



---

LES CAHIERS EUROPEENS DE SCIENCES PO.

---

> N° 03/2010

# **Legitimizing Resistance to EU Integration:**

## **Social Europe as a Europeanized Normative Frame in the Conflict over the Bolkestein Directive**

**> Amandine Crespy**

---

**Les Cahiers européens de Sciences Po.**

**n° 03/2010**

Octobre 2010

**AMANDINE CRESPY**

**Legitimizing Resistance to EU Integration:  
Social Europe as a Europeanized Normative Frame in the Conflict over  
the Bolkestein Directive**

*Amandine Crespy est professeure-assistante à l'Université libre de Bruxelles (ULB) et membre du Centre d'étude de la vie politique (Cevipol). Ses recherches portent sur l'euroscepticisme, la gauche et l'Europe, la politique européenne des services (publics) et la politique allemande. Sa thèse de doctorat traite du conflit sur la directive Bolkestein comme cas de résistance à l'intégration néolibérale de l'Union européenne. Elle a publié plusieurs articles, notamment dans Journal of Common market Studies, le Journal of European Public Policy, French Politics et la Revue française de science politique, et elle a coédité un ouvrage collectif intitulé L'Europe sous tensions (L'Harmattan, 2010).*

*Amandine Crespy is Assistant-professor at the Université libre de Bruxelles (ULB) and a member of the Centre d'étude de la vie politique (Cevipol). Her research interests are related to Euroscepticism, left wing politics and EU integration, the European politics of services and public utilities, and German politics. Her doctoral dissertation focuses on the conflict over the Bolkestein Directive as an instance of resistance to neoliberal integration in the EU. She authored several articles in journals such as the Journal of Common market Studies, the Journal of European Public Policy, French politics and the Revue française de science politique. She also co-edited a volume entitled L'Europe sous tensions (L'Harmattan, 2010).*

Contact : [\\_amandine.crespy@ulb.ac.be](mailto:_amandine.crespy@ulb.ac.be)

**Citation : Amandine Crespy (2010), "Legitimizing Resistance to EU Integration: Social Europe as a Europeanized Normative Frame in the Conflict over the Bolkestein Directive", *Les cahiers Européens de Sciences Po*, n° 03, Paris: Centre d'études européennes at Sciences Po.**

**Keywords** : services, liberalization, conflict, frame, Europeanization, discourse.

***Abstract:***

This paper deals with the conflict over the Bolkestein directive proposal on services liberalization in the European Union. It explains how left-wing political parties, unions and alterglobalist associations succeeded in changing the course of the European decision-making process. The analysis puts forward a comprehensive framework which builds on both public policy and social movement literature, and integrates the study of institutional as well as discursive explanatory factors. The identification of the causal mechanisms at stake demonstrates that two interrelated processes were crucial in legitimizing protest in the eyes of central decision-makers and national public opinions: the Europeanization of mobilization in connection with the framing of the debate as a conflict for the defence of a social Europe.

***Résumé:***

Cette contribution porte sur le conflit relatif à la proposition de directive Bolkestein pour la libéralisation des services dans l'Union européenne. Elle explique comment les partis politiques de gauche, les organisations syndicales et les associations altermondialistes ont pu peser sur le processus décisionnel européen. En se fondant aussi bien sur l'analyse des politiques publiques que sur l'étude des mouvements sociaux, le cadre d'analyse proposé mobilise des facteurs explicatifs de nature institutionnelle et discursive. L'identification des mécanismes causaux en jeu révèle que deux processus connexes ont permis, de manière cruciale, la légitimation de la contestation vis-à-vis des responsables politiques comme des opinions publiques : il s'agit de l'eupéanisation de la mobilisation liée au cadrage du débat en tant que conflit pour la défense de l'Europe sociale.

## Legitimizing Resistance to EU Integration: Social Europe as a Europeanized Normative Frame in the Conflict over the Bolkestein Directive

### Introduction

Previously unknown to the wider public, the name “Bolkestein” has become the symbol for resisting EU neo-liberal policies and, as a consequence, the neo-liberal EU<sup>1</sup>. Indeed, the Draft services directive put forward by Commissioner Bolkestein in January 2004 has brought an unseen level of mobilization by unions, civil society organizations as well as national and European politicians, who criticized the radical neo-liberal spirit of the directive. More particularly in Belgium, France and Germany, provisions about public services, posted workers and, above all, the highly contentious country of origin principle (CoOP)<sup>2</sup> raised fears about the rampant liberalization of public services as well as social and wage “dumping”. Contention over Bolkestein has lied at the core of the French 2005 referendum campaign and is widely seen as one of the cause for the failure of the European constitutional treaty (ECT) ratification. After months of debate and negotiations, the Draft directive was eventually substantially amended in the first reading in the European Parliament. The divided Council of ministers had no choice but taking over the PES-EPP compromise supported by a strong majority in the EP, if it was to reach an agreement in a reasonable frame of time. Because of its very broad scope of application including public services, and of the vast deregulation of national services markets foreseen by the CoOP, the directive proposal raised a much more general debate about the balance between economic neo-liberalism and social regulation within the EU as a political system. Scholars of Euroscepticism have claimed that hard forms of Euroscepticism, namely the contestation of the EU as a polity, should be distinguished from opposition to specific policies, or soft Euroscepticism (Kopecky and Mudde, 2002; Szczerbiak and Taggart, 2008; Taggart, 1998). On the contrary, the mobilization campaign against the Bolkestein Directive provides evidence that this distinction only has limited relevance. In fact, both are closely related and this episode displays what we can call a “contentious spill over” from contention over a *policy* – far-reaching liberalization of services – to contention over the EU as a *polity* displaying neo-liberal features. While the directive proposal has been criticized by many different voices, including the nationalists, mobilization was most coherently and consistently organized by actors belonging to the left of the political spectrum, ranging from the radical left to Social-democrats, and from NGOs to political parties. The fate of the Bolkestein proposal has been considered extraordinary by observers mainly for two reasons. First, unlike protest connected to referendums, critical claims at the EU have not only been national but also European, with unions and social movement organizations calling for instance to two major demonstrations in Brussels and Strasburg. Second, it was the first time in the history of European politics that major mobilization occurred before the adoption of the directive and could therefore have an impact on the actual piece of legislation passed.

The Bolkestein case is also atypical when considering the academic literature about the role of ideas in policy-making. Most importantly, it has been demonstrated that economic theories have a major influence on policy-making. After the Keynesian post-war era (Hall, 1989), scholars have analyzed the neo-liberal turn which characterizes European policies in the 1980s’ and 1990s’. In various countries, ideas about new “policy recipes” inspired by neo-liberalism have transferred from the scientific fora into to policy-making arenas (Jobert, 1994). Today, the role of the EU is often analyzed as one of an accelerator of neo-liberal restructuring of the continent (van Apeldoorn et al., 2009). Experts are seen as major vectors

of ideational reconstructions rather than innovations. In contrast, the debate over services liberalization epitomizes the backlash against the enforcement of neo-liberal policies. Expertise put forward by the consultants working for the Commission has been challenged by representatives of civil society who succeeded in politicizing the issue in various political arenas (non-conventional politics, parliamentary arena, the (inter)governmental arena, etc) and in various public spheres, i.e. in national arenas as well as at EU level. Contemporary politics and – even more so – European politics are characterized by a high degree of complexity hence of fragmentation in terms of policy fields and relevant audiences. As a consequence, European integration is mostly left to the professionals of Europe within rather closed epistemic communities (Haas, 1992) involving experts, lobbyists, civil society representatives and politicians specialized in EU matters. In contrast with such a fragmentation and sectorization of politics, the conflict over Bolkestein can therefore be considered as a moment of “political crisis” which generated a – although isolated – “de-sectorization” of the European political space (Dobry, 1987), not least because of the connection between “Bolkestein” and the ratification of the ECT. While the EU decision-making has been widely seen as producing “policies without politics” (V. A. Schmidt, 2006), it is important to understand how ideas can diffuse in the EU multi-level system and impact the European decision-making process.

