

Eu Social Cit

European Social Citizenship

EU social investment agenda: what does it mean for citizens' social rights?

Authors

Cinzia Alcidi and Francesco Corti

EuSocialCit working paper

April 2022



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 870978



This working paper is published as part of the EuSocialCit project, which has received funding from the European Commission's Horizon 2020 Research and Innovation programme under grant agreement no 870978.

Disclaimer:

This publication reflects the authors' view only. The European Commission is not responsible for any use that may be made of the information it contains

To be cited as:

Alcidi, C. and Corti, F. (2022) EU social investment agenda: what does it mean for citizens' social rights?, *EuSocialCit Working Paper*, April 2022. Doi: 10.5281/zenodo.6414789.

Authors:

Cinzia Alcidi is Director of Research, Head of the Economic Policy and Jobs & Skills Unit at CEPS. Francesco Corti is Postdoctoral researcher at University of Milan.

The authors are grateful to Georg Fischer, Bart Vanhercke and Sebastiano Sabato for their valuable comments and feedback on an early version of this paper. They would also like to thank Tomas Ruiz for his valuable research assistance.



This publication is licensed under the Creative Commons CC BY-NC. This information may be freely used, copied and adapted, provided that the source is acknowledged.

Summary

This paper presents a reconstruction of the evolution of the EU social agenda from the late 1990s. It shows that – despite being uneven and at times truncated – EU advocacy for social investment as a new social policy paradigm has been increasing over the years. The paper then questions how such advocacy affected European citizens’ social rights. Building on two novel databases, which systematically collect information on all EU legislative (binding and non-binding) provisions as well as EU case-law from the end of the 1990s up to 2021, this paper explores EU social investment rights by looking at the power resources that are guaranteed to individuals. It emerges that, despite the broad, coherent, and rich framework for social investment principles offered by the EU, resources allocated to citizens remain quite limited. Citizens are not legally entitled to any specific social investment right, except for work-life balance-related parental and care leaves. Enforcement channels are also only limited to paid leave related issues. Instrumental resources to facilitate access to social investment services are mostly limited to mobile EU citizens.

Keywords: Social investment, European Union, Social Europe

Deliverable 3.3 - Governance of social investment models and empowerment at the European level

Project name	The Future of European Social Citizenship
Project acronym	EuSocialCit
Grant Agreement ID	870978
Deliverable number	D3.3
Lead partner	CEPS
Work package	<p>EuSocialCit is an interdisciplinary research project aiming to support the EU in strengthening social rights and European social citizenship. It evaluates the current state of social rights in Europe and their relationship to social inequalities, gender inequalities, poverty, and precariousness, and diagnoses the shortcomings of current policies and institutions at the level of individual countries and the EU.</p> <p>The EuSocialCit project focuses on three domains in which social rights are important: the empowerment of citizens (e.g. education and activation), fair working conditions and social inclusion. Each of these domains are respectively studied as part of WP3, WP4 and WP5.</p> <p>This report is produced as part of WP3 which is entitled <i>Empowerment through social investment</i>. WP3 focuses on social rights that are associated with the aspiration of empowerment: rights that enable citizens not only to fully share in the social heritage, but also to further develop this heritage (Marshall, 1950). Hence, WP3 examines policies that are commonly captured by the notion of social investment.</p>
Web address	For more information about the EuSocialCit project, please visit www.eusocialcit.eu . EuSocialCit's output can also be found in its community on Zenodo: https://zenodo.org/communities/eusocialcit .

Table of contents

1. INTRODUCTION	6
2. A BRIEF HISTORY OF THE EU SOCIAL INVESTMENT AGENDA: FROM THE EUROPEAN EMPLOYMENT STRATEGY TO THE EUROPEAN PILLAR OF SOCIAL RIGHTS.....	10
2.1 SOCIAL EUROPE OVER THE GREAT RECESSION: FROM FISCAL CONSOLIDATION TO SOCIAL INVESTMENT WITH THE HANDBRAKES	12
2.2 THE EUROPEAN PILLAR OF SOCIAL RIGHTS: RIGHTS-BASED SOCIAL INVESTMENT	16
2.3 PRELIMINARY CONCLUSIONS	20
3. CITIZENS’ EMPOWERMENT THROUGH THE EU SOCIAL INVESTMENT POLICIES.....	21
3.1 OPERATIONALISATION OF POWER RESOURCES AT THE EU LEVEL.....	21
3.2 DATA COLLECTION	24
3.3 NORMATIVE (DEONTIC) POWER RESOURCES	26
3.4 NORMATIVE (LEGAL) POWER RESOURCES	30
3.5 NORMATIVE (SOFT) POWER RESOURCES	33
3.6 INSTRUMENTAL POWER RESOURCES	36
3.7 ENFORCEMENT POWER RESOURCES.....	37
CONCLUSIONS.....	40
REFERENCES	42
ANNEX.....	47

1. Introduction

Social investment is traditionally understood as welfare provision that helps ‘prepare’ individuals, families and societies to respond to the changing nature of social risks in advanced economies, by investing in, upkeeping and protecting human capabilities from early childhood through to old age, rather than pursuing policies that only ‘repair’ social misfortune, *ex post*.

The term was conceptualised for the first time, in a historical context, in the 1990s, characterised by growing public debt, high level of unemployment and low growth which was posing significant difficulties on the carrying-capacity of the welfare state. Social investment was thus an attempt to redefine the role of social policies in the emerging post-industrial globalised and knowledge-based society. At the core of the new social investment approach was the idea of economic return and measurable welfare provisions: social policy as a productive factor. The idea was thus to act on the denominator of the welfare equation, by increasing the number of paid workers and the average productivity of workers, so as to face the challenges posed by the increasing number of welfare recipients and the average consumption of welfare recipients.

At the same time, the lynchpin of the social investment approach was the idea of work-family life-course (Kuitto, 2016). Indeed, social investment policies intervene over the life-course (toddler, child, young adult, adult and older adult) of individuals to break, from the beginning, the circle of disadvantage, to smooth life transitions, and facilitate women’s participation in the economy. Thus, they aim to address the challenges raised by the new post-industrial production system with service-oriented employment and increased female participation in the labour market. To do so, social investment policies broaden the approach of traditional compensatory provisions by emphasising prevention rather than cure. More specifically, the following three interdependent and complementary functions identify social investment (Hemerijck, 2013, 2018):

1. Raising and maintaining the quality of the ‘stock’ of human capital and capabilities, through high-quality systems of vocational training, education, retraining programmes and lifelong learning arrangements.
2. Easing and improving the ‘flow’ of contemporary labour-market and (gendered) life-course transitions, through active labour market policies, job matching, work-life balance services and assistance during vulnerable transitions.

3. Maintaining strong minimum income universal safety net 'buffers', such as adequate pension systems, unemployment benefit schemes, minimum income protection, housing support services etc.

While scholars acknowledge the necessity to recalibrate the welfare state to tackle the above-mentioned challenges, social investment is not without its critics. Scholars have questioned the employment effect of social investment measures and, in particular, of the 'Matthew Effect' on middle-class groups, who disproportionately benefit from capacitating services at the expense of vulnerable groups in society (Cantillon, 2011; Cantillon and Van Lancker, 2013). Pavolini and Van Lancker (2019), for instance, show that childcare policies are less accessible to disadvantaged and excluded groups, while favouring families in which both parents work. Bonoli and Liechti (2018) provide empirical evidence of a Matthew effect for low-skilled and immigrant unemployed in access to some active labour market programmes, but not in all EU Member States.

While the notion of social investment was progressively gaining purchase as a novel welfare policy compass in the academic debate, the European Union became the umbrella under which the policy agenda for social investment reform was devised (Hemerijck and Corti, 2022a). Since the late 1990s, under the Dutch Presidency, in fact, EU policymakers and institutions pledged allegiance to social policy as a productive factor. In the Lisbon Agenda (2000), which incorporated the main elements of the former 1997 European Employment Strategy (EES), investment in human capital and its mobilisation through labour market participation and social inclusion have been considered instrumental to achieve more and better jobs and greater social cohesion. Under the Belgian Presidency, the interactive process of political and bureaucratic actors with academic scholars advocating welfare recalibration towards social investment resulted in the publication of the report *Why We Need a New Welfare State*, by Gøsta Esping-Andersen and colleagues, which gave explicit impetus to the policy theory behind the social investment paradigm, which was then partially incorporated in the 2013 Social Investment Package, when the EU urged Member States to advance post-financial crisis welfare reform strategies that help 'prepare' individuals, families and societies to respond to the changing nature of social risks. The inter-institutional proclamation of the European Pillar of Social Rights (EPSR) by the Council of the European Union, the European Commission and the European Parliament at the Social Summit for Fair Jobs and Growth in Gothenburg in 2017, is the latest example of the positive steps taken in the same direction by the EU (Hemerijck and Corti, 2022b).

While scholars agree on the role of the EU as an advocate for social investment welfare recalibration, many have questioned the coherence between the EU social agenda and its economic priorities. With the outbreak of the Great Recession, in fact, social investment reform across Member States was put on hold (Bouget et al., 2015). With the adoption of the Six-Pack (2011), the Fiscal Compact (2012) and the Two-Pack (2013), social concerns were subordinated to the main objectives of sound public finance rules, no sovereign default and price stability. In 2013, despite the launch of the Social Investment Package, EU social investment renewal remained hostage of an EU approach dominated by a fiscal consolidation paradigm (Hemerijck and Corti, 2022b).

So far, most of the literature on the role of the EU in social investment has focused on reconstructing the development of the EU social investment strategy, by looking at the interaction between key actors, the ‘political, intellectual and bureaucratic entrepreneurs’ (De la Porte and Natali, 2018; Hemerijck and Corti, 2022a), as well as the interplay between the EU social investment priorities and EU economic policy agenda (Bekker, 2017; Vesan et al., 2021). Other contributions have focused on specific EU social investment initiatives, such as the Lisbon Agenda or Europe 2020 (Cantillon, 2011) or the European Employment Strategy (Copeland and Ter Haar, 2013), to assess whether they succeeded in achieving their target objectives. Finally, other scholars have looked at the implementation of specific governance models, notably the open method of coordination (OMC), and their capacity to foster a process of mutual learning and reforms at the national level (Vanhercke, 2020; Citi and Rhodes, 2007; De la Porte and Pochet, 2012; Tholoniati, 2010; Zeitlin, 2009).

This working paper intends to contribute to this strand of literature and to take a further step by addressing two more fundamental questions: What does the EU social investment agenda¹ imply for citizens’ social rights? What kind of entitlement (if any) do EU citizens receive from the EU social investment agenda?

To answer these questions, the paper builds on the novel resource-based conception of social rights, as elaborated by Vandenbroucke et al. (2021), which explores social rights from the perspective of the power resources that are guaranteed to individuals. According to Vandenbroucke et al. (2021), rights are conceived as ‘*a bundle of distinctive and guaranteed power resources*’ which enable individuals to ‘*obtain compliance from other individuals and from public authorities*’ (Ibid: p. 2). The added value of such an approach to study social investment rights at the EU level is twofold. First, by going beyond

¹ While a formal EU social investment agenda does not exist, in the paper it refers to a series of initiatives, often in the context of broader social policy strategy, which can be considered as a reorientation of the EU approach towards social investment.

the equation of social rights and justiciability, this approach allows to grasp the specificities of social investment rights that are not always accompanied by hard legal entitlement but, nonetheless, guarantee individuals access to specific dues. Second, the power resources approach highlights the different, but complementary, roles played by the various institutional actors and levels. Such a multi-level approach allows an understanding of the role of the EU in different stages of the construction and implementation of a certain right.

