.

In brief, some member states’ fear of decreasing labour standards in the EU seem to have created confusion between the concepts of social dumping, (un)fair competition and downwards/upwards convergence. While the first two represent specific abuses that need to be addressed, convergence is a EU-wide principle that has to be based on a strong policy strategy in order to happen. Upwards convergence is a value and therefore a political choice.

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129 Bernaciak, ‘Social Dumping and the EU Integration Process’, 5.

130 EPSCO Council, *Full transcript*, 47

131 ‘Competitive advantage’, Cambridge Dictionary, accessed 7 July 2018,

<https://dictionary.cambridge.org/fr/dictionnaire/anglais/competitive-advantage>.

132 EPSCO Council, *Full transcript*, 65

This confusion has been divisive in the context of the revision, as some member states have (rightly or wrongly) felt accused of fraudulent behaviours. In response to this implied accusation, they emphasised the need for unity, as the European economic model is based on the will to move beyond national markets by creating a single market. According to them, speaking of social dumping within the EU is illegitimate as all practices are part of one single market. This ‘unity-approach’ was characterised by the use of what we classified as ‘multicultural-universalist’ frames, implying that the revision had protectionist tendencies.

#### *5.4.3. Multicultural-universalist versus nationalistic frame*

As we have seen in the quantitative analysis (preliminary results of the frame analysis), the use of the multicultural-universalist frame during the negotiations does not correspond to our hypotheses. Proponents of the revision, who are advocating for more equality between local and posted workers throughout the EU, were expected to use this frame more intensively than opponents, defending the status quo. However, the preliminary results showed that the multicultural-universalist frame represent only 3.5% of proponents’ argumentation, versus 11.7% of the opponents’ argumentation. How can we explain that result? Part of the answer has been mentioned in the previous section relating to social dumping. Helbling describes the multicultural-universalist frame as “favour[ing] cultural openness, exchange and the peaceful co-existence of various [...] groups within a society”.<sup>133</sup> As such, it can be seen as a response of the opponents to perceived protectionist motives of the proponents.

This is illustrated by Romania’s statement: “we consider that the current draft of the posting of workers’ revision, if adopted as such, will lead to protectionist barriers within the EU and disproportionate burdens for service providers”.<sup>134</sup> From the opponents’ point of view, some member states feel threaten by their competitive advantage and are trying to protect their own workforce. Indeed, if remuneration is equalised between posted and local workers, firms have less incentive to employ workers from low wage countries and the employment possibilities for these workers become more restricted. Of course, calling the revision of the PWD a ‘protectionist measure’ is a strong statement, as the EU aims at being a barrier-free market and

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<sup>133</sup> Helbling, Hoeglenger, and Wüest, ‘How Political Parties Frame European Integration’, 500.

<sup>134</sup> EPSCO Council, *Full transcript*, 67

sanctions protectionist practices from individual member states. In addition, as mentioned earlier, no seemingly nationalistic arguments have been found in the proponents' argumentation, who on the contrary claim that “[the EU] need[s] to fight protectionism, need[s] more cross-border mobility, need[s] more posting, need[s] a true common labour market”.<sup>135</sup> The protectionist motives behind the revision of the PWD cannot be confirmed or invalidated and this question falls out of the scope of this thesis. However, the fact that it was framed that way by the opponents is important because of the reaction it triggered: the opponents framed themselves as the defenders of the European unity.

The term ‘unity’, consistently used by member states such as Hungary, Romania and Poland, was never mentioned by the proponents of the revision. Insisting on the divisive nature of the revision, opponents argued that the priority was to strengthen solidarity in the Union and to focus on the common goals. They framed themselves as attempting to unite the European member states, emphasising that the debate “is not [about] an East and West divide, [it] is not an ‘old’ and ‘new’ division” and saying that “[member states] should refrain from creating new boundaries among [them]selves”.<sup>136</sup>

One quote from Romania is particularly interesting in this regard:

We also regret that this topic, which has already caused so much division, was brought up at the worst possible time to be deepening fractures in Europe. With several states facing elections, dominated by highly populist, xenophobic and nationalistic tones, and raising suspicions that this is one of the topics being used to cater to an internal electorate by scapegoating non local workers, rather than strengthening solidarity and healthy competition.<sup>137</sup>

This quote refers to the then upcoming elections in supportive member states such as Germany, Austria, France, Italy and the Netherlands, and frames the revision as a political move aimed at fuelling nationalist sentiments and boosting votes. As an example, the then candidate for the French presidency Emmanuel Macron had made the revision of the PWD a flagship project of his campaign. Five months after his election, the EPSCO Council agreed on a draft compromise and this decision was depicted in the

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135 EPSCO Council, *Full transcript*, 18

136 *Ibid.*, 82, 10

137 *Ibid.*, 32

media as a ‘European victory for Macron’,<sup>138</sup> after having ‘faced Eastern Europe’.<sup>139</sup> In this context of multiple upcoming elections, some member states had the feeling that the proponents had a double political agenda: the official one, i.e. the improvement of working conditions in the Union and the informal one, i.e. the political use of the rising concerns about labour immigration in high wage member states.

Some member states also denounced the lack of compromise, going as far as stating that “what [they were] experiencing is not a compromise seeking exercise, but an exercise where the interests of one group are pushed down the throat of the other group”.<sup>140</sup> This split into groups has been mentioned several times, for instance by Ireland who claimed to be “concerned about the impact of this divisive file on the European Union more broadly and on our collective unity, given the polarised positions, which are regrettably often evident on geographic lines”.

In sum, member states opposed to the revision used the multicultural-universalist frame in order to present themselves as the victims of protectionist and perhaps nationalistic practices. To justify their opposition to the revision, they promote unity and solidarity in the Union and warn supportive member states of the divisive potential of this file. The proponents do not use the multicultural-universalist narrative very much and focus instead on the social and efficiency dimensions of the revision.

#### 5.4.4. *Investigating the social narrative*

As we have seen in previous sections, the economic arguments used during the negotiations are not based on clear data. Rather, the economic impacts seem to be open to interpretation, and can therefore be used for the benefit of both sides. In addition, advocates of the revision have faced serious accusations depicting the revision as a protectionist move. In this context, proponents had to focus on the ‘labour and social security’ frame in order to provide for a positive narrative and to gain the sympathy of public opinion. So how did they use this frame, representing 34% and therefore the

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138 ‘Travailleurs détachés : la victoire européenne de Macron’, Libération.fr, 24 October 2017, [http://www.liberation.fr/france/2017/10/24/travailleurs-detaches-la-victoire-europeenne-de-macron\\_1605391](http://www.liberation.fr/france/2017/10/24/travailleurs-detaches-la-victoire-europeenne-de-macron_1605391).