This paper therefore aims at explaining how the contentious actors could influence the outcome of co-decision, whereas the liberal-conservative majority in the Council and EP was initially favourable to such a directive proposal. While focusing on the first sequence of the debate, namely from January 2004 until June 2005, it is demonstrated that the vivid public debate which progressively arose in 2004 and 2005 was crucial in the diffusion and the legitimizing of the contentious claims hence on the outcome of decision-making. For doing so, mobilization over the draft directive by 21 left-wing organizations (Attac, political parties and unions)<sup>3</sup> in four political arenas (Belgium, France, Germany and the EU) is investigated. The analytical framework rests on a revised model of the “three i” (Hall, 1997; Palier and Surel, 2005), namely the study of interactions (instead of interests), institutions and ideas. This model rests on a discursive institutionalist approach to political processes (V. A. Schmidt, 2008) combined with the sociological study of collective action (Benford and Snow, 2000; McAdam et al., 2001). The main hypothesis is that opponents to the ‘Bolkestein’ Draft directive could have an influence on co-decision by means of institutional adaptation, i.e. the europeanization of mobilization, which was grounded on a common normative frame, namely the idea of Social Europe. This framing of services liberalization was efficient insofar as it could legitimize opposition to the “achievement of the common market” in the eyes of both decision-makers and public opinions. The model of the “three i” is operationalized while using process tracing based on the press, institutional and grey literature as well as about 40 interviews with key actors, on the one hand, and a qualitative computer-based frame analysis grounded on 206 organization documents, on the other hand. The first section examines the political issues at stake with the Bolkestein directive. The second section deals with the analytical framework more in details. The third section then identifies the channels for the diffusion or Europeanization of mobilization and discourse, while the fourth section analyzes the nature of ideas and through which mechanisms it could influence decision-making.

## **1. From contention over services liberalization to the contestation of the EU neo-liberal polity**

In spite of the complexity of the proposal which left many experts confused, the draft EU Services directive sparked the most vivid public debate the EU has ever known with regard to secondary law. The most contentious provisions contained in the proposal were related to social rules in the posting of workers, to the inclusion of public services in the scope of the directive as well as to the country of origin principle (CoOP). Contrary to the free

movement of goods, the issue of services is directly related to workers' rights since it implies not only border-crossing by products but also by factors of production, namely human labor (Körner, 2007). In this respect, the proposal put forward by Commissioner Bolkestein proved to be difficult to articulate with the 1996 Directive on posted workers<sup>4</sup> safeguarding social rules and labor law provisions in destination countries (e. g. where the service is actually provided). While abolishing many administrative regulations and obligations for posting workers abroad as well as transferring the competence for controls to the country of origin, the Draft services directive was to create a *de facto* situation in which controls on labor law would have been even more difficult than they already are (Garabiol-Furet, 2005 : 298; (Hatzopoulos, 2007b: 309).<sup>5</sup>

A second problematic aspect of the Bolkestein proposal was its very large scope of application virtually encompassing all services (except those explicitly excluded) including most services of general economic interest.<sup>6</sup> Although the economic nature of the services was a decisive criterion determining the application of EU competition rules, the distinction between economic and non economic services of general interest has long been a "grey area" in the European Court of Justice's (ECJ) case law. The Bolkestein proposal did not provide further definition in order to clearly define the scope of application of the directive (Do, 2006: 14), which created even more legal "uncertainty" (Hatzopoulos, 2007a: 22). This issue has great societal relevance and was a major concern for trade unions. It was indeed unclear to what extent operators in areas such as healthcare, non-mandatory education, social services, etc., were to be submitted to EU competition rules and to what extent state-sponsored activities were viable under the Services directive regime.

The most contentious provision in the Draft directive was the CoOP contained in article 16. This principle implies that a services provider who crosses a border to offer a service in another EU country has to abide solely by the rules of its member state of origin, i.e. where it is formally established. Application of the CoOP therefore relies on the distinction between establishment (where the CoOP cannot apply) and cross-border activities, where free movement of services shall apply. The debates within the legal community as well as among the wider public have focused on the extent to which the principle is consistent with the rules enshrined in the Treaties, with case law, and beyond that, with the "philosophy" of the integration project as a whole. The advantage of the CoOP is to lower the often prohibitive transaction costs related to compliance with the regulatory system of another member state for small and medium sized firms (D'Acunto, 2004): 220). Based on studies which focused solely on economic gain without exploring the potential social costs of the CoOP, the Commission argued that the Services directive could boost intra-European trade on services from 30 to 60%<sup>7</sup> and create 600 000 jobs.<sup>8</sup> On the one hand, enforcement of CoOP in secondary law constitutes a logical step that confirms the development of the ECJ case law, which has consistently extended the field of the free movement of services over restrictions imposed by Member states (Prieto, 2005) : 869; D'Acunto, 2004 : 210-211), which led to the mutual recognition of a "near home country control" (Hatzopoulos, 2007b): 12). On the other hand, its systematic and general application violates the negotiated or "managed" nature of mutual recognition (Nicolaidis, 2007): 687; (Nicolaidis and Schmidt, 2007): 718-721; (De Witte, 2007: 8-9), leaving the member states with the exceptional possibility to invoke public order or public health on a case-by-case basis (article 17) in order to restrict the activities of service providers. The same authors also point out that, whereas mutual recognition has always been accompanied by minimum harmonization rules in specific areas, there were no such provisions in the Draft Services directive. The peculiarity of the Bolkestein proposal was its unforeseen political and legal cocktail which triggered crucial normative issues. In a more or less elaborate way, the public debate has raised from these same problematic areas which have been contentious even among scholars and practitioners of European law: the inclusion of public services in the scope of application, protection of posted workers' social rights and the CoOP. While some were alarmed by the legal and social consequences of uncontrolled large scale liberalization and deregulation, the others were pointing at negative integration as the only way to achieve further

Europeanization in the enlarged EU. Beyond the French context, labor unions and NGOs from the alterglobalist movement as well as Social-democrats across the EU mobilized in order to suppress or modify the provisions carrying the threat of regulatory dumping on issues of wages and social protection. These actors also fought to exclude as many public services as possible from the Directive's scope.

The Bolkestein Draft directive therefore triggered a much more general debate about the nature of the EU, far beyond the provisions related to the free movement of services. The sensitive issues touched upon by the Bolkestein proposal with respect to national political and social systems triggered a "contentious spill over" from the general level of debate about the issues at stake. Starting from complex issues related to the administrative regulation of the free movement of services, the Bolkestein proposal became the symbol of the tension between EU competition rules and national regulations, between the internal market and the national "models" and, eventually, between the idea of a Neo-liberal Europe and a Social Europe. In a recent working paper J. Caporaso and S. Tarrow reinvigorated K. Polanyi's work on great historical movement and counter-movements in relationship with European integration, while stressing the "multivocal, reflecting essentially political logics" processes leading to the embeddedness of markets and societies, rather than a unidirectional logic of European integration towards market liberalization" (Caporaso and Tarrow, 2008: 1). This implies that those "movements" towards liberalization are bound to bring about resistance from national societies and political elites (Caporaso & Tarrow, 2008: 18). The conflict over "Bolkestein" is an outstanding case of how such resistance can occur and spill over into a more general conflict highlighting contrasted models of European integration.

## 2. The "three i" and the study of European politics: interactions, institutions and ideas

### ***Discursive institutionalism and preference formation in the realm of the EU multi-level politics***

While much of the literature on European integration deals with the top-down conveying of ideas and the ideational enforcement of europeanization (Dyson, 2002; Hay and Rosamond, 2002; V. A. Schmidt, 2005), the focus here lies on discursive interactions in relationship with preference formation. N. Jabko's book on how various decision-makers made strategic use of various constructions of "the market" in order to bring the EU further towards integration and monetary union remains an outstanding work linking normative frames and preferences on EU integration (Jabko, 2006). Previous accounts of preference formation on the liberalization of services (telecommunications, electricity, postal sector) have mainly emphasized the importance of member states' interests (Padgett, 1992) (McGowan, 1993) versus the Commission's capacity as a policy entrepreneur (Knudsen and Jette, 2005; Matlary, 1997; S. K. Schmidt, 1998). Eising and Jabko have explained how the dynamics of multi-level governance in the EU can determine change in the perception of national interests and consequently on the preferences of member states (Eising and Jabko, 2001). Most authors also considered sectoral interests (such as those of utility firms) as a crucial element for determining "national preferences". This paper tries to go one step further by investigating how bottom-up discursive interactions can enable critical discourses originating from oppositional parts of the political spectrum, including organized civil society, to influence the formulation of preferences at the governmental and even European level. In this respect, it is interesting to focus on discourse by "intermediary elites", since they *mediate* public discourse between citizens and decision-makers (Art, 2006: 25).