The structure of the paper is as follows. The first part is dedicated to a historical reconstruction of the EU social agenda from the late 1990s until the most recent developments under the von der Leyen Commission. The purpose is to shed light on the key strategies and initiatives launched by the EU in the social policy domain and to understand the extent to which these pursue a social investment strategy. It emerges that over the past 25 years, the EU has gradually and increasingly advocated welfare recalibrations towards social investment. Against this background, the second part of the paper, focuses on the actual power resources that the EU has provided its citizens with in the domain of social investment. In particular, we systematically look at three policy areas: children and family policies, education, and active labour market policies. To this end, and building on the EUSOCIALCIT power resources framework², we aim to disentangle the role of the EU in providing social investment rights to its citizens. Section 3 offers conclusions.

² As described in Vandenbroucke et al. (2021).

2. A brief history of the EU social investment agenda: from the European Employment Strategy to the European Pillar of Social Rights³

The origins of the EU social investment agenda can be dated back to the Dutch Presidency of the EU in the first half of 1997. On that occasion, the economic policy unit of the Dutch Ministry of Social Affairs and Employment prepared a report showing that the high spending Dutch welfare state was able to keep unemployment at bay by channelling (less productive) workers into social security programmes, and maximizing the rate of employment, on the basis of activation policies, active ageing, avoiding early retirement, part-time work expansion, and flexicurity (Hemerijck and Corti, 2022). At the core of the new social agenda illustrated by the Dutch Presidency was the idea of social policy as a productive factor, i.e. the idea that social and labour market policies can support productivity and thereby increase growth potential⁴.

The high point of the Dutch Presidency was the inclusion of a separate employment chapter in the 1997 Treaty of Amsterdam (Arts. 125–30 EG (formerly Art. 109)), forcefully championed by the European Commission and unanimously supported by the European Council (De la Porte and Natali, 2018). The process envisaged in the Employment Title (Art. 128 EC, now 148 TFEU)⁵ was then formally launched during the European Council held under the Luxembourgish Presidency on 20-21 November 1997, also known as the Jobs Summit. By reformulating Article 117 of the Treaty, the EU institutionalised the European Employment Strategy (EES) – already agreed at the European Council

³ This section takes in part insights from the work by Hemerijck, A. and Corti, F. (2022). The interactive politics of EU social investment agenda setting, in Graziano, P. & Tosun, J. *Handbook of European Public Policy*, Cheltenham: Edward Elgar Publishing Ltd. forthcoming.

⁴ Social policies as productive factors in this sense do not refer to a specific type of investment but more to the design and impact as well as the coherence between social and provisions. In this respect, the idea that quality of work, in terms of production efficiency, and the quality of working conditions are correlated and that a well-functioning Single Market requires also to set minimum standards in terms of social rules, started already in the aftermath of the Single European Act in 1986. At that time, it became clear that the deepening of economic integration has to be accompanied by adequate social provisions. To this end, the EU adopted a series of important legislative provisions, for instance, on health and safety at the workplace, which led to a radical overhaul of national occupational health rules in many Member States (Vogel 2019), and in the domain of posting of workers, working time and non-discrimination.

⁵ This includes involving the drafting of annual employment guidelines, national employment action plans and a joint employment report.

of 9-10 December 1994 in Essen – and formally embraced the promotion of employment, the improvement of living conditions, while combating social exclusion, as core EU policy objectives.

A few years after the adoption of the Amsterdam Treaty, the Portuguese Presidency of the EU of 2000 produced a report with the title *The Future of Social Europe: Recasting Work and Welfare in the New Economy*. The new report explicitly welcomed the ‘open method of coordination’ (OMC)⁶ as a kind of ‘third way’ EU governance process to be used in complex and domestically sensitive policy areas, where EU competences are relatively weak or EU legislation is impracticable, but inaction is politically unacceptable (Zeitlin, 2005). At the heart of the OMC lies a commitment to cross-national policy ‘learning by monitoring’, based on iterative benchmarking of national progress towards common objectives⁷ – in accordance with the principle of subsidiarity (Sabel and Zeitlin, 2010). At the beginning of the 2000s, the OMC was up and running in around a dozen policy areas, including social inclusion, pensions, and healthcare (Rodrigues, 2001).

The European Council of March 2000, in Lisbon, committed the Union to become the ‘most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth and more and better jobs and greater social cohesion’. The Lisbon Agenda revamped the notion of positive complementarities between equity and efficiency in the knowledge-based economy by ‘investing in people and developing an active and dynamic welfare state’ (European Council, 2000). This broadened the notion of social policy beyond its emphasis on inclusive and activating social protection, to include social promotion and improvement of lifelong education and training. The Commission adopted this view in its Social Policy Agenda 2000-2005 by stating that ‘a guiding principle of the new Social Policy Agenda will be to strengthen the role of social policy as a productive factor’ (European Commission, 2000). Social dialogue was identified as ‘the most effective way of modernising contractual relations, adapting work organisation and developing adequate balance between flexibility and security’, and thus an effective way of achieving the goals of the strategy’.

With the Belgian Presidency in the second half of 2001, the conceptualisation of social investment was further accelerated, when Frank Vandenbroucke, at the time federal Minister of Pensions and

⁶ As observed by Vanhercke (2020), the OMC was strongly influenced by the existing EES and the Broad Economic Policy Guidelines (BEPG).

⁷ The structure of an OMC works in the following way. Countries agree on a set of common objectives in a specific policy area, they identify commonly agreed and defined indicators, which are for instance prepared by the Social Protection Council Indicators Sub-Group, each country then adopts a National Action Plan. Joint Reports are then adopted jointly by the Commission and the EPSCO Council formation. For an extensive overview of the OMCs, see Vanhercke (2020).

HealthCare, urged Gøsta Esping-Andersen together with Duncan Gallie, Anton Hemerijck and John Myles to fundamentally rethink the welfare state for the 21st century, so that *'once again, labour markets and families are welfare optimisers and a good guarantee that tomorrow's adult workers will be as productive and resourceful as possible'* (Esping-Andersen et al., 2002: 25). The outcome of this intellectual effort was a report on a 'new welfare architecture for 21st century Europe', later published under the title *Why We Need a New Welfare State* (2002).

All in all, under the Dutch, Portuguese and Belgian presidencies of the Council, an input was given to the debate on welfare recalibration and economic integration. In terms of policies, the belief – at that time – was that in due course EU 'soft policy' agenda setting would catalyse 'hard' social regulation without much political conflict and institutional competition in synch with currency integration. Yet, the chorus was not unanimous. Already during the presentation of the book *The Future of Social Europe*, Scharpf warned EU policymakers that Economic and Monetary Union (EMU) would inevitably prompt intrusive welfare restructuring. According to Scharpf, the centrality of public budgetary discipline and the impossibility of currency devaluation in the EMU architecture would unleash 'internal (welfare state and labour market) devaluations' when Member States face fiscal duress. The Great Recession has made Scharpf's insights look prophetic in hindsight (Scharpf, 1999; 2002).

2.1 Social Europe over the Great Recession: from fiscal consolidation to social investment with the handbrakes

The EU political situation changed considerably around the mid-2000s. Enlargement of the EU from 15 to 25 Member States in 2004 and to 27 by 2007 added an extra layer of complexity and heterogeneity to the EU and its welfare states. The Lisbon Strategy was criticised in its mid-term review for lack of strategic focus and the multiplication of objectives and coordination processes. The Kok report of 2004 blamed the Lisbon Strategy for failing to deliver Member State commitment to the implementation of reforms needed to reach the Lisbon targets (Kok, 2004), while the OMC was considered to have fallen far short of expectations, and therefore in need of 'a radical improvement of the process' (ibid.: 42)

In taking stock of the criticisms, the Barroso I Commission (2005) attempted to give a new start to the Lisbon Strategy by proposing the *Working Together for Growth and Jobs* (European Commission Communication, 2005). The European Council adopted the idea and relaunched the Lisbon Strategy in its document, *Growth and jobs: working together for Europe's future*. While it rhetorically acknowledged the gap between rhetoric and the results of the first 5 years, in practice the change

marked a step backwards. The proposed new approach emphasised the focus on growth and employment to be achieved by investment and less regulation. A number of OMC processes were simplified and suppressed, and the Social Inclusion, Pensions, and Health and Long-Term Care OMCs were moved to the periphery of the Lisbon II Strategy. Common social objectives were identified, and Member States were tasked to translate them into 'National Reports on Strategies for Social Protection and Social Inclusion'. Annual Joint Social Protection and Social Inclusion Reports replaced the earlier Joint Reports of the previously separate OMCs. Interestingly, however, the new streamlined OMC was run in parallel to the revisited Lisbon II Strategy, rather than being an integral part of it, as it was in the first Lisbon Strategy⁸.

In 2010, when Lisbon came to an end, a new strategy was prepared, the Europe 2020 Strategy, which was designed just at the onset of the global financial crisis. Like the Lisbon Strategy, the new Europe 2020 Strategy was driven by the duo competitiveness and productivity, to cope with the fiscal sustainability criterion. The main difference is that it was meant to be the European exit strategy from the global economic and financial crisis that started in 2008. In the social policy area, Europe 2020 set out quantitative targets to be achieved by the end of the decade: i) reduction of school drop-out rates to less than 10%, ii) increase the share of 30-40-year-olds having completed tertiary or equivalent education to at least 40 %, iii) raise the employment rate for women and men aged 20-64 to 75 %, and iv) lift at least 20 million people out of the risk of poverty and exclusion. The targets were accompanied by seven flagship initiatives, two of which had an explicit social investment objective: 'Youth on the Move' and 'An agenda for new skills and jobs'. Interestingly, as observed by Begg (2010), the new Europe 2020 Strategy redefines the concept of flexicurity as a key pillar of EU socio-economic governance and links it to that of social investment-oriented welfare states, stressing the mutual reinforcement of economic and social objectives to deepen the European integration process.

Four out of ten social and employment guidelines of Europe 2020 were later embedded in the European Semester⁹. The aim was to provide guidance to Member States on defining their National Reform Programmes and implementing reforms in line with the Stability and Growth Pact. Of these guidelines, two had an explicit social investment orientation. Member States were called to develop a skilled labour workforce, to respond to labour market needs, and promote lifelong learning

⁸ As observed by Vanhercke (2020), after 2005, the OMC processes were de facto isolated from the revisited Lisbon Strategy. Yet, this period was not 'unproductive'. The OMC mainly focused on enhancing its toolbox through indicator development, mutual learning activities and funding stakeholder networks.

⁹ The EU semester was created under the legal basis of the six-pack and formally introduced in 2011.

(guideline 8) as well as to improve the quality and performance of education and training systems at all levels and increase the participation in tertiary or equivalent education (guideline 9).

With hindsight, the Europe 2020 Strategy misjudged the magnitude of the crisis and was unable to address in any way the major changes that the crisis was deemed to bring in the EU and its Member States. A major blind spot of Europe 2020 was the lack of a plan to exit from the crisis and the choices to be made in and between budgetary and social policies. Europe 2020 ignored those aspects, and the fact that the solvency of some countries could be called into question, and instead simply focused on the need to move towards a better integration of economic, employment and social objectives in the EU. In the EU economic context, the initiatives appeared to include a wide range of aims, but they lacked concrete action and, as stressed by Frazer et al. (2010), they were top-down initiatives without much apparent coherent thought and lacked any consultation with stakeholders. In the same vein, Pochet (2010) was also quite critical. He emphasised the lack of links between the choices for exiting the crisis and the mid-term targets as well the insufficient reflection given to major trade-offs between the policy objectives of 'smart' growth and the need to restore social stability, social cohesion and debt reduction¹⁰. Because of all these reasons, Europe 2020 suffered – to use the words of László Andor¹¹ – a silent death. With several Member States going through tough adjustment programmes and the euro area close to collapse, pursuing smart, sustainable, and inclusive growth, as claimed by the strategy, was no longer a realistic priority.