139 ‘Travailleurs détachés : Macron face à l’Europe de l’Est’, Libération.fr, 23 August 2017, [http://www.liberation.fr/france/2017/08/23/travailleurs-detaches-macron-face-a-l-europe-de-l-est\\_1591584](http://www.liberation.fr/france/2017/08/23/travailleurs-detaches-macron-face-a-l-europe-de-l-est_1591584).

140 EPSCO Council, *Full transcript*, 109

biggest part of their argumentation, and what was the strategy of the opponents regarding the social question?

First of all, it appears that supportive member states made use of a set of what we can call ‘standard arguments’ (*i.e.* arguments that are expected in the context of a social reform). They stressed that the ‘equal pay equal work’ principle respects the subsidiarity principle and the principles of proportionality and non-discrimination, which are necessary elements for the revision to be valid. According to them, it also respects national wage-setting mechanisms and the role of social partners and collective agreements. This last point was however refuted by the opponents who denounced a lack of consultation of the social partners, and mentioned that some trade unions were opposed to the revision (though, they were referring to employers’ unions). Another ‘standard argument’ was the emphasis on the need to guarantee fair treatment for workers and the respect of their rights.

The rest of the arguments can be split into two categories: some implied that the social component of the EU had to be developed and improved, while the others seemed to consider that the revision was only a way to maintain the existing European social basis, which is already solid and remarkable. Both categories are based on the idea that the EU needs to “strike a balance, a difficult balance between free circulation, free movement and provision of services and the protection of workers and the quality of their work”.<sup>141</sup>

Some proponents presented the revision as a way to have *more* social protection, *better* and “*dignified* working conditions”, “*greater* comfort, *greater* security, *greater* certainty”.<sup>142</sup> They claimed that revision was the way towards “social *progress*”, “*greater* social convergence and solidarity”.<sup>143</sup> According to them, posting as it is organised disrupts the “balance between economic and social elements”<sup>144</sup> and this balance has to be restored. The revision is a way to “do away with injustices and abuses” so that “posting, as such, will never again be used as a means to institute unfair competition or exploitation of workers”.<sup>145</sup> Some member states imply that the single market is currently unfair and that it should “be source of profit for everyone, wealth for

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141 EPSCO Council, *Full transcript*, 16

142 *Ibid.*, 71, 43 (italics added)

143 *Ibid.*, 65, 29

144 *Ibid.*, 29

145 *Ibid.*, 53, 99



everyone and that [it should] be fairly shared”.<sup>146</sup> When the compromise was reached, Belgium stated that “[the ministers] have made a major step in making Europe more socially acceptable”<sup>147</sup> (implying that the EU as it was – and still is – not fully socially acceptable).

Another line of argumentation was more flattering for the EU social dimension. Indeed, some interventions insisted on the fact that the “single market should not undermine the social model”.<sup>148</sup> In this view, the revision is needed to “protect the European social model” and to “make sure that the European social model is maintained and social progress is strengthened”.<sup>149</sup> Balance is not to be “restored” but “maintained” in order to “reinforc[e] the fairness and social sustainability of the internal market rules”.<sup>150</sup> While the second category of arguments depicts ‘social Europe’ as an already existing and well-functioning entity, the first presents the EU as lacking social strength. Luxembourg goes even further by saying that “the Union can no longer ignore the social dimension”.<sup>151</sup>

Interestingly, these two ways of framing ‘social Europe’ do not depend on which member states is speaking. On the contrary, some interventions contain arguments from both perspectives. This observation indicates that the ‘social narrative’ of the Union is still unclear. Sometimes perceived as a social pioneer, the EU is also criticised for “giving precedence to competition over any social policy”.<sup>152</sup> This unclarity might be one of the reasons why the development of ‘social Europe’ is so slow and incremental as described in section 2.1. Another reason is the ambiguous stance of the opponents on this social question.

During the negotiations, opponents to the revision repeatedly said that they were “strongly committed to securing the best and highest level of security, protection, social rights and decent work to all European workers”.<sup>153</sup> However, in order to discredit the social value of the revision, they claimed that the “situation of posted workers w[ould] not be improved” and that the revision was “conducive to inequality”.<sup>154</sup> According to

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146 EPSCO Council, *Full transcript*, 80

147 *Ibid.*, 131

148 *Ibid.*, 43

149 *Ibid.*, 15, 65

150 *Ibid.*, 58

151 *Ibid.*, 64

152 *Ibid.*

153 *Ibid.*, 32

154 *Ibid.*, 92, 38

them, the employment status of many workers would be jeopardised and their rights would be negatively impacted. This ‘defence strategy’ is not very convincing, especially because no supportive data was provided. As we already discussed in previous sections, the opponents chose to highlight the potential economic impacts and to leave the social aspect out of their argumentation. Their main frame touches upon a third essential aspect of the revision: the ‘political efficiency and efficacy frame’.

#### 5.4.5. *Sustaining the legitimacy of the European Union*

According to Helbling, the ‘political efficiency and efficacy frame’ refers to “the workings of the political system, such as the action capacity of a state, state power and an efficient bureaucracy”.<sup>155</sup> In our case, it is a major frame because negotiations are conducted at the European level, which is often criticised for its heavy bureaucracy and lack of efficiency. Our analysis shows that the frame is used by both groups, but in a different manner.

Proponents of the revision insist on the fact that the situation regarding posting is not the same as it was back in 1996. Indeed “the gap in minimum wages has increased from a 1:3 ratio in 1996 to a 1:10 ratio today”.<sup>156</sup> According to them, the EU needs to “improve, to update and strengthen the rules”, so that “rules that are clear, fair and enforced on the ground”.<sup>157</sup> Another argument is that “the mobility of workers and the freedom of services needs to be well regulated and monitored to prevent legal uncertainty”.<sup>158</sup> As “the current posting rules do not provide a clear answer and give rise to uncertainty and disputes on a daily basis”, they argue that “[the ministers] must not build a directive that is so complicated that we would have to have recourse to the Court of Justice to interpret it for [them]”.<sup>159</sup> Rules need to be uniform and monitored easily. To justify the new rules, Austria stresses that “experience shows that national measures are not sufficient to counteract unfair competition such as wage and social dumping”.<sup>160</sup> The Commission adds that “an internal market must be organised, it is not just something about total freedom of everything”.<sup>161</sup> This line of argumentation depicts the

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155 Helbling, Hoeglinger, and Wüest, ‘How Political Parties Frame European Integration’, 501.

156 EPSCO Council, *Full transcript*, 3

157 *Ibid.*, 2

158 *Ibid.*, 7

159 *Ibid.*, 3, 28

160 *Ibid.*, 16

161 *Ibid.*, 10

revision as a way to make the European political system more adapted and efficient, thereby consolidating its power.