Compared to the classical approach to the "three i" in the study of public policy (Hall, 1997; Palier and Surel, 2005), discursive institutionalism is more consistent with interactive approaches to Europeanization and European integration (Palier and Surel, 2007). In this perspective, assumptions about actors' interests shall be replaced with the observation of agency's interactions. The argument is that interests can not be taken as a starting point for

analysis. Rather, research should investigate how and why actors construct or reconfigure their interests: one important factor, this paper argues, is public discourse. An interest-based account of the radical French position on the Services directive defined in terms of utilitarian interests would be undermined by a lack of evidence. There are dynamic French businesses offering services on European markets which could have expected economic gains from liberalization. Indeed, State secretary for European Affairs C. Colonna stated several times in public speeches that France, the second largest services exporter in the EU and the fourth worldwide, had clear economic interests at stake with the Services directive.<sup>9</sup> However, as mentioned previously, anticipation with a cost-benefit calculation was made almost impossible by the comprehensive nature of the directive and the numerous exceptions to its scope of application and more generally, by the complexity of its provisions. Even the Medef, the representative organization of French firms, did not fully support the directive as enhancing French services exporters' interests. Instead, it welcomed administrative modernization and the simplification for facilitating services exports. On the other hand, it also acknowledged that the application of the Draft directive could bring about "social dumping" and entailed risks for French firms with the "COoP creating serious difficulties and conflicts of legislations related to differentiated conditions for exercising activities in a single market"<sup>10</sup>. Under such uncertainty, public discourse about the consequences of the directive proposal was much more likely to have an impact on the perception of their interests by those in power. Thus, the argument here is not that rational choice institutionalism focused on interests is irrelevant, but rather that, under conditions of great uncertainty as to the future consequences of decisions, actors may be unable to clearly define their interests in utilitarian terms.

Discursive institutionalism is a synthetic approach building on the various constructivist (McNamara, 1998; Hay & Rosamond, 2002), neo-institutionalist (Hall, 1989) or more sociological studies (Jobert & Muller, 1987; Muller, 1995) which have dealt with the "power of ideas" in political processes. Discursive institutionalism nevertheless considers ideas insofar as they are conveyed by agency in specific institutional settings (Crespy and Schmidt, forthcoming; V. A. Schmidt, 2008; V. A. Schmidt, forthcoming). This approach therefore implies the study of discourse which is conceptualized not only as ideas but also as interactions between stakeholders (V. A. Schmidt and Radaelli, 2004): 205). On the one hand, discourse between the political elites and the wider public within the political sphere is defined as communicative discourse: it is used in politics and is grounded in normative ideas and appeals to values. On the other hand, coordinative discourse defines the discursive interactions between policy actors within epistemic communities and relies mainly on cognitive ideas and scientific rationality (V. A. Schmidt, 2006): chap. 5; V. A. Schmidt 2006: 251-252; V. A. Schmidt 2008: 310). Whereas communicative discourse is mostly very weak with regard to EU politics the Bolkestein directive is an excellent case for studying how communicative discourse forged outside of the policy communities forced governments and other decision-makers to be responsive at the communicative level. Also, the unpredictability of the consequences of the directive's implementation<sup>11</sup> considerably weakened the role of coordinative discourse and technical arguments in preference formation. For this reason, the empirical focus here lies on communicative discourse addressing the wider public rather than on coordinative discourse (technical arguments) within policy communities.

### ***Europeanization and framing in transnational contentious coalitions***

Similarly to what happened with public policy research, comprehensive analytical models integrating institutional and discursive variables have developed in the study of collective action (Giugni, 2002). The combination of the discursive institutionalist theory with social movement research in the broader framework of the "three i" is particularly useful since the latter provides for conceptual tools for the operationalization of the former. On the one hand, the stress has been put on institutional variables, i.e. actors' adaptation to the



multi-level institutionalization of the EU, which is referred to as Europeanization of collective action (della Porta, 2003; della Porta and Caiani, 2007; Marks and McAdam, 1996, 1999). R. Balme and D. Chabanet have developed a useful typology of the Europeanization of collective action while considering not only the vertical but also the horizontal channels for the diffusion of mobilization (Balme and Chabanet, 2002). This typology is consistent with the interactionist definition of Europeanization put forward by B. Palier and Y. Surel which does not consider the top down – and often seemingly mechanistic – effects of European institutions and decisions on national arenas, but refers to “institutional, strategic and normative adjustment processes induced by European integration” (Palier and Surel, 2007 : 39).

**Table 1: modes of europeanization of collective action**

	<b>Actors</b>	<b>Repertoires</b>	<b>Targets</b>	<b>Issues</b>
<b>Internalisation</b>	National or local	National, corporatist or protest	National or local	Importation of European norms
<b>Externalisation</b>	National or local	European pluralist	European or national	Use of European opportunity structures
<b>Transnationalisation</b>	Transnational	European pluralist or protest	European	Production of European norms
<b>Supranationalisation</b>	European	European, corporatist or pluralist	European	Production of European norms

*Source: Richard Balme and Didier Chabanet (2002), p. 105.*

On the other hand, even more scholars have been interested in the framing of issues since the pioneering studies in the 1980s' (Creed et al., 2002; Schön and Rein, 1994; Snow and Benford, 1988; Snow et al., 1986). Originally inspired by the works of Ervin Goffmann, the study of frames was developed by sociologists of social movements who identified the three main functions of frames: understanding problems (including determining causes or antagonist characters), identifying solutions and motivating actors to mobilize (Benford and Snow, 2000 : 617). This case study therefore reveals the Europeanization not only of mobilization as such but also of the related framing. More specifically, the notion of Social Europe emerges as a common – hence Europeanized – frame. This does not mean that the frame has the same content and substantial meaning for all actors since these have divergent ideological stance in many respects. It is precisely the absence of common definition which allows the strategic common use of the frame. In that sense, the idea of Social Europe can be seen as an “ambiguous consensus” ( Palier, 2005; Bonoli and Palier, 2000) among the various organizations involved in the loose coalition. According to the social movement scholars (della Porta et al., 2006: chap. 3; Snow, 2004: 390), master frames used in several conflicts over time – the wording “Social Europe” having a much older history than the Bolkestein Directive – and gathering heteroclite coalitions are to characterize contemporary transnational contentious politics. Eventually, the frame Social Europe refers to a common left-wing ethics connected with social justice.

In order to deal with the two-fold institutional and ideational hypothesis put forward, two main methods are used: the process-mechanism approach to process tracing and frame analysis. Firstly, process-tracing of interactions between the selected organizations is conducted. While the co-decision procedure on the Draft Services Directive goes from January 2004 to December 2006, this paper focuses on the initial politicization sequence until the June 2005, i.e. until the failed French referendum on the ECT. This is the sequence where the crucial processes of politicization, Europeanization and framing take place. The purpose of the approach put forward by S. Tarrow, D. McAdam and C. Tilly is to identify the processes of political contention and the more specific causal mechanisms which compound

these broader processes (McAdam et al., 2001; Tilly and Tarrow, 2007). They are to explain with more specific causal mechanisms: resource mobilization (networks and expertise), diffusion (both horizontal and vertical), discourse resonance and certification, the use of institutional opportunities and constraints. After this stage, the decision-making process over the directive enters a new sequence and different discursive and institutional resources are mobilized, which are more connected with the traditional “rules of the game” of EU parliamentary politics.

**Table 2: Sequences and causal mechanisms in the Bolkestein episode**

Time frame	Broader processes	More specific causal mechanisms
January 2004 (Directive proposal adopted by the Commission)	Politicization	Resource mobilization (expertise and networks)  Diffusion
June 2005 (French referendum and start of the parliamentary work)	Framing	Resonance Certification
	Europeanization (scale shift)	Diffusion Use of institutional opportunities/constraints

Secondly, frame analysis is used here to produce data supporting the ideational aspect of the discursive institutionalist approach. The qualitative computer-based analysis is grounded on the deductive and manual encoding of discourse fragments corresponding to analytical dimensions. Following V. Schmidt, three levels of framing are distinguished: cognitive discourse related to specific public policy problems, a second level dealing with policy programmes and the paradigms and a third most general level of discourse providing for philosophical and normative framing. Thirdly, the comparative approach used here can be defined as “transnational comparison”, which allows to articulate the external dimension (Europeanization) and the internal dimension (national politics) in the agents’ strategies (Hassenteufel, 2004). While this method has been used for the analysis of top-down Europeanization of public policy (Hassenteufel & Palier, 2001), it appears to be also very useful for the study of bottom-up politicization from the national to the EU arena.