Even before the Commission, led by Jean-Claude Juncker, *de facto* removed Europe 2020 from the political agenda, the strategy was marginalised by then Commissioner for Employment, Social Affairs and Inclusion László Andor himself who launched first the Employment Package in April 2012 and the Youth Employment Package in December 2012. The result of the consultation process was synthesised in February 2013, following a European Parliament (2012) resolution on this topic, with the launch of the Social Investment Package for Growth and Social Cohesion (SIP), which included a Communication on a European strategy for Social Investment for Growth and Cohesion, a Commission Recommendation on 'Investing in Children: breaking the cycle of disadvantage' and a series of Staff Working Documents.

¹⁰ He also points out that because of this lack of realisation, from a governance perspective, as in the Lisbon Strategy, the European Council was elevated to play a key role, hence it is expected to act as the supreme body entrusted to represent the general interest.

¹¹ Andor, L. (2020), "Europe in 2020", *The Progressive Post* (blog), 30 November, <https://progressivepost.eu/europe-in-2020/>

With the 2013 SIP, social and economic policy integration with an ambition to raise employment and provide people with capacitating services, was put at the centre of the EU social agenda. SIP was an attempt to raise the importance of social policies in a period of contractionary fiscal policies. In the SIP communication, the Commission stressed the importance for European welfare states to invest in policies to prepare individuals and not only repair the consequences of markets failures. Equal importance is thus given both to traditional social protection buffers, including minimum income and unemployment benefit schemes, as well as to new activation policies, including policies targeting children, active labour market policies, education, training and lifelong learning, housing support, rehabilitation, healthcare and long-term care services.

The 2013 Commission Communication on SIP was accompanied by a roadmap for its implementation. But this roadmap was only implemented in 2014 and 2015. Among the new initiatives included in the first roadmap, the creation of the European Platform on Investing in Children, the organisation of conferences against poverty and social exclusion, the compilation of various studies and reports, and the presentation of new methodologies and communications. By contrast, the second SIP roadmap did not include new initiatives but was mostly dedicated to the actions already included in 2014 but not completed.

Despite the short-term duration of the SIP, some concrete manifestations of the Commission's (at least partial) interest in social investment policies surfaced in the European Semester cycles 2012-2013 and 2013-2014 as well as in the launch of the Youth Guarantee (YG). While the semester country specific recommendations addressed to Member States paid fresh attention to more active social support in the form of training for the unemployed, the improvement of public employment services, the modernisation of education and training systems, including lifelong learning, together with strengthening the link between social assistance and activation measures through access to more personalised social servicing (Vesan et al., 2021), the April 2013 Council Recommendation on establishing a Youth Guarantee (YG) explicitly aimed at reducing the time-spells in which young people remain unemployed or inactive, customising the analysis of young unemployed / inactive people's need, and, most important, guaranteeing an offer of employment or vocational /academic training to unemployed youngsters by strengthening the role of Public Employment Services. To this end, the YG was supported by ad hoc budgetary re-allocation in the EU budget 2014-2020, the Youth Employment Initiative, which, most interestingly, entailed a novel redistributive component across Member States, with Italy, Greece, Spain, Portugal, Romania and Poland benefiting most from both of these programmes. Indeed, the eligible regions for financial support were those where the youth unemployment rate for young persons aged 15 to 24 years was higher than 25 % in 2012, or those

where youth unemployment rose more than 30 % in 2012, resulting in an unemployment rate higher than 20 %.

Overall, however, despite the strong support from DG EMPL and its Commissioner, the SIP remained politically hamstrung with no significant or long-lasting impact on the EU social agenda. This was due in part to the fact that the SIP benefited from a limited ownership by stakeholders and that the new Commission quickly dismissed the initiative (Sabato and Corti, 2018). Importantly, even within the Commission, the SIP remained largely an initiative under DG EMPL, with little support either from other DGs in the Commission, or from social stakeholders outside (Sabato and Vanhercke, 2014). Furthermore, of many social investment initiatives contained in the SIP, the shadow of fiscal conditionality continued to loom large. In this respect, even though social investment comes with the idea of simultaneously improving economic efficiency and social equity, it does not come without fiscal efforts. As a consequence, countries with sufficient fiscal margins could implement more ambitious and generous social investment policies, while for those with fiscal handbrakes, the social investment message was lost (Hemerijck and Vandenbroucke, 2012). Finally, as correctly stressed by Kazepov and Ranci (2017), the recalibration towards social investment policies is also the result of specific structural and institutional factors that link education systems, the labour market, and the welfare state, which set the pre-conditions that make the turn towards social investment policies feasible and effective. In this respect, even without fiscal constraints and with full ownership, one might not expect the same reaction from all Member States. In this respect, evidence from the Youth Guarantee implementation shows that the instrument was particularly successful in reaching the target population (i.e. Youth not in employment, education or training (NEET) aged under 24, or 29) in those countries with a well-functioning system of activation policies and strong public employment services already in place, while it was not successful for those lacking a structured system (European Court of Auditors, 2017; Jeffrey et al., 2020).

2.2 The European Pillar of Social Rights: rights-based social investment

By mid-2014, on the eve of the European elections, the sluggish economic recovery, the mounting dissatisfaction towards the European Union and the steady rise of Eurosceptic parties across Europe put the European project in political jeopardy. The newly appointed president of the European Commission, Jean-Claude Juncker, announced the launch of an ambitious new initiative, the European Pillar of Social Rights (EPSR), with the intention to gain a social triple-A rating for the EU, a parallel rating similar to the financial triple-A rating.

The EPSR was officially proposed in March 2016, adopted in April 2017 as a Commission Recommendation, and finally proclaimed as an inter-institutional agreement by the Commission, the Parliament, and the Council in November 2017. Presented as a list of 20 rights and principles, divided in three chapters (see Table 1), the EPSR has an explicit social investment approach. Its first Chapter 'Equal opportunities and access to the labour market' is strongly oriented towards capacitation and creation of opportunities throughout the life-course. Access to lifelong learning and training and support to participate in the labour market correspond to two cornerstones of the social investment approach. Yet the focus of the EPSR is not limited to raising and maintaining the quality of the human capital and capabilities. The pillar in fact promotes policies addressed to maintaining a strong minimum income universal safety net and it integrates these policies with measures aimed at easing and improving contemporary labour market and (gendered) life-course transitions. Compared to the SIP, the pillar offers a coherent and balanced understanding of the social investment-oriented welfare state in terms of elementary buffers (e.g. pensions, unemployment benefits, housing, social protection, minimum income), human capital and capabilities (e.g. childcare, education, training, lifelong learning) and (gendered) life-course flow transition policies (e.g. work-life balance, secure and adaptable working conditions and working conditions).

A second novelty of the Pillar, compared to the SIP, lies in its rights-based language (Vesan and Pansardi, [2021](#); Sabato and Corti, [2018](#)), which departs quite significantly from the more cognitive-utilitarian 'social policy as a productive factor' approach which characterised the Social Investment Package. The latter indeed legitimated welfare provision more narrowly in terms of Pareto-optimal economic terms. The Commission's stated rationale for the Pillar was that the most resilient welfare states during the crisis were those with strong safety nets, high-level investments in human capital and capacitating social services across work-family life-course transitions (Vesan and Pansardi, [2021](#)).

Table 1. Social Pillar principles

Chapters	Rights
Chapter I: Equal opportunities and access to the labour market	<ol style="list-style-type: none"> 1. Education, training and lifelong learning 2. Gender equality 3. Equal opportunities 4. Active support to employment
Chapter II: Fair working conditions	<ol style="list-style-type: none"> 5. Secure and adaptable employment 6. Wages 7. Information about employment conditions and protection in case of dismissals 8. Social dialogue and involvement of workers 9. Work-life balance 10. Healthy, safe and well-adapted work environment and data protection
Chapter III: Social protection and inclusion	<ol style="list-style-type: none"> 11. Childcare and support to children 12. Social protection 13. Unemployment benefits 14. Minimum income 15. Old age income and pensions 16. Healthcare 17. Inclusion of people with disabilities 18. Long-term care 19. Housing and assistance for the homeless 20. Access to essential services

Source: European Commission (2017).

A third novelty regards the link between the Pillar and the debate on the reform of European economic governance, which explicitly touched upon the redefinition of the macroeconomic role of the EU vis-à-vis national welfare states. As stressed in the Five President's Report *Completing Europe's Economic and Monetary Union*, 'for EMU to succeed, labour markets and welfare systems need to function well and in a fair manner in all euro area Member States' (Commission, [2015](#): p. 8). The report then clarifies that: 'efficient labour markets that promote a high level of employment and are able to absorb shocks without generating excessive unemployment are essential: they contribute to the smooth functioning of EMU as well as to more inclusive societies' (ibid). Furthermore, it acknowledges that: 'beyond labour markets, it is important to ensure that every citizen has access to adequate education and that an effective social protection system is in place to protect the most vulnerable in society, including a social protection floor' (ibid).

Finally, the fourth novelty of the Pillar regards its implementation framework. Contrary to the previous strategies (European Employment Strategy, Lisbon Strategy, Europe 2020 and even the SIP), the EPSR was not only implemented under the open method of coordination. Certainly, the EPSR permeated the European Semester (Vesan et al., 2021). In 2017, for instance, the Commission adopted a proposal

to amend the Employment Guidelines¹² to align the text with the principles of the EPSR. The new Employment Guidelines explicitly target four key domains, in which social investment plays a key role: i) boosting demand for labour, ii) Enhanced labour and skills supply, iii) Better functioning of the labour markets, and iv) Fairness, combating poverty and promoting equal opportunities for all¹³. In addition to this, however, the launch of the Social Pillar sparked the resurgence of the ‘Community method’ in the EU decision-making process. In the framework of the Pillar, in fact, the revision of the posting of workers directive (Costamagna, 2019), the new directive on work-life balance (Chiaregato, 2020) and the Directive on Transparent and Predictable Working Conditions (Bednarowicz, 2020) were adopted. These introduced some new tools, recalibrated existing rights in the face of changed context conditions, and proposed new policy objectives, thus enhancing the EU social acquis and providing EU citizens with new social rights and protection. At the same time, the EPSR was accompanied by an ambitious agenda on investing in youth and skills. In 2016 a ‘New Skills Agenda for Europe’ was launched by the European Commission, the aim being to strengthen skills formation quality and relevance as well to make skills and qualifications more visible, and improve skills intelligence and information. This was followed by a recommendation on ‘Upskilling pathways’, a European Quality Framework on Apprenticeships and a recommendation on integrating the long-term unemployed in the labour market.