The other dimension present in the proponents' argumentation is one of legitimacy of the EU. As mentioned in the research framework, the economic crisis starting in 2008 led to a weakening of the social basis of the EU and its member states. Since then, income inequalities and poverty rates in Europe have risen (even though this phenomenon did not impact all member states), and as mentioned by Sweden, "inequality fuels discontent and mistrust in our common institutions".<sup>162</sup> Proponents identify a loss of trust in the EU that has to be tackled, as well as "high level of expectations on social affairs in Europe".<sup>163</sup> Sweden claimed that "as ministers, [they] need to take responsibility for making the necessary decisions to gain people's trust".<sup>164</sup> In order to "remain credible vis à vis [its] fellow citizens", EU institutions "need to prove that the EU is able to fix problems".<sup>165</sup> In other words, people need to trust the European institutions and their representatives. But what exactly do the European citizens distrust? Number of claims point out that what the EU needs is to legitimise its economic principles and system. The proponents see the revision as "what is needed to have the continued support of [the] citizens for free movement", to "keep people's democratic support for the EU and the internal market".<sup>166</sup> For instance, Belgium considers that "support of the Belgian population for single market is partly determined by how things such as posting of workers in our country works in practice".<sup>167</sup> Similarly, Sweden mentioned that "public support for free movement is dependant on concrete actions to avoid social dumping and ensure that workers can have an upward convergence of working conditions".<sup>168</sup> These comments show that the priority for the ministers is not necessarily to legitimise the Union as a whole, but specifically to avoid its economic system to be called into question. To do so, certain 'minimum requirements' in terms of social protection have to be met.

The opponents argumentation is focused on different issues. First of all, they argue that the revision in itself is not needed. According to them, "there is no need for

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162 EPSCO Council, *Full transcript*, 18

163 *Ibid.*, 63

164 *Ibid.*

165 *Ibid.*, 79, 40

166 *Ibid.*, 4, 18

167 *Ibid.*

168 *Ibid.*, 33

new principles” and a “targeted solution lies within proper implementation of existing tools”.<sup>169</sup> They claim that the problems concerning posting could be solved by a “better implementation of the existing legal framework, including the Enforcement Directive”<sup>170</sup> which already tackles the abuses of the posting framework.

Then, opponents emphasise the problems that the revision could create in terms of efficiency. They denounce a revision done “without any proper prior analysis”, with “no impact assessment of the Enforcement Directive”.<sup>171</sup> To them, there is a “lack of comprehensive analysis of the impact of the proposal on the member states and the single market”.<sup>172</sup> In other words, the revision “lacks of thorough justification and cause”.<sup>173</sup> They add that the revision is not soundly based, lacks transparency, is not fully coherent and that it will therefore not improve legal certainty. In addition, Hungary claimed that it would “create serious blockages in the logistic chain” and induce “disproportionate burdens for service providers”, thereby “jeopardis[ing] the basis for proper cooperation”.<sup>174</sup> They also mention that making the rules more complicated “will give a greater cause for circumventing regular rules for the posting of workers”.<sup>175</sup>

Finally, opponents propose alternatives to the revision. Amongst others, they propose a “much stricter and consistent control of the companies misusing people”, “strengthening cooperation among member states at the inter-institutional level and a more efficient transposing of the existing legislation”.<sup>176</sup> For instance, Czech Republic proposed to “try together to remove and not increase existing administrative burden, get rid of disproportional requirements on working conditions, increase transparency and avoid excessive sanctions in the road transport sector”.<sup>177</sup> In the eyes of the opponents, the ‘equal pay equal work’ principle is not a priority. Instead, the primary focus of the EU and the member states should be to fight illegal practices. They also emphasise that the “the priority should be the quality of the legal solutions adopted, not just the speed of work and the speed of proceeding on this dossier”.<sup>178</sup>

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169 EPSCO Council, *Full transcript*, 36, 31

170 *Ibid.*, 14

171 *Ibid.*, 4, 9

172 *Ibid.*, 21

173 *Ibid.*, 15

174 *Ibid.*, 48, 67, 5

175 *Ibid.*, 15

176 *Ibid.*, 31, 49

177 *Ibid.*, 86

178 *Ibid.*, 44

In short, the member states supporting the revision organise their argumentation around two central ideas: the necessity to have clear rules (efficient political system) and to sustain the legitimacy of the EU's economic system. The member states opposing the revision focus on the uselessness of the revision, the efficiency problems that it could create, and the alternatives they propose for a better-functioning system. The strong will of all member states to preserve the economic system as it is (without questioning it) can lead to a more fundamental question: is the argument of economic legitimacy an argument based on economic prosperity or does it have an ideological basis?

#### 5.4.6. *Free movement: prosperity or deontology?*

The last frame that needs to be explored is the 'deontological frame'. This frame was not part of Helbling's categorisation and was added because of several arguments which appealed to 'higher values', to more abstract concepts that are not necessarily defined in European treaties. Both groups used this type of arguments, which represented between 5 and 6% of their argumentation.

The proponents were expected to use this frame to promote equality and fairness, which they did. As stated by Malta, the "equal treatment of workers embodies the values of the European Union".<sup>179</sup> Principles of solidarity and cohesion are also mentioned to justify the revision. Most of the time however, proponents speak of values in the abstract. For instance, Sweden claims that "[big gaps in living conditions] cause social tensions and are threatening the European idea".<sup>180</sup> The Commissioner insists on the "values that underpin our single market",<sup>181</sup> without describing these values more clearly. Several member states use the terms "the European project", "the European model", "the European social model", also without mentioning what they entail. The proponents might consider (or want to believe) that these concepts are obvious and do not need to be explained, that they are consensual. France emphasises the importance of these (undefined) values: "regardless of where you are in Europe, these are essential values, historically speaking but also for the future of Europe".<sup>182</sup> When having a closer look at this deontological argumentation, it becomes clear that what proponents stand

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179 EPSCO Council, *Full transcript*, 93

180 *Ibid.*, 95

181 *Ibid.*, 56

182 *Ibid.*, 78

for is the ‘balanced’ articulation between internal market rules and social rules in the Union. The Commissioner’s comment illustrates this idea well: “for some, market rules should prevail, for others, social protection should prevail. But the truth is, the essence of the European model is that both can and should go hand in hand”.<sup>183</sup>

However, this balance between economic and social components is far from being consensual. For instance, Hungary states that “accepting the concept of remuneration is against all [their] principles”<sup>184</sup> (again without explaining what these principles are). Similarly, Romania “[the ministers] owe it to the European citizens to create and maintain jobs and avoid unjustified barriers that limit the fundamental freedoms in the European Union”.<sup>185</sup> In the opponents’ view, what the Union should strive for is not necessarily this balance, because the social component infringes the four fundamental freedoms, namely the free movement of goods, capital, services, and labour. The deontological sense of duty for them is the preservation of these freedoms. This preservation goes against the proponents’ sense of duty which requires more social rules, an equilibrium between social protection and the four fundamental freedoms.