### 3. The drivers of politicization and Europeanization

#### *Resource mobilization and the formation of coalitions in the national arenas*

As the directive proposal on services was adopted by the College of Commissioners on January 13<sup>th</sup> 2004, nobody could imagine that it was to generate such a vivid Europe wide contentious debate. Contentious coalitions were formed by contentious actors in the national arenas. The involved organizations used expertise and networks to operate the politicization of the “Bolkestein” issue in their country. At the same time, they endeavoured Europeanizing the debate through both horizontal and vertical diffusion.

Contention over the Bolkestein directive begins in Belgium, a few weeks after the college of Commissioners has adopted the directive proposal. While Belgian unions had been attentive to the EU decision-making in the realm of services in the internal market for long, their early analysis converges with that of some diplomats and EU officials close from the left (int. 3 & 38). Rapidly, the Socialist Party (PS) – which is then part of the federal government in a coalition with the Liberals – decides to take the lead in the contestation of the proposal by Commissioner for the internal market, F. Bolkestein. While the PS President Elio Di Rupo mentions the directive at public gatherings (int. 4), the PS foundation, the Institut Vandervelde consults political allies and activates civil society networks (int. 1 & 2). A broad coalition emerges, gathering all unions, progressive political parties and member associations of the Belgian social forum and carrying the PS initiative of a public petition called “Stopbolkestein”. The alterglobalist association Attac is part of this coalition, although it takes some distance from the PS and heavily rests on analyses of the Bolkestein proposal by R.-M. Jennar, a well-known researcher and activist.<sup>12</sup> The Belgian left is familiar with the issue of services liberalizations since the organizations belonging the Belgian Social Forum (including the two main unions of the country the FGVB and the CSC) had led a significant opposition campaign the liberalization of services in the frame of the GATS. In the weeks preceding the very first demonstration in Brussels against the directive proposal, the issue takes an emotional turn, as F. Bolkestein spokesman, J. Todd, compares the Belgian unions’ demonstration material with methods of the far-right and xenophobic party *Front national* at a debate on the national radio station RTBF (Int. 5, 6). This generates much indignation by the Belgian unions: both the CES and the Belgian PS issue press releases and sent an open letter to the Commission. While the European trade unions confederation (ETUC) has taken a rather discrete critical position towards the directive in March, it issues a second press release to the topic and takes part in the demonstration organised by Belgian unions in Brussels on June 4<sup>th</sup>, although it does not step in the foreground (Int. 5). In contrast, R. M. Jennar holds a very critical speech at the tribune, linking the Bolkestein directive and the ECT. In June, the PS-led Wallonian government and the French Community’s government take a critical position dooming the directive proposal “unacceptable” and calling for “deep modifications”.<sup>13</sup> On 24<sup>th</sup> June, the *Chambre* adopts a resolution (proposed by PS members C. Dieu et K. Lalieux) calling on the Belgian government to firmly insist on the Commission to present a legal framework for the protection of services of general interests and to take the lead for critical voices within the Council.<sup>14</sup>

From Belgium, politicization of the issue then diffuses towards France. The French unions and Attac France make use the expertise of the Belgian actors on the dossier. In particular, Raoul-Marc Jennar provides analyses of the text to Attac France. The Communist daily newspaper *L’Humanité* provides an important (and isolated) coverage of the Belgian mobilisation with interviews of radical left personalities, whose alarming critical assessments of the directive proposal is clearly at the origin of mobilisation within Attac France (Int. 11). However, the formation of the French coalition really takes off in the run-up of the referendum campaign over the ECT. In October, the various parties, unions and groupings of the radical left launch the *Comité national pour un non de gauche* (National committee for a left-wing ‘no’) with a public call by 200 personalities against the European constitutional treaty (ECT). The networks of the radical left have been aiming at the restructuring of the “left of the left” since the historical defeat of the Socialist candidate Lionel Jospin in the first round of the 2002 Presidential election (Crespy, 2008). From that point on, the Bolkestein directive will be used in the campaign of the new coalition as the symbol for the social consequences of neo-liberal EU policies (int. 14). The *Comité national* campaigns actively on the ground and generates some emulation with the creation of hundreds of local committees organising many public debates and meetings on the directive and the ECT throughout France. Later, the ‘no’ campaign of the radical left will be joined by a fraction of the Socialists, namely J.-L. Mélenchon, H. Emmanuelli and L. Fabius.

Germany witnesses a similar – although less vivid – politicization process by a left-wing coalition. Whereas mobilization started already in January in Belgium, the were almost

no discussions about the directive proposal before the Summer 2004. Here again, expertise on services liberalization related to past mobilization against the GATS plays a major role in the mobilization of resources against Bolkestein. Strongly involved against the GATS, the construction union IG BAU is the first organization to provide an interpretation of the Commission's proposal. The debate knows a more than discrete start in the Summer 2004 in Germany, with Attac publishing some critical analyses of the directive proposal on its website and organizing a workshop dedicated to the directive at its summer university. In October, as Commissioner Bolkestein comes to Berlin to hold a speech at the Humboldt University, Attac and IG BAU disturb the event while protesting against the directive and displaying a huge paper hammer, as a symbol for the Bolkestein directive destructing social systems. *Linke* MEP S. Wagenknecht takes part in the action and the new founded party takes a stance as an ally for Attac and IG BAU (Int. 27, 28, 29). This protest action is nevertheless hardly covered by the press. A decisive step takes place when S. Skarpelis-Sperk, SPD member of the *Bundestag* is appointed rapporteur on the issue. S. Skarpelis-Sperk is a prominent figure of the SPD's left wing, close to the services union federation Verdi, and she was a major personality of the establishment involved in the campaign against the GATS a couple of years earlier. She realizes that the relevant parliamentary committees have approved the directive proposal through an automatic procedure without even examining it. She obtains from the two major parliamentary groups and the Bundestag President the re-opening of a whole procedure for the directive proposal. At the same time, she activates her networks within the unions, the radical left (Attac) and affected sectors such as education, the media and culture in order to gather more expertise on the issue.

### ***The many channels of Europeanization***

Besides the diffusion from Belgium to France, the successful politicization of the Bolkestein directive is to explain by the ability of the contentious actors to adapt their strategy to the multi-level institutional system of the EU and thus reach a scale-shift of mobilization, i.e. « *the increase or decrease of in the number of actors and/or geographic range of coordinated claim making* » (Tilly and Tarrow, 2007 : 217). What can be observed is a simultaneous activation of the various institutional channels and networks, which is referred to by R. Balme and D. Chabanet as the internalization, the transnationalization and the supranationalization of the conflict<sup>15</sup>.

The internalization of the conflict over services liberalization occurs with the above-depicted formation of coalitions in the respective national arenas. While the issue is first addressed by organizations of the left and the radical left, their purpose will be to convince and mobilize actors who are more central with regard to the European decision-making process, namely the national Parliaments and the parties in governments. In Belgium, internalization occurs very early, since the PS – then in a coalition government with the Liberals – is the motor of the politicization process. In France, internalization is closely related to the referendum campaign over the ECT. In Germany, the coalition will progressively expand to the left wing of the SPD, the party of Chancellor Schröder. In both countries, internalization remains relatively weak in 2004. In fact, the working groups of the Council have met only twice to discuss technical issues and the newly elected EP has not started the examination of the draft in the committees.

At this stage of the decision-making process, politicization hence mainly occurs through the activation of horizontal and weakly institutionalized transnational networks, mainly in the frame of the alterglobalist movement which also involves a number of left wing unions. After a number of informal contacts and actions by the various Attac organizations, a workshop is dedicated to the directive at the 2004 London European Social Forum (ESF) on the initiative of the Belgian Social Forum. This workshop allows to strengthen the contacts with organizations such as the French *Ligue communiste révolutionnaire* and to establish a Europe wide internet diffusion list for a mobilization network against "Bolkestein".