The European Pillar of Social Rights has also remained the EU social policy framework during the new Commission led President von der Leyen, who referred to the pillar as ‘our social rulebook, which ensures solidarity between generations and puts skills, innovation and social protection on an equal footing’ (von der Leyen, 2021). The Commission also launched an action plan for implementation of the EPSR in March 2021. Furthermore, in May of the same year, a new Social Summit was organised in Porto under the Portuguese Presidency of the EU, and various initiatives indeed followed, including the reinforced Youth Guarantee and the European Child Guarantee. Finally, an explicit link to the EPSR can be found in some of the EU policy responses to the COVID-19 pandemic such as the adoption of SURE (Corti and Alcidi, 2021), the Coronavirus Response Investment Initiative (CRII) and the Recovery and Resilience Facility (RRF) (Corti and Nunez Ferrer, 2021).

¹² This is part of the European Employment Strategy, originally set up in 1997.

¹³ The Employment guidelines are linked with the guidelines for the economic policies and together they were expected to reflect a new approach to economic policymaking centered on investment, structural reform and fiscal responsibility (<https://ec.europa.eu/social/main.jsp?catId=101&intPagelD=3427>)

2.3 Preliminary conclusions

This brief reconstruction of the evolution of the EU social agenda from the late 1990s has revealed a progressive and increasing role for social investment in the European social policy approach. Over the past two and a half decades, the EU has acted as an umbrella accompanying a pro-active reorientation of social policies from managing unemployment to increasing labour market participation, on the wing of social investment policies of family servicing, reconciling work and family, active labour market policy, education, training, lifelong learning, active ageing. The European social investment turn, however, has been uneven and at times truncated.

An early sequence of EU-presidencies, the Dutch (1997), the Portuguese (2000) and the Belgian (2001) initiated the process by laying the ground for a new social agenda that made the open method of coordination (OMC) its policy tool. During the difficult years of the Great Recession, the EU social investment agenda progressively shifted from the Council to the European Commission. Initially, it was the SIP that kept the social investment flame alive. In 2016, the Commission's social agenda again refocused on social investment, on the initiative of Commission President Juncker, with the European Pillar of Social Rights.

The shift from the EES to the EPSR was not only marked by a change in the political actors advocating social investment. A key novelty is the shift from the open method of coordination as a soft governance tool, to the revamp of the community method as a legally binding ordinary legislative procedure. The next section explores in detail the impact of such changes on individual citizens and which power resources are attached to them.

3. Citizens' empowerment through the EU social investment policies

The short reconstruction presented above offers evidence that social investment, despite being uneven and at times truncated, can be considered as a continuum of the EU social agenda strategy. In this section, we aim to answer the question about what this strategy implies in term of citizens' social rights.

3.1 Operationalisation of power resources at the EU level

In line with Vandenbroucke et al. (2021), we understand social rights as a bundle of distinctive and guaranteed individual power resources. Vandenbroucke et al. (2021) identify three types of power resources: normative, enforcement and instrumental. Taking insights from Aranguiz (2022), we briefly recall the key definitions of power resources and illustrate our operationalisation of such concepts at the EU level.

Normative (deontic) power resources are legitimate formalised justifications to demand compliance from public authorities to transform the principles officially formulated in some institutional text into a fully-fledged legal right. At the European level, these include charters, proclamations, declarations and treaties' principles. With respect to the latter, Aranguiz (2022) classifies treaties' principles as normative legal power resources. Yet, even though most of the EU secondary legislation derives from Treaty provisions, which are themselves directly applicable in some cases, they still remain tangible to citizens when they are translated into directives, regulations or other secondary legislation provision. For this reason, we prefer to include treaties' principles – in line with Vandenbroucke et al (2021) – among the normative (deontic) resources.

Normative (legal) power resources are legal provisions that empower individuals to claim for a certain something by identifying who is entitled to such benefit /service (right-holder), what is the exact content of the provision right-holders are entitled to and how should it be provided (responsible providers and ways to delivery). At the European level, these include regulations, directives and decisions. Vandenbroucke et al. (2021) as well as Aranguiz (2022) include also delegated acts and implementing acts. While we formally agree that these are to be considered important normative legal power resources, their scope is narrower compared to that of regulations, directives and

decisions. With delegated acts, the Commission is entitled to intervene via amendments and supplementation in parts of the EU legislation that are non-essential. With implementing acts, the Commission can set conditions for uniform application of EU laws under the supervision of committees consisting of Member States' representatives. For this reason, we do not collect information on these legal provisions.

Normative (soft) power resources include non-binding legislative acts that can indirectly contribute – if translated into binding provisions – to the definition of the content of the social rights, of the mode of providing certain services and of the institutional and non-institutional actors involved. At the European level, these include mostly Council or Commission Recommendations¹⁴ and Opinions¹⁵. Communications can also be included in the EU soft legislation. Yet, contrary to the recommendations and the opinions which suggest a line of action, the communications are mostly issued by the Commission when it wishes to set out its own thinking on a topical issue. Often, Commission communications pave the way for legislative or non-legislative provisions. This is the case, for instance, of the 2016/381 Communication on A New Skills Agenda for Europe or the 2020/274 Communication on the 2020 Skills Agenda, which are *de facto* long lists of (future) initiatives. For these reasons, we preferred not to include EU communications among the normative soft power resources¹⁶.

Instrumental power resources include targeted or universal support channels, which facilitate individuals' access to social rights or assist them in access to justice in case of non-compliance or rights-violation by third parties. Aranguiz (2022) provides a first attempt to systematise EU instrumental power resources. She includes *'agencies that collect information and research and increase awareness regarding social rights in Europe; a number of bodies that provide advice, guidance*

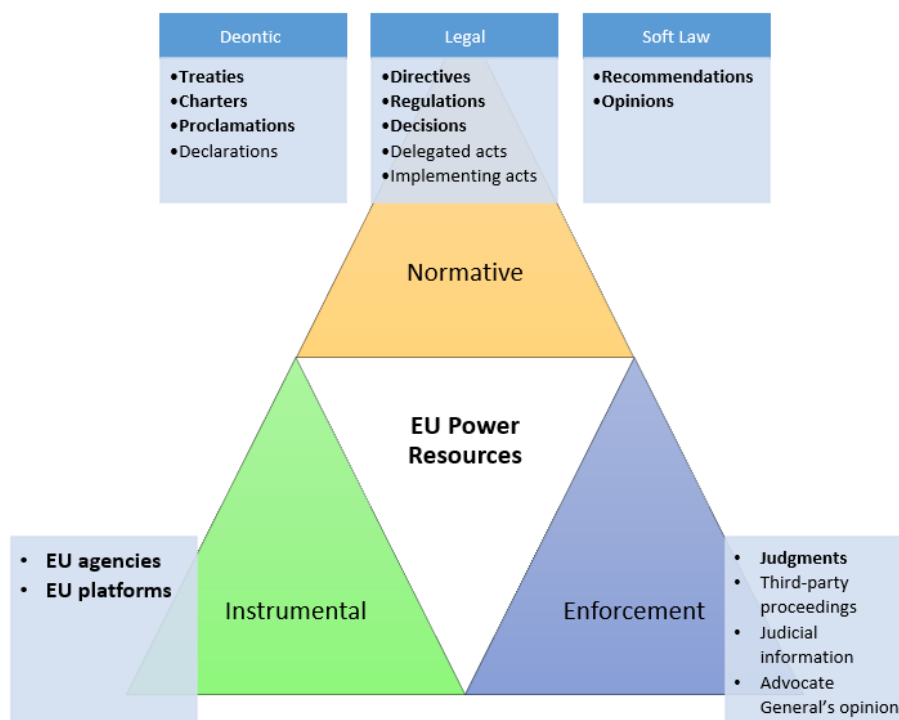
¹⁴ It is important here to distinguish between Council and Commission Recommendations. The former in fact are stronger as they are listed in the Treaty as legal instruments and are adopted in the same manner as directives, even though they are not enforceable in the way directives are. As suggested by Georg Fischer, who we are thankful to for suggesting this, Council Recommendations are traditionally considered by Member States as a first step towards directives or regulations, they can be used by the Court of Justice to interpret related legal affairs and they entail reporting obligations which allows the Commission in principle to criticise a Member State in case of non-implementation and the European Parliament to pick such points up.

¹⁵ Aranguiz (2022) includes also programmes, strategies and initiatives in the soft normative resources. Yet, we believe that the identification of a link between EU-level strategy and individual power resources is not immediate. Therefore, we preferred to consider EU strategies separately as part of the EU social agenda that we discussed in part I of this paper.

¹⁶ Unlike Aranguiz (2022) we also exclude country specific recommendations within the European Semester. While they provide an interesting account of how the EU social strategy has evolved over time (see section I of these paper), they are very broad, at country level, and their impact on citizens' social rights is difficult to discern. The same recommendation could even result in a very different impact in terms of social rights.

and at times forms of redress; forms of funding opportunities; and lastly individual complaint and targeted advice mechanisms' (Ibid: p. 66). As specified above, we operationalise instrumental power resources as individual resources. For this reason, in line with Vandebroucke et al. (2021), we do not include among the instrumental resources treaty-based bodies that provide advice to the EU institutions, or EU agencies for data collection, such as the European Centre for the Development of Vocational training (Cedefop) or the European Training Foundation (ETF), which provide information and comparative data useful for designing social investment policies. Similarly, we exclude funding opportunities. By contrast, we focus only on those channels that provides direct support to individuals in accessing their social investment rights, including EU agencies and citizen support platforms.

Finally, enforcement power resources are judicial procedures and channels for access to dispute settlements and rule enforcement (courts, inspectorates, arbitration bodies) that empower the right-holder to claim in case of non-compliance by public or private bodies. At the European level, enforcement resources are mainly provided by the judgments of the European Court of Justice. Beyond judgments, other enforcement resources provided by the EU include third-party proceedings, judicial information, and Advocate General's opinions. In this paper, we limit our information collection to ECJ judgments. The figure below summarises the acts that measure power resources at the EU level.



Source: Own elaboration based on Vandebroucke et al. (2021) and Aranguiz (2022). In bold the acts for which we systematically collected information.

3.2 Data collection

As stressed by Aranguiz (2022), the EU has a highly fragmented regulatory policy framework, which makes it difficult to delineate power resources in a systematic way, especially with respect to the instrumental resources. To guarantee a systematic approach and ensure a long-term perspective on the historical development of the EU social investment agenda and its impact on power resources, two new ad hoc databases were constructed.

The first database, which aims to systematically cover information on legal and soft normative power resources, includes the social directives, regulations, decisions, recommendations, and opinions adopted by the EU from 1999 up to 2021. The data are retrieved from the EurLex repertoire. The following EuroVoc thesaurus areas were selected to identify the directives, regulations and recommendations: education¹⁷, teaching¹⁸, organisation of teaching¹⁹, social protection²⁰, employment²¹, labour market²², working conditions²³, labour law and labour relations²⁴. Following Graziano and Hartlapp (2018), we have excluded legislative initiatives based only on the Euratom Treaty, and the acts that simply extend a particular legislative act to one or more Member State(s), or those that apply to a single country. In addition, we have also removed the regulations and directives concerning the collection of data or indicators for statistical purposes and the legislative acts concerning the remuneration of the EU officials. In order to isolate those measures that are solely regulatory, from those aimed at regulating the redistribution of funds, we removed the regulations

¹⁷ Including the following sub-categories: education policy, teaching method and education.

¹⁸ Including the following sub-categories: level of education, teaching, general education, vocational education, educational institution.

¹⁹ Including the following sub-categories: organization of teaching, teaching materials, schoolwork, school life.

²⁰ Including the following sub-categories: welfare, leave on social grounds, social security.

²¹ Including the following sub-categories: vocational training, employment policy, termination of employment, employment structure, unemployment.

²² Including the following sub-categories: labour force, occupational status, socio-professional category.

²³ Including the following sub-categories: organisation of work, working conditions.