Opponents and proponents have a different vision of what the Union should be, even though both sides want to preserve the economic system as it is, as discussed in the previous section. In that sense, free movement can be seen as an ideology, i.e. “a set of beliefs or principles, especially one on which a political system, party, or organization is based”.<sup>186</sup> In the negotiations, it seems that free movement is a given, a deontological argument *per se* because its protection is not necessarily based on sound economic arguments. Social protection is a second deontological argument present in the proponents’ speeches, which seems difficult to reconcile with the non-negotiable ideology of the free movement. This analysis confirms hypothesis 4 (the deontological frame is used by member states in favour of the revision, appealing to ethical values of solidarity and fairness), but shows that this frame was also used (almost as much) by the opponents, as a way to highlight the need to preserve fundamental economic freedoms.

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183 EPSCO Council, *Full transcript*, 2

184 *Ibid.*, 83

185 *Ibid.*, 84

186 ‘Ideology’, Cambridge Dictionary, accessed 17 July 2018,  
<https://dictionary.cambridge.org/fr/dictionnaire/anglais/ideology>.

#### 5.4.7. *The particular cases of Denmark and Luxembourg*

As we have seen throughout this chapter, the position of the European member states on the revision of the PWD had a very strong geopolitical component. The supportive member states are what we can call ‘Western’ or ‘high wage’, while the opponents are ‘central and Eastern’, or ‘low wage’. Peripheral member states, such as the United-Kingdom, Ireland, Cyprus, Malta and Finland did not actively participate in the debates, for reasons we will discuss in the next section. Denmark and Luxembourg represent two ‘anomalies’ in this picture, which need to be addressed.

Denmark, a high wage ‘Western’ member state, was expected to support the revision. In contrast, Denmark co-signed the yellow-card procedure and positioned itself against the revision. This ‘anomaly’ can be explained by the political situation in this country in 2016. At this time, the executive power was exercised by Second Cabinet of Lars Løkke Rasmussen (from the Liberal Party), a single-party minority government supported by the Danish People's Party (far-right), the Liberal Alliance (liberal-libertarian) and the Conservative People's Party (conservative centre-right). This cabinet was in office from June 2015 to November 2016, when the yellow-card was issued. As mentioned by the Danish Minister present during the negotiations, “the Danish government was not part of the majority in the Danish parliament that issued a reasoned opinion”.<sup>187</sup> While the Liberal Party, the Liberal Alliance and the Conservative People's Party “recognise[d] the EU’s competence to establish a framework for terms and conditions applicable to posted workers”, the majority of the Parliament (led by the Danish People's Party) found that “the proposal involve[d] two problems in connection with the subsidiarity principle”.<sup>188</sup> This particular political situation explains why the Danish government had to support the yellow-card procedure, and why this member state was allocated to Group 3.

The case of Luxembourg is related to our methodology. As a high wage member state very involved in posting (as seen in section 2.4), we would have expected it to be in Group 1, supporting the revision. However, Luxembourg only intervened five times throughout the negotiations, which we classified as a ‘low participation’ (compared to other member states who actively participated (more than six times, in some cases more

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<sup>187</sup> EPSCO Council, *Full transcript*, 16

<sup>188</sup> ‘COD/2016/0070 - Danish Parliament’, 1, 2, accessed 16 July 2018, <http://www.ipex.eu/IPEXL-WEB/scrutiny/COD20160070/dkfol.do>.

than ten times). To create groups, a methodological choice had to be made and Luxembourg did not reach the minimum number of interventions required to be allocated to Group 1. Luxembourg's position was nevertheless favourable to the revision, which fits the geopolitical division mentioned earlier. Of course, we can still wonder why Luxembourg did not participate more in the discussions, as posting is very important economically and already triggered much debate in this country when a case was brought before the ECJ.<sup>189</sup> Luxembourg was one of the six member states which can be qualified as 'spectators of the revision'.

#### *5.4.8. What role for the spectators of the revision?*

Group 2, characterised by a relatively low participation and/or the absence of a clear positioning on the revision, is not a homogeneous group. Indeed, each member state in this group can have different reasons not to be as involved in the revision as other member states.

Cyprus, Malta, the United-Kingdom and Ireland are geographically isolated because of their insularity. In their case, postings in the road transport sector are limited. In the case of Ireland, Cyprus and Malta, posting in general is not a very developed form of employment and represents less than 1% of national employment both from the sending and receiving perspectives. However, it has to be noted that due to the permissive tax system in Malta, an important number of letterbox companies are settled there. The situation in the UK is a bit different: posting is more developed on average, but the low participation of this country in the negotiations is due to the political situation at that time. Indeed, the Brexit referendum took place during the negotiations and led the UK to step back. We can say that these four member states' position is justified by the limited importance of posting on their territory and the political situation of the UK at that time. In the end, Ireland and the UK abstained from the vote, while Cyprus and Malta voted in favour of the revision.

The case of Luxembourg and Finland is a bit different. First of all, both countries have been involved in court cases relative to posted work.<sup>190</sup> Then, both countries, while theoretically supporting the revision of the PWD, were not active

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189 Commission v. Luxembourg [2008] E.C.R. I-04323

190 Commission v. Luxembourg [2008] E.C.R. I-04323; The International Transport Workers' Federation and The Finnish Seamen's Union [2007] E.C.R. I-10779



participants in the negotiations (as we have seen in the previous section regarding Luxembourg). Their position was therefore a nuanced one, emphasising the importance of clear rules and respect of the social partners. As mentioned by Finland, the “new language must be clear, unequivocal and to be understandable for providers of services, for the workers themselves and labour authorities and courts of justice”.<sup>191</sup> Both countries’ argumentation is similar to Group 1 and the two countries voted in favour of the revision.

We can see that this group’s position is not homogeneous, but tends to be supportive of the revision (except for Ireland and the UK). While this group was less involved in the negotiations, its members had an important impact, as they tilted the balance in favour of the revision. Indeed, proponents and opponents represented ‘equal forces’ and the presence of Group 2 can be said to have improved the proponents’ negotiating leverage. Malta also had an important role during the Maltese presidency, as they pushed the file forward and tried to find a compromise. However, the UK and Ireland stayed out of the debates and can be seen as the real ‘spectators of the revision’.

## **5.5. Results**

In order to summarise our results, we go back to Entman’s definition of framing, composed of three elements: the diagnosis of the problem in question, the evaluation of the causes of the problem and the prescription of the remedies that are expected to solve the problem. Based on our observations, how did the proponents and opponents frame the revision and by extension ‘social Europe’ (for a short overview, see Table 7)?

According to the proponents, the problem lies in rising inequalities throughout the EU. The fact that posted workers are treated differently and receive lower remuneration (compared to local workers) leads to a loss of trust in the EU and to high expectations regarding the social protection it should provide. Proponents see ‘social dumping’ as the main cause of this problem, that they define as a downward pressure on social conditions. To tackle inequalities and the resulting loss of trust, proponents propose to revise the legal framework of posting in order to introduce more social protection and equality between workers. This way of framing can be (carefully) extrapolated to the framing of ‘social Europe’. The diagnosis is similar (loss of trust),

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<sup>191</sup> EPSCO Council, *Full transcript*, 50

due to ‘social dumping’ and requiring the strengthening of social protection measures. In short, proponents seem to believe that low wage member states are responsible for rising inequalities: the cause is seen as external, they present themselves as the ‘solution finders’.