Furthermore, a European preparatory assembly is held, where a Europe wide mobilization day on Bolkestein in connection with the 2005 Spring European Council is discussed. Still in November, the “Attac of Europe” – the informal European coordination of the various national associations – is held in Innsbruck in Austria. The German expert on services liberalization, T. Fritz, an activist-expert like R.-M. Jennar, provides more expertise on the issue and calls for specific mobilization against the directive.

Finally, Europeanization occurs through the activation of vertical and supranational channels of influence. The first is the European Trade Union confederation (ETUC). As the Belgian unions conveyed a radical and alarmist framing of the directive proposal in early 2004, the ETUC was relatively discrete in its criticism of the Commission’s proposal. Following the awkward claims of the Commission’s representative J. Todd in June, however, the ETUC significantly hardened its position. Contacts were established with the alterglobalist movement to coordinate protest and the ETUC progressively endeavoured taking the leadership of protest. Besides the unions, the MEPs belonging to the left-wing political parties were also highly involved in the diffusion and politicization of the conflict. The German and French members of the GUE/NGL were very active, especially F. Wurtz who was the President of the group. In November 2004, the rapporteurs of the two EP committees in charge, the German MEP E. Gebhardt (SPD) and the Belgian A. Van Lancker, (SPA) organize an audition on the directive proposal: a range of lawyers, unionists and experts (among them R.-M. Jennar) are heard<sup>16</sup>. As a result, the Rapporteur E. Gebhardt concludes in her working document from December 2004 that “the Commission should be invited to either withdraw its proposal or to substantially re-work on it”.<sup>17</sup>

In sum, process tracing of left wing mobilization over the Bolkestein directive shows that the modes of Europeanization identified by R. Balme and D. Chabanet are not necessarily alternative, but can also be simultaneous. Indeed, the formation of contentious coalitions against services liberalization in the national arenas was accompanied by the Europeanization of the debate by means of domestic, transnational and supranational channels. Such a strategic adaptation to the opportunity structure provided by the EU multi-level system has proved particularly efficient in politicizing the issue. However, the impact of mobilization on co-decision cannot be entirely explained by institutions-driven strategies in the national and European arenas. The discursive dynamics and the nature of the ideas at stake also played a crucial role in legitimizing protest against an initiative which had been presented by the Commission as the achievement of the common market.

#### **4. An efficient framing of services liberalization**

##### ***A common framing beyond national political cultures***

While the contentious actors targeted the EU institutions by means of horizontal and vertical channels, the Europeanization of the debate could also succeed because the framing of the issue was widely shared by the 21 organizations under study beyond national political cultures as well as ideological divergences. European issues mostly generate what Vivien Schmidt defines as coordinative discourse, i.e. a kind of discourse based on expertise and with an audience restricted to policy makers within epistemic communities (V. A. Schmidt, 2006). Insofar, the EU is often considered as an a-political or technocratic system of governance (Barbier, 2008). In contrast, the Bolkestein directive epitomizes the irruption of the public debate which constrained the decision-makers to formulate a coordinative discourse towards the public at large.

Table presents the results of the frame analysis conducted on the basis of 206 documents posted on the 21 organizations’ websites. Firstly, it appears that all organizations conveyed a coordinative discourse grounded on expertise and sophisticated cognitive arguments. This is an evidence that, in order to be relevant and heard, all actors – including the most radical –

abide by the rules of the European politics game. As far as public policies are concerned, the CoOP and its consequences on social dumping, the deterioration of social rights, and the states' ability to control services providers are dealt with by all organizations in a relatively homogeneous manner. An especially important emphasis is put on the rampant liberalization of public utilities and services (17% of all coded citations). Discourse on programmes and paradigms related to the common market are also widely shared. All actors involved criticize the trend towards market deregulation. All of them also advocate upwards harmonization of social, wage and environmental standards throughout the Union. This element is nevertheless much more salient in the discourse of French actors (Attac and PS). All organizations play the dominant paradigm of competition since – with the systematization of the CoOP – it should not only be applied to firms but also to workers themselves as well as to the member states' regulatory and social systems. In this respect, a slight variation between radical organisations (5% for Attac Wallonia-Brussels and Attac Vlaanderen to 9% for the French PS) and the more moderate or centre-oriented organizations (from 1% for the SPD to 7% for ETUC).

The most striking result of the frame analysis is the existence of a communicative discourse addressing all citizens and which, since it appeals to values, has a strong normative dimension. With the opposition of Neo-liberal Europe and Social Europe, and with the invocation of democracy, the anti-Bolkestein coalition could mobilize the national public opinions. Generally speaking, unions and government parties are less inclined to denounce the Neo-liberal EU than opposition parties and Attac. The framing of the directive as a problem for democracy, however, does not overlap the distinction between, radicals and moderates. The most striking element of the table relates to the prescriptive aspect of the framing: the invocation of Social Europe (or the defence of the European social model) is the most widely shared normative frame (with more than half of the organization with values superior to 10%) as well as the most often mentioned (9% in average while Neo-liberal Europe and democracy score only 4%). This provides evidence that, at the ideational and discursive level, the opposition to the Bolkestein draft is not only a negative discourse against Europe opposing anti- and pro-Europeans. The idea of a social Europe appears as a common normative model of European integration legitimizing opposition to the Commission's proposal by all actors, beyond their national and ideological differences. Politicization and diffusion of mobilization therefore rests on a powerful discursive dynamic which combines coordinative and communicative discourse.

### ***Discourse resonance and certification***

In order to impact the decision-making process, it is nevertheless not sufficient to frame an issue with a shared communicative discourse. The important causal mechanism at stake here is that this discourse encountered resonance within public opinions thus constraining the most central decision makers to reconfigure their strategic interests and embrace the critical framing formulated by the left (Crespy, 2010). This last mechanism is referred to as the certification of contentious claims, i.e. “an external authority's signal of its readiness to recognise and support the existence and claims of a political actor” (Tilly & Tarrow 2007: 215). As underlined above, a discursive institutionalist approach to political processes does not deny the existence of interests, but it claims that those arise from discursive strategic interactions which occur in the political space.

In the first semester of 2005, the Europeanization of contention reaches a much higher level in the run-up of the French referendum on the ECT. The existing coalitions enlarge into broader – but not necessarily closely coordinated – alliance against the Bolkestein proposal. In the national arenas, the domestication of the conflict accentuates with both a higher salience in the national public spaces and a greater involvement of central decision-makers such as government parties, parliaments and governments. While the Luxemburgish Presidency opens a negotiation window for changes of the proposal, contention reaches a critical point in France with a kind of “national consensus” emerging. After the Bolkestein

theme has remained confined to the “no campaign” against the Treaty, the national board of the PS officially condemns the directive proposal in a press release at the end of January. Mainstream figures of the party, such as former General Secretary H. Emmanuelli and former Prime Minister L. Fabius, even put the stress on the directive in the campaign against the ECT.

Table 3 : Social Europe as a Europeanized normative frame

En %	Attac		Unions							Opposition parties							Government parties						
	Attac WB	Attac VL	Attac FR	Attac DE	FGTB	CSC	CGT	CFDT	IG BAU	Ver.di	DGB	CES	LCR	Die Linke	PCF	GUE/ NGL	PS FR	PS BE	SP.A	SPD	PES	Average	
Philosophies and norms																							
Neo-liberal Europe																							
Neo-liberalism	5	15	4	2	7	5	0	0	1	0	0	2	15	3	9	7	6	8	1	1	0	4	
Social Europe																							
European social model	11	16	3	1	16	9	17	7	6	8	2	13	3	3	14	7	5	5	16	12	13	9	
Democracy	16	9	3	3	3	18	3	0	0	4	2	2	2	3	6	1	0	0	3	3	0	4	
Programmes and paradigms																							
Deregulation	9	4	7	6	6	14	2	11	3	1	10	2	6	5	3	7	5	12	1	0	2	5	
Competition	5	5	9	9	9	0	6	3	8	13	5	7	3	9	8	10	9	3	4	1	3	6	
Harmonization	2	4	13	2	5	5	2	4	4	4	2	2	6	6	5	3	9	2	3	4	2	4	
Public Policies																							
Dumping	2	15	10	14	4	9	14	13	24	12	7	5	13	20	20	9	9	3	14	23	16	12	
Public utilities and services	9	13	15		13	14	18	11	3	14	25	27	21	15	17	18	24	35	17	13	19	17	
Posted workers	13	2	4	2	3	5	3	3	10	1	7	4	0	0	0	0	1	2	1	4	5	3	
Social rights	7	5	8	5	12	5	8	16	8	6	10	22	2	12	6	9	3	5	17	12	19	9	
CoOP	11	5	8	9	4	5	14	24	14	11	5	11	15	12	11	21	19	1	7	17	13	12	
Control	4	4	13	39	7	9	11	9	21	26	25	4	10	9	0	4	8	3	12	9	5	11	
Number of encoded citations	N=55	N=55	N=181	N=175	N=109	N=22	N=65	N=75	N=80	N=140	N=59	N=55	N=52	N=66	N=65	N=68	N=78	N=60	N=69	N=69	N=63	N=1671	

In order to facilitate the comparison of the data, coded citations have been converted to a percentage of all coded citations for each actor.