²⁴ Including the following sub-categories: organisation of professions, labour relations and labour law.

concerning the EU budget programmes²⁵, as well as specific financial instruments²⁶. With respect to the decisions, we exclude those related to the application of EU funds in a specific country. Finally, 11 main social policy areas were identified to classify the measures: employment protection legislation, labour mobility, social dialogue, organisation of work and working conditions, health and safety at the workplace, non-discrimination, work-life balance, education (primary, secondary, tertiary), childcare, active labour market policies, social protection. In total, 110 measures could be classified between 1999 and 2021, of which 17 regulations, 57 directives, 2 decisions, 31 recommendations and 3 opinions.

The aim of constructing the second database was to collect enforcement power resources and it includes all European Court of Justice judgments from 1999 to 2021²⁷. The data are retrieved from the EurLex repertoire. The following subject matters were selected in order to select the judgments: Employment (EMPL), Social Policy (SOPO) and Education, vocational training and youth (EFPJ). In total, 532 judgments could be classified between 1999 and 2021. In line with the classification of the regulations, directives and recommendations, 11 main social policy areas were identified to classify the measures: employment protection legislation, labour mobility, social dialogue, organisation of work and working conditions, health and safety at the workplace, non-discrimination, work-life balance, education (primary, secondary, tertiary), childcare, active labour market policies, social protection.

Information on deontic power resources were systematically collected from the following sources: Treaty on the Functioning of the EU (TFEU), Treaty of the European Union (TEU), EU Charter of Fundamental Rights (CFR), European Pillar of Social Rights, Community Charter of the Fundamental Social Rights of Workers. In addition, international agreements ratified by EU Member States were

²⁵ European Social Fund, the Fund for European Aid to the most Deprived, European Solidarity Corps Programme, Erasmus+, European Globalisation Adjustment Fund for Displaced Workers, Horizon Europe, Asylum, Migration and Integration Fund, European Union Programme for Employment and Social Innovation. In this respect it is worth stressing that the EU funds can indirectly contribute to create social entitlements. Indeed, as we will see below, when the disbursement of EU funding is made conditional to the compliance with specific criteria, this can indirectly create entitlements. Yet, in this case what defines the who, what and how of a specific social right is the dedicated Council recommendation and not the regulation establishing the fund. As observed by Vandenbroucke et al. (2021), EU funds support social policies but do not create, per se, new social rights.

²⁶ SURE, pan-European Personal Pension Product.

²⁷ We excluded this third-party proceedings, judicial information, order, opinions, and Advocate General's opinions. We considered only documents from the European Court of Justice and excluded the General Court and Civil Service Tribunal.

considered and included International Labour Organisation (ILO) Conventions, United Nations (UN) Conventions and the European Social Charter.

Finally, with respect to instrumental resources, we collected information on all EU agencies and existing EU online platforms that support citizens.

3.3 Normative (deontic) power resources

Deontic power resources include a number of instruments or provisions that are authoritative and provide principles to guide the actions of the EU but that are not directly enforceable at the EU level, which means that they do not directly entitle individuals to legal claims before either national or EU courts. However, this does not mean that deontic power resources have no consequences. In this respect, the case of the principles enshrined in the 2000 Charter and the European Pillar of Social Rights is illustrative. As explicitly recalled in Article 51 of the Charter and recital 14 of the preamble of the EPSR, the provisions of these documents are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. This implies that principles are judicially recognised only when implemented by legislative and executive acts taken by the Union, and by acts of the Member States when they are implementing Union law. Deontic power resources, however, do not only include principles enshrined in charters, proclamations, and declarations. As stressed above, they also include treaties' provisions, which sit at the top of the hierarchy of norms and are mostly made tangible to individuals through actions taken on the competences provided therein (Aranguiz, 2022). In addition, the political consequences of deontic resources should not be underestimated. Indeed, if it is true that the Social Pillar does not create binding rights unless it is implemented at both the national and EU level within the respective consequences, it is also true that Member States have politically committed not only to 'general policies' but to specific social and labour rights. Such political obligations might be taken as a valid argument by civil society or social partners to call on the responsible authorities and policymakers to act in the direction of implementing such principles²⁸.

3.3.1 Children and family policy

The right to childcare is enshrined in both in the European Pillar of Social Rights (principle 11) and in the Charter of Fundamental Rights (principles 24 and 14). According to the Pillar, '*children have the right to affordable early childhood education and care of good quality*' and '*to protection from*

²⁸ We would like to thank Georg Fischer for suggesting this point.

poverty'. The Charter of Fundamental Rights further recognises that children are *independent and autonomous holders of rights*, that children shall have the right to such protection and care as it is necessary for their well-being and makes the child's best interests a primary consideration for public authorities and private institutions (Art. 24). With respect to family policies, the right to work-life balance is explicitly recognised in the EPSR (principle 9) and the CFR (Art. 33). The EPSR recognises that *'parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services'*. Article 33 of the Charter sets out: *'To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child'*.

At the treaty level, there is no reference to the right to childcare. Yet, Article 3(3) of the Treaty on European Union (TEU) states that it is the Union's aim to protect the rights of the child. Improving equality of opportunities for all children living in the EU can also fall under the objective of Article 151 (TFEU), which aims to support the development of human resources with a view to lasting high employment and the combating of exclusion. By contrast, an explicit legal right to act in the field of work-life balance is provided in Art. 153(2)(b) TFEU, which empowers the European Parliament and the Council to adopt minimum requirements, among others in the field of equality between men and women about labour market opportunities and treatment at work. In this respect, Article 157 TFEU (which is directly applicable²⁹) contains the principle of equal pay for work of equal value, further extended to the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation is of relevance.

In addition to the EPSR, the Charter and the Treaty provisions, normative deontic resources are also provided by the international agreements ratified by all EU Member States, such as the UN Convention on the Rights of the Child (UNCRC). Notably, the UNCRC states (in Article 3) that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. The UNCRC also recognises that children have the right to: state assistance (Article 18),

²⁹ For a treaty provision to be directly applicable in national courts, thus, to have direct effect, the content of it needs to be sufficiently precise and unconditional. In this sense, the provisions should be 'unequivocal', which means that the provision has to set clear entitlements for the benefit of individuals and impose direct obligations on national authorities to protect such entitlements. A landmark case of the European Court of Justice is Defrenne II (C-43/75), and regards the obligation for Member States to ensure the principle of equal pay for equal work or work of equal value between men and women (now Article 157 TFEU).

the highest attainable standard of health (Article 24), adequate standard of living (Article 27), education (Article 28), rest and leisure and to participate freely in cultural life and the arts (Article 31). The provisions of the UN Convention on Rights of Persons with Disabilities (UNCRPD), to which both the EU and the Member States are parties, guide policy on children with disabilities.

3.3.2. Education

The right of access to quality education features prominently in the European Pillar of Social Rights. Principle 1 of the EPSR explicitly states that: *‘Everyone has the right to quality and inclusive education, training and lifelong learning in order to maintain and acquire skills that enable them to participate fully in society and manage successfully transitions in the labour market’*. Similarly, Article 14 of the Charter of Fundamental Rights sets out: *‘Everyone has the right to education and to have access to vocational and continuing training. This right includes the possibility to receive free compulsory education’*. In addition, the Community Charter of the Fundamental Social Rights of Workers (1989) states that: *‘every worker of the European Community must be able to have access to vocational training and to receive such training throughout his working life’* (Art. 15).

At the Treaty level, Article 9 TFEU states that: *‘in defining its objectives and activities, the Union shall take into account requirements linked to the promotion of (...) a high-level education and training’*. The EU obligation is further developed in Title XII of Part III TFEU on education, vocational training, youth and sport. Articles 165 and 166 TFEU set out that the Union shall implement a vocational training policy and shall contribute to the development of quality education by encouraging cooperation between the Member States, supporting and supplementing their action.

Concerning international agreements, the European Social Charter (ESC) includes rights to lifelong learning: the right to appropriate facilities for vocational guidance (Article 9 ESC); the right to appropriate facilities for vocational training (Article 10 ESC); and the right to vocational training, rehabilitation and resettlement, for disabled persons whatever the origin and nature of their disability (Article 15 ESC). At international level, the ILO Paid Educational Leave Convention, 1974 (No. 140) and Human Resources Development Convention, 1975 (No. 142) provide for a right to paid vocational training and to secure a right to vocational training.

3.3.3. Active labour market policies

Contrary to childcare and family and educational policies, it is more complicated to talk about a right to active labour market policies (ALMP). Indeed, the concept itself of ALMP encompasses different

types of policies as well as different kinds of entitlements. As argued by Bonoli (2010), two key dimensions characterise ALMP: degree of investment in human capital and pro-market employment orientation. While in the first case, ALMP are based on investing in jobless people's human capital, the second dimension concerns the extent to which the objective of policy is to put people back into demand-driven market employment, provided either by private or public employers. Based on the combination of these two dimensions Bonoli identifies four types of ALMP. Three are strongly pro-market oriented but with different degrees of human capital investment. These include: i) incentive reinforcement with no investment in human capital (e.g. tax credits, in work benefits, time limits on being entitled to social benefits, (unemployment) benefits reduction or benefit conditionality); ii) employment assistance with weak investment in human capital (e.g. placement services, job subsidies, counselling and job search programmes; iii) upskilling and reskilling (job-related vocational training). The fourth type is weakly employment oriented and weakly human capital investment oriented and is labelled 'occupation' policies. The focus is less on promoting labour market re-entry and more on keeping jobless people active, preventing the depletion of skills associated with a spell of unemployment

Against these premises, normative deontic power resources are quite limited. In this respect, the European Pillar of Social Rights is the first document that offers conceptualisation of an individual entitlement to access to activation policies. Indeed, principle 4 of the EPSR offers a broad understanding of ALMP. Principle 4(1) states that: *'everyone has the right to timely and tailor-made assistance to improve employment or self-employment prospects'* including the *'right to receive support for job search, training and requalification and to transfer social protection and training entitlements during professional transitions'*. Principle 4(2) further states that: *'young people have the right to continued education, apprenticeship, traineeship or a job offer of good standing within four months of becoming unemployed or leaving education'*. Finally, principle 4(3) *'people unemployed have the right to personalised, continuous and consistent support. The long-term unemployed have the right to an in-depth individual assessment at the latest at 18 months of unemployment'*. In addition, a reference to the principle of activation is contained in principle 13 on unemployment benefits (*'The unemployed have the right to adequate activation support from public employment services to (re)integrate in the labour market [...]'*) and principle 14 on minimum income (*'For those who can work, minimum income benefits should be combined with incentives to (re)integrate into the labour market.'*).

With respect to the EU treaties, Article 151 of TFEU sets out that the Union and the Member States shall have as an objective the promotion of employment. Article 153(1)(h) sets out that the Union

shall adopt minimum requirements, as well as support and complement Member States' efforts to promote the integration of persons excluded from the labour market.