*Table 7. Framing ‘social Europe’: diagnosis, causes, solutions*

	<i>Diagnosis</i>	<i>Causes</i>	<i>Solutions</i>
<i>Proponents (Group 1)</i>	Loss of trust in the EU; rising inequalities	Social dumping; unfair treatment of posted workers	More social protection; revision of the legal framework
<i>Opponents (Group 3)</i>	Unnecessary revision of the legal framework; hindering competitiveness	Scapegoating low wage member states	Preserve the four fundamental freedoms; reinforce already-existing instruments

Opponents’ framing is very different. In their eyes, the problem is the revision itself, which they see as unnecessary and harmful (divisive, hindering competitiveness). They frame the revision as a way to scapegoat low wage member states instead of focusing on the real problems, such as the fraud and abuses of the posting framework. In order to solve this problem, they propose to abandon the revision (yellow-card procedure), to reinforce already-existing monitoring and sanctioning instruments and to preserve the four fundamental freedoms of the single market at all costs. Again, the cause of the problem is seen as external, but opponents tend to present themselves as the ‘victims’. In the broader context of ‘social Europe’, this framing means that opponents see social measures as protectionist and harmful for the competitiveness of the European economy, but also as a way to ‘scapegoat’ low wage member states. To them, the priority objective is the preservation of economic freedoms.

## 6. Discussion

In the first chapter, we have presented an outline of the development of workers' social protection in the European Union. This development has been incremental but slow, at its height in the 1980s–1990s, but has then been deeply damaged by the austerity measures taken during the economic crisis. The revision of the PWD, based on the 'equal pay equal work' principle could therefore be seen as a sign that the idea of 'social Europe' is revived, perhaps for the first time since the end of the crisis.

However, member states opposing the revision depict a very different phenomenon. In their opinion, this revision is harmful economically and will not have the desired effect on workers' working conditions. Beyond these socio-economic considerations, they raise a more concerning point: according to them, the revision is a political move aimed at scapegoating 'central and Eastern' workers, at a time when populist rhetoric is more and more embraced in the European Union. By uniformising remunerations, high wage countries make sure that less posted workers from low wage countries will come to work on their territory, so that the local population can (theoretically) compete on an equal basis. So how can we tell true from false?

The very fact that there is a doubt on the social goal behind the revision says a lot about the state of 'social Europe'. It is clear that there is a certain (legitimate) cynicism and doubt from the media and the population towards any social policy implemented at the EU level, for various reasons. The main one is the secondary role played by social welfare in the EU. Absent from the 'fundamental freedoms', very weakly promoted in the founding treaties (Rome, Maastricht, Lisbon) and interpreted by the ECJ as something important but that should not infringe economic freedoms, social measures have never officially been a true priority of the Union. The way the proponents framed the revision of the PWD is a telling example: the social component is merely seen as something necessary to uphold the EU economic system, which is being threatened by a general loss of trust and an increasing feeling of unfairness.

If the revision is framed as "what is needed to have the continued support of [the] citizens for free movement",<sup>192</sup> how can citizens believe in the genuineness of its proponents? This is where framing is of significant importance, not because it is a way

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<sup>192</sup> EPSCO Council, *Full transcript*, 4

to ‘hide’ true motives, but because language influences the thought processes. Presenting ‘social Europe’ as something the EU strives for *per se* (and not to legitimise an economic model or to repair its damages), promote it as a fundamental objective for the European societies, would perhaps be the first step towards ‘resocialising Europe’.<sup>193</sup>

Naturally, this approach calls for a (re)defining of the EU values and their respective importance. Our analysis showed that while the expression ‘European values’ was often used, no one described them further. The recent developments in Hungary and Poland also display the need to officialise certain common values, if there are any. How can the EU sanction member states because they are not respecting the European values, when these values are not always enshrined in the treaties? In that sense, more clarity is needed to escape the ‘strong/weak’, ‘East/West’, ‘low wage/high wage’, ‘bully/victim’ rhetoric that has been so often used during the negotiations.

Even though one could argue that ministers eventually agreed upon the revision and that it is therefore a success for ‘social Europe’, this thesis brings to light the moderate achievement it represents. As discussed in previous sections, the discussions were not based on serious economic data (leading to contradictory statements), they were divisive and revealed the weakness of the social basis. In the end, ministers agreed on sustaining the legitimacy of the Union and its economic system, not really on implementing a social law. The social narrative was weak and affected by accusations of protectionism and scapegoating.

These observations bring us back to the three factors identified by Menz as hindering the resocialisation of Europe. Throughout the negotiations, we have indeed noticed the strong tendency to discourage “proactive re-regulatory social policy”, seen as an obstruction by most member states, in particular the opponents, as well as the difficulty to build “successful progressive coalitions” in the Council, because of the relative balance between proponents and opponents. However, we did not witness the perception of poverty as a “pathology that can be addressed primarily through inclusion in the labour market”.<sup>194</sup> On the contrary, the proponents emphasised the fact that economic inclusion was not enough to tackle inequalities anymore. In that sense, the rhetoric on poverty might be changing.

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193 Countouris and Freedland, *Resocialising Europe in a Time of Crisis*.

194 Menz and Crespy, *Social Policy and the Eurocrisis - Quo Vadis Social Europe*, 60.

The revision of the PWD will certainly change the patterns of posting and its effects on the European economy and labour mobility are still unpredictable. It is also difficult to know whether or not this legislation will set a precedent in terms of equalisation of remunerations throughout the EU. The most likely scenario is that this 'success' will be used as a proof of the EU's action to tackle inequalities and 'social dumping'. Depending on its economic consequences in low wage member states, the revision might be remembered as a divisive moment in which 'Western member states' have imposed their vision of 'social Europe'. In any case, we can hope that the European Ministers will not rest on their laurels and will continue to push forward social policies, but to do so, it is clear that their understanding (and therefore framing) of the issue has to change.