The percentage therefore reflects the relative salience of each element of the framing for each actor.



At the beginning of February, J. Chirac takes a harsh stance against the directive while Prime Minister J.-P. Raffarin calls the directive “unacceptable” in the *Assemblée nationale*. From that point on, the French position will be repeatedly asserted by various French actors in Brussels. The French government exerts a very strong pressure on the French negotiators in the Council (int. 37) and uses the French member of IMCO, former Minister J. Toubon, as a relay for the “French position” in the EP (Int. 39). The public debate over the directive reaches a climax in March, where opinion polls show a shift of French public opinion against the ECT (see appendix 2). In the same month, the *Assemblée nationale* adopts a resolution calling for a deep re-examination of the directive proposal.

At the same time, the pro-Bolkestein line of the SPD hence of the German government starts to bend. S. Skarpelis Sperk and E. Gebhardt, who know each other very well (Int. 15), generate an intense debate over the directive to reach a majority position within the SPD-*Bundestagsfraktion*, whereas Minister of Economics and Employment W. Clement had always been in favour of the country of origin principle. After welcoming the completion of the internal market in 2004, the Chancellor mentions “risks of social dumping” at a meeting in Brussels with J. M. Barroso mid-February 2005<sup>xviii</sup>. In addition to the pressure exerted by the SPD left wing, E. Gebhardt, the unions, the issue is also addressed at bilateral meetings with J. Chirac<sup>xix</sup>. Scandals in the press and on TV about poorly paid Polish workers in slaughterhouses at the Polish German border<sup>xx</sup> end up to convince the Chancellor to reverse the government’s position in the Council (Int. 15, 23, 40). According to S. Skarpelis-Sperk, protest in Belgium and France helped to make her claims heard in Germany, where criticizing the EU is not politically correct (Int. 15). In all three countries, the salience of the Services directive in the public debate is especially high in the first semester of 2005 (Appendix 2). After months of debates and although MEPs from new member states and Britain favour a neo-liberal directive, the PES-Group in the EP issues a (first) majority position against the Bolkestein proposal mid-March (Int. 33). Mobilisation by unions, on one hand, and by organisations of the alterglobalist movement gathered in the ESF, on the other hand, converge. In the winter 2005, Belgian activists realise that two different demonstrations are planned for mid-March in Brussels in the run up of the Spring Summit of the European Council: the one against the Lisbon strategy planned in the frame of the ESF and the one planned by the CES. Contacts between the representatives of Belgian social forum and the ETUC led to a common demonstration (Int. 8 & 34). Belgian unions, members of both the EFS and the ETUC played an important role in the convergence. Although there has been some disagreement about the motto, since the various actors were divided over the issue of the ECT (Int. 8 & 35), the demonstration has been a success with about 50 000 people marching against the Bolkestein directive. On the day before, a large conference organised by Attac Wallonie-Bruxelles and the GUE/NGL Group in the EP gathered 200 guests from organisations of the alterglobalist movement and radical left parties and unions from all over Europe in the European Parliament (Int. 8 & 29). At the March summit of the European Council, heads of states and governments re-assert that the completion of the internal market for services is a priority, while calling for a modification of the Commission proposal in order to “preserve the European social model”.<sup>xxi</sup> At the end of the meeting, Head of the Luxemburgish Presidency J. C. Juncker claimed to the press: “Yes to the opening of services markets, no to social dumping!”<sup>xxii</sup> This was a clear signal to both the Commission and the Parliament that the directive proposal should take the social dimension into account if it was to be passed.

As the ratification of the ECT failed in France on May 29<sup>th</sup>, mainly because of economic and social fears among the French population, it appeared clearly that the “Bolkestein” issue has had a negative impact on the legitimacy of the Union as a whole. This political climate influenced deliberation in the EP to a large extent, while the Unions and the alterglobalist movement maintained pressure on MEPs with several demonstrations in Berlin and Strasburg in the days preceding the first reading of the draft by the EP on February 16<sup>th</sup>. On that day, a majority of MEPs approved a compromise resolution negotiated by the two

biggest political groups – the EPP and the PES – and containing amendments formulated by the ETUC. This compromise put an end to the conflict as the resolution of the Parliament was taken over to a large extent by the Commission and the Council, which led to the final adoption of the directive only a couple of months later, in December 2006. Although the final draft can be considered as a failure from a legal point of view, it was widely acknowledged as a political victory for the left and as an institutional victory for the EP.

## Conclusion

The purpose of this paper was to explain how diffusion of ideas about services liberalization through several political arenas of the EU could have a significant impact on the European decision-making process. From a theoretical point of view, it was argued that the causal influence of ideas on political processes cannot be isolated from the agency conveying those ideas, on the one hand, and from the institutional configurations which constrain agency, on the other hand. Building on a discursive-institutionalist perspective approach to public policy as well as on interactionist analyses of collective action, a revised model of the “three i” has been put forward. This model implies that the focus of analysis should be on interactions rather than interests, while causal explanations shall be found in interrelated institutional configurations and ideational-discursive dynamics. By means of process tracing and frame analysis, it was demonstrated that Europeanization of mobilization on the basis of a common framing relying on the idea of Social Europe constrained the central decision-makers to take contentious claims into account. More specifically, the politicization of the issue occurred by means of political alliances and networks which could provide for counter-expertise, while the normative frame of Social Europe generated much resonance among public opinions. The comparative literature over social movements focuses on the importance of national institutions and national political opportunity structures (Kitschelt, 1986; Kriesi et alii, 1995). The transnational comparative method used here shows that the configuration of political alliances is the main relevant factor determining the variation between the three countries observed: the more cohesive the left political spectrum, the sooner and the more coordinated the mobilization occurred. This was accounted for by early mobilization in Belgium, later and less coordinated mobilization in France and much later and poorly coordinated mobilization in Germany. This being said, the stark differences between the three countries (territorial organization of the state, type of regime, etc) did not prevent the emergence of similar left wing coalitions along the shared discursive framing.

The idea of Social Europe constitutes a strategic frame rather than a homogeneous and consensual political programme for integration. It is nevertheless grounded in an appeal to values of social justice which resonates beyond national political cultures, which are too often described as impossible to overcome in the context of EU politics (Barbier, 2008). The Bolkestein case suggests that expertise and cognitive discourse does not necessarily restrict the debate to the arenas of policy coordination. Expertise can also become the object of contention and be encompassed in a larger normative framing and delivered to the European publics at large. Such a process is nevertheless dependant on agency, i.e. of political entrepreneurs in various political arenas able to discourse in a strategic manner while adapting to the constraints and using the resources of their institutional environment. Whether such process can bring about a cumulative dynamic of politicization of European integration over time or whether it is doomed to remain an isolated political “moment” remains an open question. The way the current economic and monetary crisis is politically dealt with in the public space rather suggests the prevailing of intergovernmental politics and grand bargains.

<sup>1</sup> This notion refers to the the constitutionalization at a supranational level of legal and institutional mechanisms aiming to profit and growth and involving a reducing of the State's regulatory and redistributive capacities (both at national and supranational level) and the objective of social protection and social justice. The term is not used as a normative description of the EU regime but as an objective category used by the actors under study.