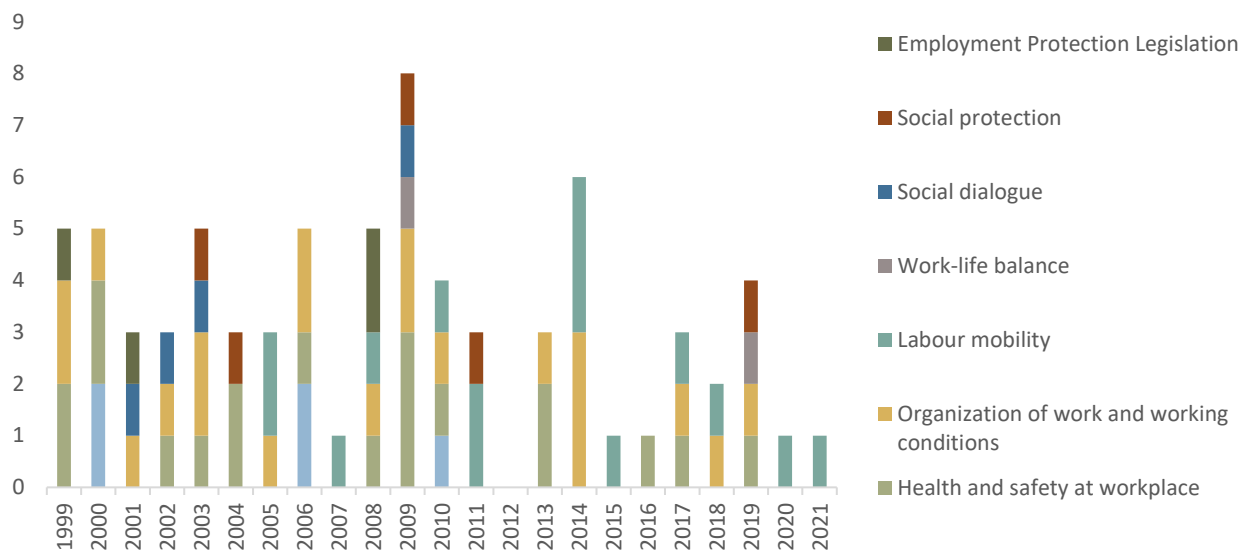
3.3.4. Conclusion on deontic power resources

In summary, the EU provides a wide range of deontic power resources in the field of social investment. Yet, these mostly regard the area of childcare and work-life balance policies, as well as vocational training. By contrast, in the domain of active labour market policies, despite the EU social agenda advocating a turn to activation policies since the European Employment Strategy, these were translated into individual entitlement only recently in the European Pillar of Social Rights. With the exception of Article 157 on equality between men and women, all the deontic resources discussed above in the treaties are not directly enforceable and therefore do not empower individuals to claim any specific due. With respect to the ESPR and the CFR, social investment principles enshrined in these charters are not legally binding. Yet, they first serve as a normative justification for EU intervention especially in the field of childcare, work-life balance and vocational training and bind the EU institutions to respect such principles in their legislative activity. Both the Social Pillar and the CFR social investment principles indeed apply to EU institutions at all times but to Member States only when they are implementing EU law. They thus limit the perimeter of EU action and pave the way for the EU social agenda.

3.4 Normative (legal) power resources

Normative legal power resources encompass all the legal provisions that empower individuals to claim for a specific right. As stressed by Aranguiz (2022), the EU legal order offers a number of different norms which are hierarchically distributed. In this paper we focus on the main source of EU legal resources, i.e. legislative secondary law (regulations, directives and decisions), leaving aside the non-legislative secondary provisions, such as implementing and delegated acts. Figure 2 offers an overview of the evolution of the EU legislative social agenda since 1999 by highlighting the interested policy area.

Figure 2 Evolution (number) of EU regulations, directives, decisions by policy areas 1999-2021



Source: Own elaboration, based on Eurlex.

Overall, 17 regulations, 57 directives, and 2 decisions were adopted over the past 20 years in the social domain. In line with Graziano and Hartlapp (2018) we notice a progressive decrease of the number of legislative provisions in the social domain. Not surprisingly the years with the highest number of provisions adopted are those that coincide with the last year of a Commission term (1999, 2004, 2009, 2014 and 2019). Most of the initiatives fall under three categories: Health and safety at the workplace (19), Organisation of work and working condition (21), and Labour mobility (15). With respect to labour mobility, regulations and directives are mostly concerned with the recognition of certifications and professional qualifications as well the regulation of intra-EU posting of workers. Under organisation of work and working conditions, the largest share of the provisions regard working time and harmonisation of certain social legislation in the transport sector. Under health and safety at the workplace, the provisions entail protective equipment and exposure limits to carcinogenic substances. By contrast, only two provisions concern social investment policies: the 2010 Council directive on the framework agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and the 2019 work-life balance (WLB) directive.

The lack of legislative binding initiatives in the domain of social investment does not come as a surprise given the EU's lack of competences in this domain. The proposal for a WLB presented in 2017 in fact built on the Union's specific right to act in this field based on Article 153 (2) (b) TFEU, which empowers the European Parliament and the Council to adopt minimum requirements, among others in the field of equality between men and women regarding labour market opportunities and treatment at work

(Article 153(1)(i) TFEU). In what follows we briefly discuss the content of the WLB directive and discuss its implications from a power resources' perspective.

3.4.1. The case of the work-life balance directive

In terms of guaranteed normative legal resources, the WLB directive, which repeals Council Directive 2010/18/EU on Parental Leave³⁰, sets minimum standards in the domain of parental and care leaves. Even though the final text agreed upon by the Council and the Parliament is less ambitious than the initial Commission proposal³¹, the final provision introduces a set of new entitlements. In particular, it guarantees that all fathers must take at least 10 working days of leave when the child is born and these days should be paid at the same level as sick leave. In addition, the directive guarantees at least four months of parental leave, of which two are non-transferable between parents. It further introduces carers' leave of at least five days per year to which workers providing personal care or support to a relative are entitled to. Finally, carers and working parents are entitled to request flexible working arrangements to care their children up to the age of eight years.

Various studies have investigated the effects of this provision in terms of individual entitlements. Overall, scholars agree that the new WLB Directive can contribute to enhancing female employment by strengthening the incentives for men to take up family-related leave, and by obliging Member States to increase paid reserved periods of child-related leave for both mothers and fathers (Oliveira, De la Corte-Rodríguez and Lütz, [2020](#)). Some scholars, however, argue that the directive may not cover non-standard workers, who may not meet the eligibility criteria, thus creating an equality problem in terms of accessibility (Chierogato, [2020](#)). This is related to the fact that the directive applies to those working relationships that are defined by each country's legislative provision, collective agreement or other practices. As stressed by Bednarowicz ([2020](#)), even though the directive explicitly refers to CJEU case-law regarding the criteria for determining the status of worker, which is a pre-condition for the application of the WLB directive, it is still up to the individual Member States to define employment contracts and the employment relationship. Waddington and Bell ([2021](#)) argue that even though the directive expands the personal scope of those entitled to ask for flexible working arrangements, the

³⁰ This was adopted after the failure of the 2008 Maternity Leave directive then withdrawn in 2015. Among the key reasons behind the initial failure of the 2008 directive proposal was the disagreement between the Council, the Commission and the European Parliament on the days of paid maternity leave. Such disagreement was also related to the discussed impact of maternity leave policies on female employment and the trade-off between longer leaves and disincentives to re-enter the labour market.

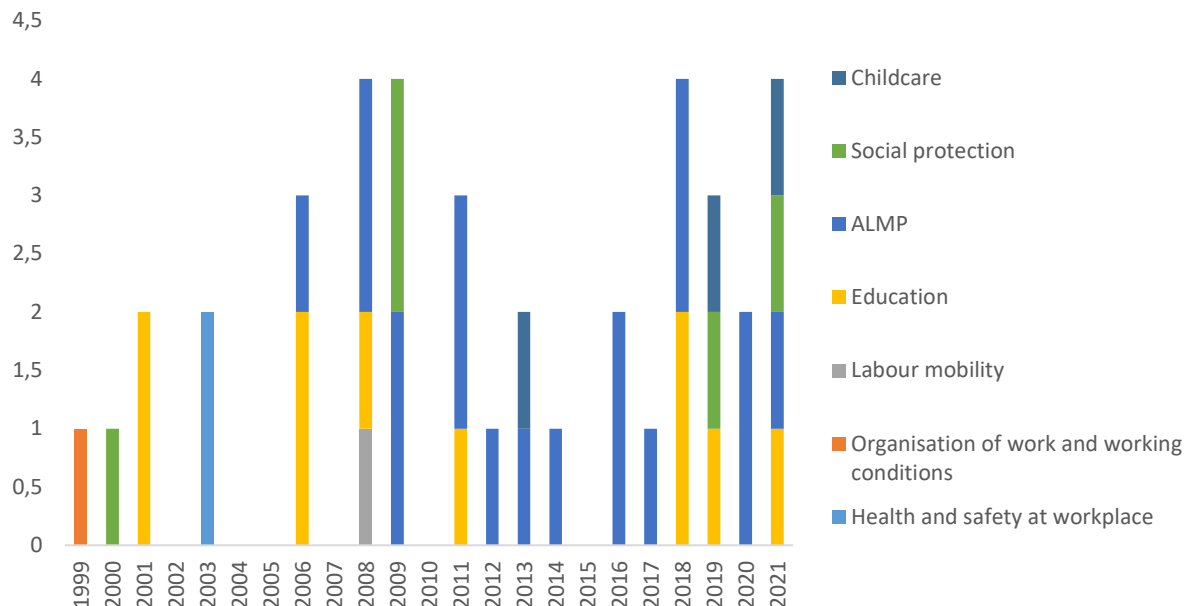
³¹ The initial proposal by the Commission included that parental leave should be four months (not two) and fully compensated, and it demanded that carers' leave be remunerated.

fact that workers are entitled only to do a request affects the impact of the provision. In this case, the authors argue that a fuller appreciation of the potential of the directive can be found through a combined analysis of protections found in the EU equality law.

3.5 Normative (soft) power resources

Given the limited competences of the EU in the area of social investment, it does not come as a surprise that most of the activity of the EU in this policy domain comes from recommendations and opinions. As observed above, recommendations have the purpose to identify actions at the national level but do not entail any legal obligation. Like directives, recommendations set common objectives at the EU level, but they leave complete discretion to Member States on how to achieve them. Opinions, on the other hand, are instruments used to make an institutional statement without imposing an obligation on the addressee. Overall, 34 measures were adopted in the broad domain of social policies, of which the majority were recommendations (31) and only three were opinions. Figure 3 illustrates the evolution of the EU social recommendations from 1999 to 2021.

Figure 3 Evolution (number) of EU recommendations by policy areas 1999-2021



Source: Own elaboration, based on Eurlex.

Contrary to the regulations, directives and decisions, the largest share of the recommendations fall under the area of social investment policies. The majority are in the area of active labour market polices (18), followed by education (10) and childcare (3). Recommendations on ALMP are targeted at youth employment, vocational training, and upskilling and reskilling. The recommendations on

education mostly address tertiary and upper secondary education. In the next section, we focus on the Council recommendation establishing the Youth Guarantee to illustrate how the EU actually affects individuals' social entitlement through normative soft power resources.

3.5.1. The case of the European Youth Guarantee

The Youth Guarantee was established through a Council Recommendation (2013/C 120/01) with the aim of promoting youth employment, reducing unemployment and inactivity. Member States committed themselves to ensuring that all young people under the age of 25, living in regions where youth unemployment is particularly high, receive a good quality offer of employment, training, apprenticeship or traineeship within a period of four months of becoming unemployed or leaving education. This recommendation was preceded by a European Council agreement in February 2013 in relation to the launch of a Youth Employment Initiative (YEI), supported by a dedicated budget line within the subsequent Multiannual Financial Framework (MFF). Overall, EUR 8.8 billion were made available for the 2014-2020 seven-year period, of which EUR 4.4 billion was through the YEI and EUR 4.4 billion through the European Social Fund (ESF). If one considers also the resources committed by the Member States in addition to the European co-financing, around EUR 22 billion have been mobilised for this initiative, with over 3.5 million young people receiving a work offer, further education, apprenticeship or traineeship on an annual basis (cf. European Commission, [2020](#)).