## 7. Conclusions

In this thesis, we investigated the importance of framing during the negotiations over the PWD and more generally when discussing a more ‘social Europe’ for the workers. To do so, we analysed the member states’ positioning on the revision of the PWD, the argumentation used to justify this position when negotiating the text proposal and the related policy frames, based on Helbling’s work. The analysis showed a strong geopolitical division on this dossier, based on two main coalitions, each composed of eleven member states. Proponents brought to the fore the need to legitimise the EU economic system and to increase the EU’s efficiency, while opponents did not see the need to revise the PWD in the first place. They presented it as a revision which would serve the interests of some member states only and placed themselves as ‘victims’, while proponents framed themselves as ‘solution-finders’. In terms of impact on the development of social Europe, some difficulties encountered during the negotiations give some insight on how to ease the future law-making processes. First of all, this research shows a need for a better definition of European values, a new narrative for social Europe. As long as social values will not be enshrined more clearly in the European treaties, the priority is likely to be given to the fundamental freedoms of the single market. Then, just as importantly, the use of the ‘multicultural-universalist frame’ was found weak. A more unity-oriented approach (such as the one used by the opponents) seems needed in order to escape the Manichean divides between the East and the West, the low and high wage member states, the victims and the bullies. From a more practical point of view, a better definition of concepts such as social dumping but also stronger socio-economic data are important to get the support of the citizens.

The conclusions drawn from the analysis are naturally limited, as they are based on one specific revision. To confirm our results, the same analysis could be applied to more negotiations relating to social policies. Further research on ‘negotiations analysis’ could validate the framing *modus operandi* that was identified in this thesis. Another possibility to improve this study is to define more precise frames, which would nuance the seven frames we used. Finally, in order to complete this framing analysis, the next step is to study its impact, the way the audience (here, the European citizens) ‘receive’ and perceive the policy frames and how much it influences their thought processes.

## 8. Bibliography

Brunet, Mathilde. EPSCO Council, *Full transcript*, 1-138 (2018). The full transcript is not available online but can be accessed on request.

The video sources used for the transcript are the following:

<https://video.consilium.europa.eu/en/webcast/a9822bae-9bd1-4d6c-98a0-34410ca78a92>  
<https://video.consilium.europa.eu/en/webcast/384ab00f-1641-4c51-8c0a-37143503c0ed>  
<https://video.consilium.europa.eu/en/webcast/d81e55d9-51bd-43f8-9969-4d4aa6e1b26d>  
<https://video.consilium.europa.eu/en/webcast/f82ed1fe-3bc0-4c8b-8bb7-222b37583095>  
<https://video.consilium.europa.eu/en/webcast/7dd41111-fa03-4f8a-96c6-67f9a7a2f677>  
<https://video.consilium.europa.eu/en/webcast/1da30fc5-0d6c-4c6a-ab3a-fcbfdf2d38f4>  
<https://video.consilium.europa.eu/en/webcast/94dea6a5-9852-4e1b-8d8c-d4e0d8e5d27c>  
<https://video.consilium.europa.eu/en/webcast/d31e8d84-f1b0-40a2-aa55-cb4313b7485c>  
<https://video.consilium.europa.eu/en/webcast/b01bee56-9b23-4dbf-8a72-b59daf6caff7>  
<https://video.consilium.europa.eu/en/webcast/67b83456-080d-457f-8e09-5f481dc77944>  
<https://video.consilium.europa.eu/en/webcast/8f8f4302-ec12-4925-b2ec-866ce6bee632>

### EU legal documents

Commission v. Luxembourg [2008] E.C.R. I-04323

Consolidated Version of the Treaty Establishing the European Community, 2006 O.J. C 321 E/37

Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, 1997 O.J. L18/1

Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation')

Laval, [2007] E.C.R. I-11767

Rüffert [2008] E.C.R. I-01989

Single European Act, 1987 O.J. L 169/1 (amending Treaty Establishing the European Economic Community, Mar. 25, 1957, 298 U.N.T.S. 11

The International Transport Workers' Federation and The Finnish Seamen's Union [2007] E.C.R. I-10779

Treaty Establishing the European Coal and Steel Community, Apr. 18, 1951, 261 U.N.T.S. 140

## Books and journal articles

- Bateson, Gregory. *Steps to an Ecology of Mind: Collected Essays in Anthropology, Psychiatry, Evolution, and Epistemology*. University of Chicago Press, 1972.
- Bernaciak, Magdalena. 'Social Dumping and the EU Integration Process'. *ETUI*, 2014.
- Berntsen, Lisa, and Nathan Lillie. 'Social Dumping at Work: Uses and Abuses of the Posted Work Framework in the EU'. European Trade Union Institute, 2015.
- Boräng, Frida, Rainer Eising, Heike Klüver, Christine Mahoney, Daniel Naurin, Daniel Rasch, and Patrycja Rozbicka. 'Identifying Frames: A Comparison of Research Methods'. *Interest Groups & Advocacy; London* 3, no. 2 (2014): 188–201.
- Countouris, Nicola, and Mark Freedland. *Resocialising Europe in a Time of Crisis*. Cambridge University Press, 2013.
- Cremers, Jan. 'In Search of Cheap Labour in Europe'. *Working and Living Conditions of Posted Workers. International Books. ISBN 978*, no. 90 (2011): 5727.
- Cremers, Jan, and Peter Donders. *The Free Movement of Workers in the European Union: Directive 96/71/EC on the Posting of Workers within the Framework of the Provision of Services; Its Implementation, Practical Application and Operation*. Vol. 4. CLR/Reed Business Information, 2004.
- D'Angelo, Paul, and Jim A. Kuypers. *Doing News Framing Analysis: Empirical and Theoretical Perspectives*. Taylor & Francis, 2009.
- Darvas, Zsolt. 'Could Revising the Posted Workers Directive Improve Social Conditions?' presented at the Conference of think tanks on the revision of the posted workers directive, European Parliament, 31 January 2017.
- De Schutter, Olivier. 'The European Social Charter in the Context of Implementation of the EU Charter of Fundamental Rights'. *Study for the AFCO Committee, Directorate General for Internal Policies Department C: Citizen's Rights and Constitutional Affairs, European Parliament*, 2016.
- De Vreese, Claes H., and Hajo G. Boomgaarden. 'Media Effects on Public Opinion about the Enlargement of the European Union\*'. *Journal of Common Market Studies; Oxford* 44, no. 2 (2006): 419–36.
- Didry, Claude. 'L'émergence du dialogue social en Europe : retour sur une innovation institutionnelle méconnue'. *L'Année sociologique* 59, no. 2 (1 October 2009): 417–47.
- Dodo, Mahamat K. 'Historical Evolution of the Social Dimension of the European Integration : Issues and Future Prospects of the European Social Model'. *L'Europe En Formation*, no. 372 (15 December 2014): 51–66.
- Entman, Robert M. 'Framing: Toward Clarification of a Fractured Paradigm'. *Journal of Communication; New York* 43, no. 4 (1993): 51.