<sup>2</sup> The country of origin principle foresees that a when a services provider crosses a border in order to provide a service in an another member states than the one where he is established, he is submitted only to the regulatory and law provisions of its member states of origin (or establishment). While the European Court of Justice had asserted this principle on a case-by-case basis, it was also enshrined in EU secondary law for sectoral directives dealing with services which did not imply human labour. The Draft services directive of the Commission foresaw a generalisation of the COOP to all services, a systematisation without previous harmonisation nor agreements of mutual recognition. Furthermore, the competences for controlling legality of services provision in the country of destination (especially with respect to provisions of the 1996 Directive on Posted workers protecting workers' social rights when they work abroad) should have been transferred to the state of origin, which raised questions about the actual level of efficient collaboration between the various members states administrations.

<sup>3</sup> SPD, Die Linke, PS (Belgium), SP.A, PS (Marchi), PCF, LCR, PES, GUE/NGL, IG BAU, Verdi, DGB, FGTB, CSC, CGT, CFDT, ETUC, Attac Deutschland, Attac Vlaanderen, Attac Wallonie-Bruxelles, Attac France.

<sup>4</sup> 96/71/CE

<sup>5</sup> In its monitoring of the implementation of the Directive on posted workers, the Commission mentions major problems with regard to compliance with labor law. See Commission Report on the application of Directive 96/71/EC, January 2003 and Communication The application of Directive 96/71/EC in the Member States, COM (2003) 458 final, 25 July 2003.

<sup>6</sup> It should be mentioned here that, although they have been explicitly excluded from the directive's scope in the final draft, the services of general (non economic) interest, such as mandatory school, justice, police, etc, automatically could not be submitted to EU competition rules.

<sup>7</sup> « A quantitative Assessment of the EU proposals for the Internal Market for Services », Netherlands Bureau for Economic Policy Analysis, 23.09.2004 ; « The free movement of services within the EU », October 2004, revised in September 2005. [http://www.cpb.nl/eng/news/2005\\_40.html](http://www.cpb.nl/eng/news/2005_40.html) (18.01.2008).

<sup>8</sup> « Economic Assessment of the Barriers to the Internal Market for Services. Final report », Copenhagen Economics, January 2005.

<sup>9</sup> Audition of the Minister for European affairs by the committee for foreign affairs of the Senate, 07.02.2006.

<sup>10</sup> Medef, « L'essentiel de la proposition de directive sur les services », April 2005, [http://www.medef.fr/medias/upload/76710\\_FICHIER.pdf](http://www.medef.fr/medias/upload/76710_FICHIER.pdf) (11.05.2009) (author's translation).

<sup>11</sup> The Commission ordered two studies which predicted up to 60% rise of the intra-European services trade and the potential creation of 600 000 jobs in services: « Economic Assessment of the Barriers to the Internal Market for Services. Final report », Copenhagen Economics, January 2005, « A quantitative Assessment of the EU proposals for the Internal Market for Services », Netherlands Bureau for Economic Policy Analysis, 23.09.2004 ; « The free movement of services within the EU », October 2004, revised in September 2005 [http://www.cpb.nl/eng/news/2005\\_40.html](http://www.cpb.nl/eng/news/2005_40.html) (18.01.2008). These studies are considered by many to be biased and weak in particular because they do not take into account social and environmental impact as well as potential job destruction related to the implementation of the CoOP.

<sup>12</sup> During the period under consideration, R.M. Jennar worked for Oxfam Belgium, for the GUE group in the European Parliament, in a Paris-based think tank called URFIG. He was also active in the French alterglobalist think tank Copernic Foundation and was well-known by Attac Wallonie-Bruxelles and France.

<sup>13</sup> Position du gouvernement wallon, Position du gouvernement de la Communauté française, juin 2004, non public document.

<sup>14</sup> Let us notice, that the PS has refused the resolution and the amendments by the Greens calling for the rejection of the Commission.

<sup>15</sup> The category « externalisation » in Balme and Chabanet's typology is not relevant here, since the debate relates to a European initiative.

<sup>16</sup> Parlement européen, Communication aux membres IV/2004, PE 350.059.

<sup>17</sup> Parlement européen, Document de travail, PE 353.297, 21.12.2004.

<sup>xviii</sup> „Schröder legt sich mit E-Kommission an“, *Süddeutsche Zeitung*, 04.02.2005; „Schröder gegen EU-Richtlinie“, *Spiegel*, 05.02.2005.

- <sup>xix</sup> „Widerstand gegen geplante EU-Dienstleistungsrichtlinie“, *Spiegel*, 15.02.2005; « Paris et Berlin veulent remplacer la Directive Bolkestein », *Le Monde*, 26.04.2005.
- <sup>xx</sup> „Ein deutscher Fleisch-Zerleger klagt an: Billig-Löhner haben mir den Job geklaut“, *Bild*, 16.02.2005;
- <sup>xx</sup> „Angst vor Billig-Jobs aus Osteuropa“, *Leipziger Volkszeitung*, 16.02.2005; „Billigarbeiter aus dem Osten erobern die Schlachthäuser“, *Frankfurter Allgemeine Zeitung*, 19.02.2005.
- <sup>xxi</sup> Council of the European Union, European Council Brussels 22 and 23 March 2005. Presidency conclusions, 76/19/1/05, 23.03.2005.
- <sup>xxii</sup> *Le Monde*, 22.03.2005.

## References

- Art, D. (2006). *The Politics of the Nazi Past in Germany and Austria*. New York: Cambridge University Press.
- Balme, R., & Chabanet, D. (2002). Action collective et gouvernance de l'Union européenne. In R. Balme, D. Chabanet & V. Wright (Eds.), *L'action collective en Europe. Collective action in Europe* (pp. 23-120.). Paris: Presses de Science Po.
- Barbier, J.-C. (2008). *La longue marche vers l'Europe sociale*. Paris: PUF.
- Benford, R. D., & Snow, D. A. (2000). Framing Processes and Social Movements: An Overview and Assessment, *Annual Review of Sociology*, 26, 611-639.
- Caporaso, J., & Tarrow, S. (2008). Polanyi in Brussels. European Institutions and the Embedding of Markets in Society. *RECON Online Working Papers*, 1.
- Creed, D. W. E., Langstraat, J., A., & Scully, M. A. (2002). A Picture of the Frame: Frame Analysis as Technique and as Politics, *Organizational Research Methods*, 5(1), 34-55.
- Crespy, A. (2008). Dissent over the European Constitutional Treaty within the French Socialist Party: Between Response to Anti-globalization Protest and Intra-party Tactics, *French Politics*, 6, 23-44.
- Crespy, A. (2010). When 'Bolkestein' is trapped by the French anti-liberal discourse : A discursive-institutionalist account of preference formation in the realm of EU multi-level politics, *Journal of European Public Policy*, 17(8).
- Crespy, A., & Schmidt, V. A. Néo-institutionnalisme discursif. In L. Boussaguet, S. Jacquot & P. Ravinet (Eds.), *Dictionnaire des politiques publiques* (3ème ed.) (pp. 350-359). Paris: Presses de Science Po.
- D'Acunto, S. (2004). La proposition de directive sur les services dans le marché intérieur, *Revue du Droit de l'Union Européenne*, 2, 201-248.
- De Witte, B. (2007). Setting the Scene: How did services get to Bolkestein and Why? *EUI Working Papers LAW*, 20, Florence: EUI Working Papers LAW.
- della Porta, D. (2003). Dimensions of Political Opportunities and the Europeanisation of Public Spheres, *Report WP 1: EUROPUB*.
- della Porta, D., & Caiani, M. (2007). Europeanization From Below? Social Movements and Europe. *Mobilization*, 11(1), 1-20.
- Do, U. T. (2006). La proposition de directive relative aux services dans le marché intérieur : définitivement hors service ? *Revue de Droit de l'Union européenne* (1), 111-130.
- Dobry, M. (1987). *La sociologie des crises politiques. Dynamique des mobilisations multisectorielles*. Paris: Presses de la FNSP.
- Dyson, K. (2002). EMU as Europeanization : Convergence, Diversity and Contingency. In A. Verdun (Ed.), *The Euro. European Integration theory and Economic and Monetary Union* (pp. 91-108). Boulder: Rowman and Littlefield.
- Eising, R., & Jabko, N. (2001). Moving Targets : National Interests and Electricity liberalization in the European Union". *Comparative Political Studies*, 34(7), 742 - 767.
- Garabiol-Furet, M.-D. (2005). La directive Bolkestein, bouc émissaire d'une Europe incertaine. *Revue du Marché commun et de l'Union européenne*, 488, 295-302.
- Giugni, M. (2002). Explaining cross-national similarities among social movements. In J. Smith & H. Johnson (Eds.), *Globalization and Resistance. Transnational Dimensions*