Despite not being a legally binding measure, evidence shows that the YG has provided (albeit indirectly) young European citizens with new resources of power in case of unemployment or inactivity.

First, the Youth Guarantee explicitly defines the 'who, what and how' of national youth guarantee schemes. Starting from the identification of potential holders of the right, the *who*, the YG outlines the eligibility criteria for access to support: the age range of the target population and the maximum period within which to formalise the offer (4 months). At the same time, the *what* is also defined in the Council recommendation which lists the eligible measures: information, consultancy and guidance; assistance for school-to-work transition; training and work placements; vocational education and training, apprenticeship or traineeship grants, incentives for hiring and support for youth entrepreneurship. With respect to the *how*, the Youth Guarantee defines the procedures to be followed by Member States. In this regard, the Public Employment Services (PES) are identified as the actors responsible for the implementation and monitoring of the Youth Guarantee, albeit according

to an approach aimed at making full use of the partnership, through the involvement of schools, youth associations, training institutions, private employment services and social partners.

The Youth Guarantee has also acted in the area of what we have called instrumental resources, i.e. resources that facilitate access to social rights (see below). In particular, the Council recommendation identifies service actions and infrastructure, starting with the personalisation of services offered to young people through the preparation by employment services of a 'Service pact' and 'Personalised intervention plan'. In addition, access to funding from the Youth Employment Initiative and the European Social Fund was conditional on the development of an online platform by the Member State through which all potential beneficiaries could easily access information on the services offered.

Various studies have been carried on the implementation of the YG at national level; these point to the significant impact of this new initiative, even though with different outcomes across Member States. Escudero and Mourelo (2017) provides a systematic review of the YG implementation across countries. What emerges is that all European countries have complied with the recommendation, by setting explicit eligibility criteria, including targeted ones for the most vulnerable groups, and by undertaking the necessary steps for the implementation of the actions envisaged by the YG. Yet, many countries are still facing challenges when meeting the objectives of early intervention and effective enforcement mechanisms. This is particularly the case of countries which did not have strong well-functioning activation schemes in place before the YG. In this respect, Italy is an interesting case; until the introduction of the YG, there was no organic policy directed towards unemployed and inactive young people (Vesan and Lizzi, 2016). The recommendation has prompted the Italian government to set up a nationwide coordinated system of registration for the 'NEETs' by means of a national online portal and to re-organise public employment services in order to provide the person-centred counselling, guidance and mentoring envisaged by the EU in return for financial support. However, in spite of the above, the YG in Italy was not particularly successful in reaching the targeted population, with only 13.6 % of all NEET aged 15-24 entering the YG, against an EU average coverage rate of around 40 % during the 2014-2017 period (EMCO, 2018)

Nevertheless, net of the heterogeneous effects recorded among Member States and as recently highlighted by the European Court of Auditors (2017) and by the impact analysis conducted by the Commission (Jeffrey et al., 2020), the Youth Guarantee can be considered a representative case of how the European Union, even without legal competences *stricto sensu*, can be relevant in the definition of social rights and in the empowerment of its citizens in the domain of social investment. In this regard, it is not surprising that the Commission has renewed its commitment to support youth employment for the next multiannual financial framework 2021-2027. In July 2020, the Commission

presented a new communication ‘Supporting youth employment: a bridge to work for the next generation’ (European Commission, 2020), accompanied by a proposal for a Council Recommendation, aimed at strengthening the Youth Guarantee.

3.6 Instrumental power resources

Instrumental power resources are channels to facilitate right-holders access to social rights. These include guidance, information quality, user-friendly application procedures, practical help in engaging with public administration, guidance and mentoring, as well as awareness activities. At the EU level, we identify two main examples of platforms that support EU individuals in accessing their social investment rights: the European Employment Service (EURES) and the European Platform for Investing in Children (EPIC).

EURES is the European cooperation network of both public and private employment services launched in 1994 with the purpose of supporting and facilitating cross-border movement of workers. Notably, the network is targeted at supporting both citizens seeking a job, and employers in recruiting workers from all over the EU. To this end, an online portal is established within EURES to provide both workers and employers with information and guidance, notably through a Targeted Mobility Scheme, which functions also as a platform to facilitate the encounter of job vacancies and CVs.

EPIC was launched in 2013 following the EU Recommendation for investing in children. It takes the form of an evidence-based online platform, which collects and disseminates innovative and evidence-based practices that have a positive impact on children and families in EU Member States to enable cross-regional learning. As illustrated in the dedicated website, EPIC consists of three tools:

- i) An evidence-based practices platform for exchange of best-practices across EU Member States;
- ii) A social innovation repository that features practices that are innovative and have a clear theory of change;
- iii) A user registry which provides an overview of practices being implemented across Europe, which are shared in the spirit of collaboration.

In addition to EURES and EPIC, two additional instrumental resources worth mentioning, even though not explicitly related to social investment rights: SOLVIT and Your Europe Advice.

SOLVIT was established in 2013 with a Commission Recommendation. It consists of a service, provided by national administrations, to support, free of charge, individuals who encounter problems arising

from cross-border situations in which EU law is potentially misapplied. There are SOLVIT centres in all Member States. There is also an online website, which is easily accessible and aims to provide solutions within 10 weeks after the case is taken. Among the typical issues SOLVIT help with in the area of social investment rights, we find family benefits and access to education. For example, an Austrian national woman was entitled to receive childcare allowance from Slovenia as her husband was working there. However, more than 5 months after the application was submitted, the authority had not issued a decision. The Slovenian authority asked for additional information from the applicant and the responsible authority in Austria. SOLVIT's assessment of the information available in the file revealed that some information was still missing and explained to the applicant how to complete it correctly. After that, the Slovenian authority issued a favourable decision and the applicant started receiving the childcare allowance.

Your Europe Advice was established in 2019 through Regulation (EU) 2018/1724. Instead of providing a solution in case of disputes, it supports – free of charge – citizens and businesses with targeted information with respect to the application of the EU law – beyond the cross-border cases – and explains how individuals can exercise their rights. This service is provided by the European Citizen Action Service and consists of 65 lawyers. Among the policy areas covered by Your Europe Advice experts there are also various social investment rights. Advisory services have been provided – for instance – in the area of education, notably on individual entitlements when they start school in another EU country or for entry to university, and in the area of family benefits, for instance on the entitlement to parental leaves.

3.7 Enforcement power resources

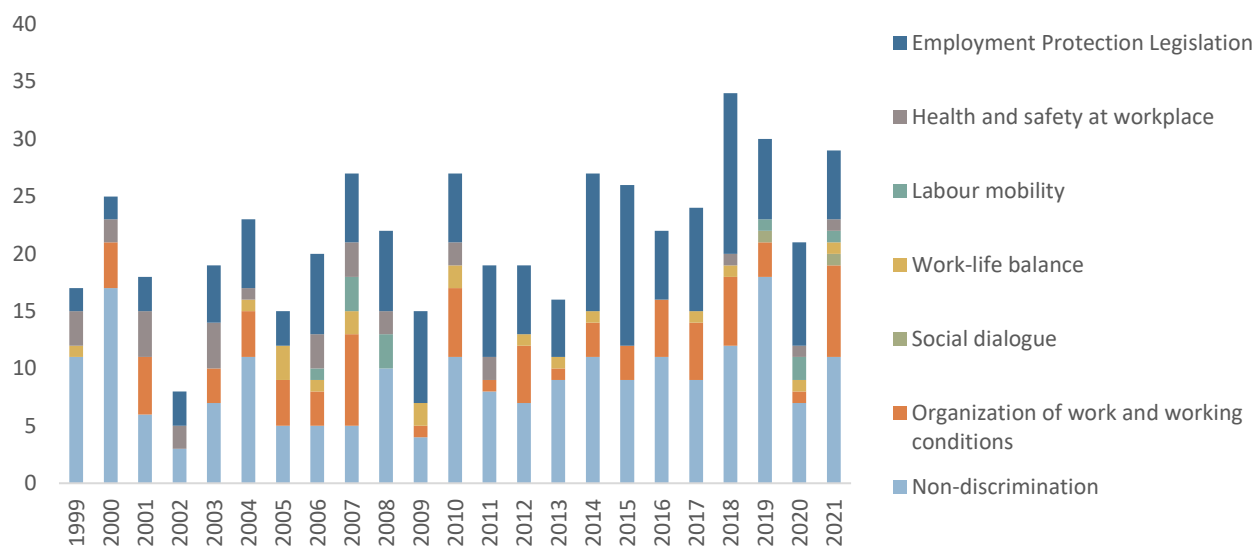
Enforcement power resources refer to the set of mechanisms which allow individuals to complain before a court when their rights are not respected or to pursue non-judicial channels to have their rights fulfilled. As stressed by Aranguiz (2022), only those provisions with direct effect can be invoked before national courts, that is, directly applicable treaty provisions, regulations, directives and decisions. With respect to the directives, the claims mostly regard transposition of the rules, while in a few, exceptional cases in which directives may have direct effects³², citizens can claim directly. As a

³² These cases are a) if the provision is sufficiently clear and precise; and unconditional; and b) if the implementation period has passed and the directive is either not correctly implemented or not implemented at all.

consequence, EU enforcement resources are mainly provided by national courts, which have the obligation to guarantee implementation of the EU law (Article 19 TEU).

As observed above, the largest share of EU social and employment directives pertain to policies that cannot be qualified under social investment with the exception of only a few provisions in the domain of work-life balance. As a first step, we thus look at the evolution of the European Court of Justice judgments in the area of social and employment policies from 1999 to 2021, with the aim to understand in which policy areas the EU Court intervenes.

Figure 4 Evolution (number) of ECJ case-law in the social and employment policies' domain 1999-2021



Source: Own elaboration, based on Eurlex.

Figure 4 shows that the largest share of the EU case-law in the social domain regards issue related to non-discrimination (207 cases), employment protection legislation (154 cases) and organisation of work and working conditions (79 cases). With respect to work-life balance, there are 19 cases from 1999 to 2021, all regarding parental and maternity leaves, which fall under the scope of the Maternity Leave Directive (1996) and the Council Directive on parental leave (2010).

As an example of an intervention by the Court of Justice of the European Union (CJEU) in the domain of family policies, we take a recent ruling in the context of a question raised by Luxembourg's Appeals Court, following a dispute between a mother and the Children's Future Fund concerning the granting of parental leave. In 2015 a woman was refused parental leave by the Caisse pour l'avenir des enfants on the grounds that she had not been in paid employment on the day on which they were born. The

Luxembourg Court of Cassation asked the Court of Justice of the European Union whether the Luxembourg law was in conflict with the 2010 European Directive on parental leave. According to the Luxembourg law the right to parental leave is subject to the *'double condition that the worker is legally employed in a workplace and affiliated to the social security system, first, without interruption for at least 12 continuous months immediately preceding the beginning of the parental leave and, second, at the time of the birth of the child or children or of the reception of the child or children to be adopted, compliance with that second condition being required even if the birth or reception occurred more than 12 months before the start of the parental leave'* (Curia [2021](#)). The conclusions of the CJEU were that the individual right of each working parent to parental leave on the grounds of the birth or adoption of a child articulates a particularly important EU social right which, moreover, is laid down in the Charter of Fundamental Rights of the European Union. According to the Court, excluding parents who were not working at the time of the birth or adoption of their child would have the effect of precluding the possibility for them to take parental leave at a later point in time in their lives when they are employed again. Such an exclusion would be contrary to the individual right of every worker to parental leave. Against this background, the Court concluded that: *'a Member State may not make a parent's right to parental leave subject to the condition that the parent is working at the time of the birth or adoption of his or her child.'*

Even though the number of social investment-related judgments seems to be lower than other policy areas, various ECJ rulings indirectly touch upon the social investment issue. For instance, in 2019, the Commission initiated proceedings against Austria because the Austrian legislation makes family benefits and family tax reductions paid for children residing in another state dependant on the cost of living of that Member State. According to the Commission, this is discriminatory. Already in 2014, the ECJ ruled against Austria, based on the part-time workers' directive, with respect to the right to payment of the full amount of the dependent child allowance for part-time workers falling within the scope of the collective agreement. Similarly, in 2008, the ECJ again ruled against Austria which refused to take into account, for the purposes of granting a family benefit such as childcare allowance, the period during which a comparable benefit was drawn in another Member State as if that period had been completed in its own territory, thus discriminating based on the nationality of the beneficiary.