- ETUC Expert Group on Posting. 'A Revision of the Posting of Workers Directive: Eight Proposals for Improvement'. European Trade Union Confederation, 2010.
- Goffman, Erving. *Frame Analysis: An Essay on the Organization of Experience*. New York: Free Press., 1974.
- Haas, Ernst B. *The Uniting of Europe: Political, Social, and Economic Forces, 1950-1957*. Stanford University Press, 1958.
- Helbling, Marc, Dominic Hoeglinger, and Bruno Wüest. 'How Political Parties Frame European Integration'. *European Journal of Political Research; Oxford* 49, no. 4 (2010): 495–521.
- Iyengar, Shanto, and Dietram A. Scheufele. 'The State of Framing Research'. In *The Oxford Handbook of Political Communication*. Oxford Handbooks. Oxford University Press, 2017.
- Kinder, Donald R., and Shanto Iyengar. 'News That Matters: Television and American Opinion'. *University of Chicago Press, Chicago: IL*, 1987.
- Klandermans, Bert, and Suzanne Staggenborg. *Methods of Social Movement Research*. U of Minnesota Press, 2002.
- Klüver, H. and Mahoney, C. (2012) Framing Policy Debates in the European Union: New Techniques to Answer Old Questions. Paper prepared for the 6th ECPR SGEU Pan European Conference on EU Politics; Tampere, 13–15 September 2012.
- Kriesi, Hanspeter, Edgar Grande, Romain Lachat, Martin Dolezal, Simon Bornschier, and Timotheos Frey. *West European Politics in the Age of Globalization*. Cambridge University Press, 2008.
- Lerch, Marika, and Guido Schweltnus. 'Normative by Nature? The Role of Coherence in Justifying the EU's External Human Rights Policy'. *Journal of European Public Policy* 13, no. 2 (2006): 304–21.
- Linström, Margaret, and Willemien Marais. 'Qualitative News Frame Analysis: A Methodology'. *Communitas* 17, no. 1 (2012): 21–37.
- Mahoney, Christine, and Frank R. Baumgartner. 'Framing Policy Debates in the European Union'. NSF Proposal, October 2010.
- Maslauskaitė, Kristina. 'Posted Workers in the EU: State of Play and Regulatory Evolution'. *Policy Paper*, no. 107 (2014).
- Medrano, Juan Díez. *Framing Europe: Attitudes to European Integration in Germany, Spain, and the United Kingdom*. Princeton University Press, 2010.
- Menz, Georg, and Amandine Crespy. *Social Policy and the Eurocrisis - Quo Vadis Social Europe*. Palgrave Macmillan., 2015.
- Reese, Stephen D., Oscar H. Gandy Jr, and August E. Grant. *Framing Public Life: Perspectives on Media and Our Understanding of the Social World*. Routledge, 2001.

- Scheufele, Bertram. 'Framing-Effects Approach: A Theoretical and Methodological Critique'. *Communications* 29, no. 4 (2004): 401–428.
- Semetko, Holli A., Claes H. de Vreese, and Peter Jochen. 'Europeanised Politics-- Europeanised Media? European Integration and Political Communication'. *West European Politics; London* 23, no. 4 (2000): 121–41.
- Senninger, Roman, and Markus Wagner. 'Political Parties and the EU in National Election Campaigns: Who Talks about Europe, and How?' *Journal of Common Market Studies; Oxford* 53, no. 6 (2015): 1336–51.
- Sjursen, Helene. 'Why Expand? The Question of Legitimacy and Justification in the EU's Enlargement Policy'. *JCMS* 40, no. 3 (2002): 491–513.

#### Online sources

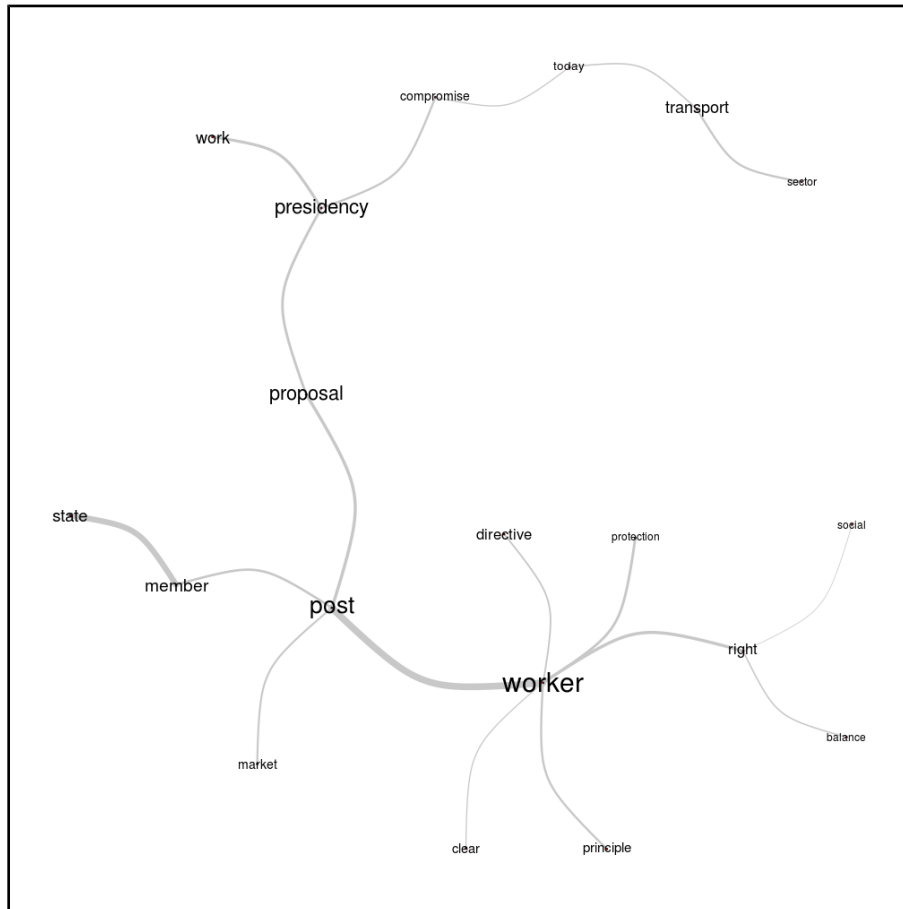
- 'Amsterdam Treaty brings small advances for employment and social policy'. Accessed 6 June 2018.  
<https://www.eurofound.europa.eu/fr/observatories/eurwork/articles/amsterdam-treaty-brings-small-advances-for-employment-and-social-policy>.
- Anonymous. 'The Schuman Declaration – 9 May 1950 - EUROPA'. Text. European Union, 16 June 2016. [https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration\\_en](https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_en).
- Brigido Vizeu Camargo and Ana Maria Justo, 'Tutorial para uso do software Iramuteq' (2016), translated from Portuguese into English by Elena Forte, accessed 28 June 2018, <http://www.iramuteq.org/documentation>.
- 'COD/2016/0070 - Danish Parliament'. Accessed 16 July 2018.  
<http://www.ipex.eu/IPEXL-WEB/scrutiny/COD20160070/dkfol.do>.
- 'Competitive advantage'. Cambridge Dictionary. Accessed 7 July 2018.  
<https://dictionary.cambridge.org/fr/dictionnaire/anglais/competitive-advantage>.
- 'Converging Economies, Diverging Societies? Upward Convergence in the EU - Foundation Forum 2017: Background Paper | Eurofound'. Accessed 7 July 2018.  
<https://www.eurofound.europa.eu/publications/other/2017/converging-economies-diverging-societies-upward-convergence-in-the-eu-foundation-forum-2017>.
- 'Dialogue de Val Duchesse'. Accessed 31 May 2018.  
<https://resume.uni.lu/story/dialogue-de-val-duchesse>.
- 'Employment, Social Policy, Health and Consumer Affairs Council Configuration (EPSCO) - Consilium'. Accessed 24 May 2018.  
<http://www.consilium.europa.eu/en/council-eu/configurations/epsco/>.
- 'EU-Level: Posted Workers Proposal Gets "yellow Card" from Member States | Eurofound'. Accessed 26 June 2018.  
<https://www.eurofound.europa.eu/observatories/eurwork/articles/industrial-relations/eu-level-posted-workers-proposal-gets-yellow-card-from-member-states>.
- 'European Social Fund - European Commission'. Accessed 29 May 2018.  
<http://ec.europa.eu/esf/main.jsp?catId=62&langId=en>.