- of *Social Movements* (pp. 13-29). Lahnamn, Boulder, New York, Oxford: Rowman & Littlefield.
- Hall, P. A. (1997). The role of interests, institutions, and ideas in the comparative political economy of the industrialized nations. In M. I. Lichbach & A. S. Zuckerman (Eds.), *Comparative Politics. Rationality, Culture, and Structure* (pp. 174-207). Cambridge: Cambridge University Press.
- Hall, P. A. (Ed.). (1989). *The Political Power of Economic Ideas*. Princeton: Princeton University Press.
- Hassenteufel, P. Comparaison , in L. Boussaguet, S. Jacquot et P. Ravinet (Eds.), *Dictionnaire des politiques publiques*, (3<sup>ème</sup> ed.) (pp: 148-155). Paris: Presses de Sciences Po, 2004.
- Hatzopoulos, V. (2007a). Legal aspects in Establishing the Internal Market for services, *College of Europe Research Law Papers*, 6.
- Hatzopoulos, V. (2007b). Que reste-t-il de la directive sur les services? *Cahiers de droit européen*, 43(3-4), 299-358
- Hay, C., & Rosamond, B. (2002). Globalisation, European Integration and the discursive construction of economic imperatives, *Journal of European Public Policy*, 9(2), 147-167.
- Jabko, N. (2006). *Playing the Market : A Political Strategy for Uniting Europe (1985-2005)*. Ithaca: Cornell University Press.
- Jobert, B. (Ed.). (1994). *Le tournant néo-libéral en Europe*. Paris: L'Harmattan.
- Jobert, B. & Muller, P. *L'Etat en action: politiques publiques et corporatismes*. Paris: PUF.
- Kitschelt, H. (1986). Political Opportunity Structures and Political Protest: Anti-Nuclear Movements in Four Democracies, *British Journal of Political Science*, 16(1), 57-85.
- Kriesi, H., Koopmans, R., Duyvendak, J. W. & Giugni, M. (1995). *New Social Movements in Western Europe*. Minneapolis: University of Minnesota Press.
- Knudsen, S. J. (2005). Breaking with tradition : neo-liberalisation of services trade in Europe, in Verdun, A., & Croci, O. (Eds.), *The European Union in the wake of the Eastern enlargement. Institutional and policy-making challenges* (pp. 72-90). Manchester New York: Manchester University Press.
- Körner, M. (2007). EU-Dienstleistungsrichtlinie und Arbeitsrecht, *Neue Zeitschrift für Arbeitsrecht*, 24(5), 233-238.
- Marks, G., & McAdam, D. (1996). Social Movements and the Changing Structure of Political Opportunity in the European Union, *West European Politics*, 19(2), 249-278.
- Marks, G., & McAdam, D. (1999). On the Relationship of Political Opportunities and to the Form of Collective Action : The Case of the European Union. In D. Della Porta, H. Kriesi & D. Rucht (eds.), *Social Movement in a Globalizing World* (pp. 97-111). London: Macmillan Press LTD.
- Matlary, J. H. (1997). *Energy Policy in the European Union*. Houndmills, Londres: MacMillan.
- McAdam, D., Tarrow, S., & Tilly, C. (2001). *Dynamics of Contention*. Cambridge: Cambridge University Press.
- McGowan, F. (1993). *The struggle for power in Europe: Competition and regulation in the EC electricity industry*. Londres: Royal Institute of International Affairs.
- McNamara, K. (1998). *The Currency of Ideas*. Ithaca & Londres, Cornell University Press.
- Nicolaïdis, K. (2007). Trusting the Poles? Constructing Europe: through mutual recognition, *Journal of European Public Policy*, 14(5), 682-698.
- Nicolaïdis, K., & Schmidt, S., K. (2007). Mutual recognition « on trial » : the long road to services neo-liberalization, *Journal of European Public Policy*, 14(5), 717-734.
- Padgett, S. (1992). The Single European Energy Market : The Politics of Realization, *Journal of Common Market Studies*, 30(12), 53-76.
- Palier, B., & Surel, Y. (2005). Les "trois I" et l'analyse de l'État en action, *Revue française de science politique*, 55(1), 7-32.

- Palier, B., & Surel, Y. (2007). Analyser l'eupéanisation des politiques publiques. In B. Palier & Y. Surel (Eds.), *L'Europe en action: analyses d'eupéanisation* (pp. 13-86). Paris: L'Harmattan.
- Prieto, C. (2005). Liberté d'établissement et de prestation de services, *Revue trimestrielle de droit européen*, 41(4), 867-892.
- Schmidt, S. K. (1998). Commission activism: subsuming telecommunications and electricity under European competition law, *European Journal of Public Policy*, 5(1), 169-184.
- Schmidt, V. A. (2005). Democracy in Europe: The Impact of European Integration. *Perspectives on Politics*, 3(4), 761-779.
- Schmidt, V. A. (2006). *Democracy in Europe. The EU and National Politics*. Oxford & New York: Oxford University Press.
- Schmidt, V. A. (2008). Discursive institutionalism: The Explanatory Power of Ideas and Discourse, *Annual Review of Political Science*, 11, 303-326.
- Schmidt, V. A. (forthcoming). Taking ideas and discourse seriously: explaining change through discursive institutionalism as the fourth "new institutionalism", *European Political Science Review*.
- Schmidt, V. A., & Radaelli, C. (2004). Policy Change and Discourse in Europe. Conceptual and Methodological Issues, *West European Politics*, 27(2), 183-210.
- Schön, D. A., & Rein, M. (1994). *Frame Reflection. Towards the Resolution of Intractable Policy Controversies*. New York: Basic Books.
- Snow, D. A., & Benford, R. D. (1988). Ideology, frame resonance, and participant mobilization, *International Social Movement Research*, 1, 197-218.
- Snow, D. A., Rocherford, B. E., Worden, S. K., & Benford, R. D. (1986). Frame alignment processes, micromobilization, and movement participation, *American Sociological Review*, 51(4), 464-481.
- Tilly, C., & Tarrow, S. (2007). *Contentious Politics*. Boulder, London: Paradigm Publishers.
- van Apeldoorn, B., Drahekoupil, J., & Horn, L. (eds.). (2009). *Contradictions and Limits of Neo-liberal European Governance*. Basingstoke: Palgrave Macmillan.

---

## Appendix 1: Interviews conducted

1. Former employee at PS Institut Emile Vandervelde and Attac activist
2. PS official 1
3. PS official 2
4. Camille Dieu, PS member of Parliament (*Chambre*)
5. FGTB former Secretary general
6. FGTB staff member
7. CSC staff member
8. Attac Wallonie-Bruxelles activist France
9. Jérôme Lambert, Vice-President of PS Group (*Assemblée nationale*)
10. CGT staff member
11. CFDT staff member
12. LCR staff member
13. Former CGT, Fondation Copernic activist
14. Member of Attac's leading board
15. Sigrid Skarpelis-Sperk, SPD former member of Parliament (*Bundestag*)
16. Angelika Schwall-Düren, SPD member of Parliament
17. SPD Parliamentary group staff member (*SPD Fraktion*) 1
18. SPD Parliamentary group staff member (*SPD Fraktion*) 2
19. Assistant of *Linke* member of Parliament (*Bundestag*)
20. IG BAU staff member
21. DGB staff member
22. Attac activist EU
23. Evelyne Gebhardt, MEP (SPD), rapporteur, Committee for internal market and consumer protection
24. Assistant of Anne Van Lancker (SPA), rapporteur, Committee for employment and social affairs
25. Robert Goebbels, MEP (POSL), Vice-president of PES Group, in charge of economic and social issues
26. Francis Wurtz, MEP (PC), President of GUE-Group
27. Helmut Markov MEP (Linke)
28. Sarah Wagenknecht MEP (Linke)
29. Assistant of Gabi Zimmer MEP (Linke)
30. Belgian PS delegation staff member
31. SPA delegation staff member
32. French PS delegation staff member
33. PES-Group staff member
34. ETUC staff member 1
35. ETUC staff member 2
36. EPSU staff member
37. Diplomat 1
38. Diplomat 2
39. Diplomat 3
40. Diplomat 4

## Appendix 2: The Bolkestein Directive in the press