- Europedia. 'The EU Social Policy According to the Treaty of Lisbon'. Accessed 6 June 2018. <http://europedia.moussis.eu/discus/discus-1283276094-529725-4160.tkl>.
- Fasois, Christos L. 'Revising the Posted Workers Directive: A Controversial Symbol for the Future of Social Europe'. EuVisions. Accessed 25 June 2018. <http://www.euvisions.eu/revising-the-posted-workers-directive-a-controversial-symbol-for-the-future-of-social-europe/>.
- 'Ideology'. Cambridge Dictionary. Accessed 17 July 2018. <https://dictionary.cambridge.org/fr/dictionnaire/anglais/ideology>.
- 'La Construction de l'Europe sociale - L'Europe sociale dans les traités'. RPUE - Représentation Permanente de la France auprès de l'Union européenne. Accessed 29 May 2018. <https://ue.delegfrance.org/la-construction-de-l-europe>.
- 'Letterbox-Type Practices: Avoiding Taxes and Exploiting Workers across the EU'. ETUC | European Trade Union Confederation. Accessed 26 June 2018. <https://www.etuc.org/en/pressrelease/letterbox-type-practices-avoiding-taxes-and-exploiting-workers-across-eu>.
- Mason, Paul. 'Bogus Self-Employment Exploits Workers and Scams the Taxman'. The Guardian. Accessed 20 July 2018. <https://www.theguardian.com/commentisfree/2017/mar/13/bogus-self-employment-exploits-workers-scams-tax-philip-hammond-national-insurance-uneven-taxation>.
- 'Posted Workers in the EU: Factsheet'. European Commission, 2016.
- 'President Juncker's Political Guidelines'. Text. European Commission. Accessed 25 June 2018. [https://ec.europa.eu/commission/publications/president-junckers-political-guidelines\\_en](https://ec.europa.eu/commission/publications/president-junckers-political-guidelines_en).
- Schmid-Drüner, Marion. 'Posting of Workers'. European Parliament, 2018. <http://www.europarl.europa.eu/factsheets/en/sheet/37/posting-of-workers>.
- 'Subsidiarity Control Mechanism'. Text. European Commission - European Commission. Accessed 26 June 2018. [https://ec.europa.eu/info/law-making-process/how-eu-laws-are-adopted/relations-nationalparliaments/subsidiarity-control\\_en](https://ec.europa.eu/info/law-making-process/how-eu-laws-are-adopted/relations-nationalparliaments/subsidiarity-control_en).
- 'The 10 Priorities of the European Commission for 2014-2019'. Text. European Commission - European Commission. Accessed 20 July 2018. [https://ec.europa.eu/commission/priorities\\_en](https://ec.europa.eu/commission/priorities_en).
- 'The Commission Presents Reform of Posting of Workers – towards a Fair and Truly European Labour Market'. Accessed 26 June 2018. <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2488&furtherNews=yes>.
- 'Travailleurs détachés - Vers une Europe sociale plus équitable et plus protectrice. Le nouveau cadre en bref.' Ministère du Travail, 2017.
- 'Travailleurs détachés : combien sont-ils, où travaillent-ils, dans quels secteurs ?' FIGARO, 23 October 2017. <http://www.lefigaro.fr/economie/le-scan-eco/dessous-chiffres/2017/10/23/29006-20171023ARTFIG00005-travailleurs-detaches-combien-sont-ils-o-travaillent-ils-dans-quels-secteurs.php>.

- ‘Travailleurs détachés : la victoire européenne de Macron’. Libération.fr, 24 October 2017. [http://www.liberation.fr/france/2017/10/24/travailleurs-detaches-la-victoire-europeenne-de-macron\\_1605391](http://www.liberation.fr/france/2017/10/24/travailleurs-detaches-la-victoire-europeenne-de-macron_1605391).
- ‘Travailleurs détachés : Macron face à l’Europe de l’Est’. Libération.fr, 23 August 2017. [http://www.liberation.fr/france/2017/08/23/travailleurs-detaches-macron-face-a-l-europe-de-l-est\\_1591584](http://www.liberation.fr/france/2017/08/23/travailleurs-detaches-macron-face-a-l-europe-de-l-est_1591584).
- ‘Val Duchesse’. Accessed 31 May 2018. <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/val-duchesse>.
- ‘Yellow Card Procedure’. Accessed 29 May 2018. <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/yellow-card-procedure>.

## 9. Appendices

### 9.1. Appendix 1. Fruchterman-Reingold layout: Group 2



## 9.2. Appendix 2. Data sheet on the frame distribution in both groups

		Session 1	Session 2	Session 3	Session 4	Session 5	Session 6	Average
Multicultural-universalist	Group 1	0,00%	8,00%	4,00%	2,50%	1,50%	5,00%	3,50%
	Group 3	0,00%	14,00%	12,00%	14,00%	11,00%	19,00%	11,67%
Labour & social security	Group 1	29,00%	31,00%	32,00%	45,00%	29,00%	38,00%	34,00%
	Group 3	0,00%	10,00%	14,00%	14,00%	19,00%	10,00%	11,17%
Economic prosperity	Group 1	33,00%	22,00%	36,00%	25,00%	34,00%	22,00%	28,67%
	Group 3	25,00%	28,00%	42,00%	31,00%	31,00%	24,00%	30,17%
Political efficiency & efficacy	Group 1	29,00%	31,00%	23,00%	25,00%	29,00%	29,00%	27,67%
	Group 3	63,00%	38,00%	33,00%	41,00%	39,00%	38,00%	42,00%
Moral values	Group 1	9,00%	8,00%	4,00%	2,50%	6,00%	6,00%	5,92%
	Group 3	13,00%	10,00%	0,00%	0,00%	0,00%	9,00%	5,33%