Conclusions

Since the end of the 1990s, the EU has been advocating for a progressive recalibration of European welfare states towards more social investment policies. Elements of family servicing, reconciling work and family, active labour market policy, education, training, lifelong learning, active ageing have increasingly and progressively permeated the EU social agenda. If the first input was given by Member States within the Council, under the leadership of the Dutch, Portuguese and Belgian presidencies, between the end of the 1990s and the early 2000s, the European Commission put itself in the driving seat of the EU social investment turn in the immediate aftermath of the Great Recession. This materialised first with the launch of the Social Investment Package and then the adoption of the European Pillar of Social Rights. The change in the political actors advocating social investment was marked not only by a change in the EU strategies but also in a clear-cut shift in the governance mechanisms through which the EU pursued its social investment strategy. Indeed, while the European Employment Strategy, as well as the Lisbon Strategy, were launched in the framework of the open method of coordination, the SIP, and most explicitly the Pillar, were marked by the revamp of the community method and the ordinary legislative procedure, which returned at the centre of the social agenda with the launch and approval of new and ambitious legislative proposals in the framework of the EPSR (Corti, 2022).

Starting from a historical documents-based reconstruction of the EU social agenda over the past 20 years, this working paper questioned how such evolution of the EU approach to social investment concretely affected European citizens' social rights. Building on a novel resource-based and multi-level conception of social rights, as elaborated by Vandenbroucke et al. (2021), we explored EU social investment rights from the perspective of the power resources that are guaranteed to individuals. What emerges is that, despite the significant role of the EU as a social investment advocate, the resources allocated to European citizens remain quite limited. Indeed, citizens are not legally entitled to any specific social investment right, with the only exception of work-life balance related parental and care leaves. Similarly, enforcement channels are only limited to paid leave related issues, while instrumental resources to facilitate access to social investment services are mostly limited to mobile EU citizens. By contrast, the EU offers a broad, coherent and rich framework for social investment principles, especially after the proclamation of the European Pillar of Social Rights. The pillar indeed offers a normative framework of individual entitlement to social investment provisions. Similarly, the EU offers a broad framework of soft recommendations that – if implemented at the country level –

can empower citizens. In this respect, the Youth Guarantee represents a successful example of how the EU can still affect significantly citizens' social entitlements with soft recommendations. The recently launched Council recommendation on a European Child Guarantee as well the proposal for a Council Recommendation on Individual Learning Accounts – both financially supported like the YG by the EU budget – are evidence of the EU strategy to (indirectly) affect European citizens' social investment rights.

References

- Andor, L. (2020), "Europe in 2020", *The Progressive Post* (blog), 30 November, <https://progressivepost.eu/europe-in-2020/>
- Aranguiz, A. (2022), Working paper on the potential and limits for social policy in the current EU framework, *EuSocialCit Working paper*, Forthcoming.
- Bednarowicz, B. (2020), 'The tale of transparent and predictable working conditions intertwined with work-life balance: Assessing the impact of the new social policy directives on decent working conditions and social protection', *European Journal of Social Security*, Vol. 22 No 4, pp. 421-433. Available [here](#).
- Bednarowicz, B. (2019), 'Delivering on the European Pillar of Social Rights: The New Directive on Transparent and Predictable Working Conditions in the European Union', *Industrial Law Journal*, Vol 48 No 1, pp. 604-623. Available [here](#).
- Bekker, S. (2017), *The European Semester Process: adaptability and latitude in support of the European Social Model*, in Vandenbroucke, F., Barnard, C. and De Baere, G. (ed.), *A European Social Union after the Crisis*, Cambridge University Press, pp. 238-250. Available [here](#).
- Bonoli, G. (2010), 'The Political Economy of Active Labor-Market Policy', *Politics and Society*, Vol. 38 No 4. Available [here](#).
- Bouget, D., Frazer, H., Marlier, E., Sabato, S. and Vanercke, B. (2015), *Social Investment in Europe, a Study of National Policies*, Publications Office of the European Union, Luxembourg. Available [here](#).
- Cantillon, B. (2011), 'The Paradox of the Social Investment State: Growth, Employment and Poverty in the Lisbon Era', *Journal of European Social Policy*, Vol. 21, No 5, pp. 432-449. Available [here](#).
- Citi, M. and Rhodes, M. (2007), 'New Modes of Governance in the EU: Common Objectives Versus National Preferences', *European Governance Papers (EUROGOV)*, Vol. 7 No 1, pp. 1-29. Available [here](#).
- Chierigato, E. (2020), 'A Work-Life Balance for All? Assessing the inclusiveness of EU Directive 2019/1158', *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 36 No 1, pp. 59-80. Available [here](#).
- Copeland, P. and Ter Haar, B., (2013), 'A toothless bite? The effectiveness of the European Employment Strategy as a governance tool', *Journal of European Social Policy*, Vol. 23, No 1, pp- 21-36. Available [here](#).
- Corti, F. and Alcidi, C. (2021), *The time is ripe to make SURE a permanent instrument*, CEPS Policy Insights, No PI2021-10, Brussels, June. Available [here](#).
- Corti, F and Núñez Ferrer, J. (2021), *Steering and Monitoring the Recovery and Resilience Plans: Reading between the Lines*, CEPS Recovery and Resilience Reflection Papers 2021, Brussels, April. Available [here](#).
- Corti, F. (2022), *The Politicisation of Social Europe*, Cheltenham: Edward Elgar Publishing Ltd. Available [here](#).
- Costamagna, F. (2019), *The Revision of the Posted Workers Directive as a Meaningful Way to Curb Regulatory Competition in the Social Domain?* Sant' Anna legal studies, STALS Research Paper, No 2. Available [here](#).

Court of Justice of the European Union (2021), *Judgment in Case C-129/20 XI v Caisse pour l'avenir des enfants*, Press Release No 20/21, 25 February, Luxembourg. Available [here](#).

de la Porte, C. and Natali, D. (2018), 'Agents of institutional change in EU policy: the social investment moment', *Journal of European Public Policy*, Vol. 25, No 6, pp. 824-843. Available [here](#).

de la Porte, C. and Pochet, P. (2012), 'Why and How (Still) Study the Open Method of Coordination (OMC)?', *Journal of European Social Policy*, Vol. 22 No 3, pp. 336-349. Available [here](#).

European Commission (2005), *Working together for growth and jobs. A new start for the Lisbon Strategy*, Communication, COM(2005) 24 final, Brussels, 2 February. Available [here](#).

European Commission (2013), *Commission Recommendation of 20 February 2013 Investing in children: breaking the cycle of disadvantage*. OJ L 59, 2013/112/EU. Brussels. Available [here](#).

European Commission (2014) Policy Roadmap for the 2014 implementation of the Social Investment Package. Available [here](#).

European Commission (2015) Policy Roadmap for the 2015 implementation of the Social Investment Package. Available [here](#).

European Commission (2020), *Youth Employment Support: a Bridge to Jobs for the Next Generation*, Communication, COM(2020) 276 final, Brussels, 1 July. Available [here](#).

European Council (2000) Presidency Conclusions, Lisbon European Council 23 and 24 March 2000. Available [here](#).

European Court of Auditors (2017), *Youth Employment- have EU policies made a difference?*, Publications Office of the European Union, Special Report No 7, Luxembourg. Available [here](#).

European Parliament (2012) Resolution of 20 November 2012 on Social Investment Pact — as a response to the crisis (2012/2003(INI)). Available [here](#).

Escudero, V., and López Mourelo, E., (2017), *The European Youth Guarantee: A systematic review of its implementation across countries*, International Labour Office Working Paper No 21. Available [here](#).

Esping-Andersen, G., Gaile, D., Myles, J., and Hemerijck, A. (eds.) (2002), *Why We Need a New Welfare State*, Oxford University Press, USA. Available [here](#).

Frazer, H., Marlier, E. and Nicaise, I., (2010) *A social inclusion roadmap for Europe 2020*, Garant, Antwerpen. Available [here](#).

Graziano, P. and Hartlapp, M. (2018), 'The end of social Europe? Understanding EU social policy change', *Journal of European Public Policy*, Vol. 26, No 26, pp. 1484-1501. Available [here](#).

Hemerijck, A. and Vandenbroucke, F. (2012), 'Social Investment and the Euro Crisis: The Necessity of a Unifying Social Policy Concept', *Intereconomics*, Vol. 47 No 4, pp. 200-206. Available [here](#).

Hemerijck, A., Burgoon, B., Di Pietro, A., and Vydra, S. (2016), *Assessing Social Investment Synergies (ASIS)*, Publications Office of the European Union, Luxembourg. Available [here](#).

Hemerijck, A. (2017), *The Uses of Social Investment*, Oxford University Press. Available [here](#).

Hemerijck, A. & Corti, F. (2022a) Re-balancing Social Europe after conservative reflex, in A. Hemerijck & M. Matzaganis, *Stress-Testing the Welfare State: Seven Lessons from the Great Recession*, Oxford: Oxford University Press. forth

Hemerijck, A. & Corti, F. (2022b) The interactive politics of EU social investment agenda setting, in Graziano, P. & Tosun, J. *Handbook of European Public Policy*, Cheltenham: Edward Elgar Publishing Ltd. forth.

- Jeffrey, P., Naylor, I., Parissaki, M., Pagnini, C., Gianetto, A., Rabemiafara, N., Fuller, A., Roidou, E., Buiskool, B.J., Lindeboom, G.J. (2020), *Final Report - Study for the Evaluation of ESF Support to Youth Employment*, Contract VC/2018/0715. Brussels, European Commission. Available [here](#).
- Juncker, J. C., in close cooperation with Tusk, D., Dijsselbloem, J., Draghi, M. and Schulz, M. (2015), *Completing Europe's Economic and Monetary Union*, Brussels. Available [here](#).
- Kazepov, Y. and Ranci, C. (2017) 'Is every country fit for social investment? Italy as an adverse case', *Journal of European Social Policy*, 27(1): 90–104. Available [here](#).
- Kok, W. (2004), *Facing the challenge, The Lisbon strategy for growth and employment*, Report from the High Level Group chaired by Wim Kok, Luxembourg, Office for Official Publications of the European Communities. Available [here](#).
- Oliveira, Á., De la Corte-Rodríguez, M. and Lütz, F., (2020), 'The New Directive on Work-Life Balance: Towards a New Paradigm of Family Care and Equality', *European Law Review*, Vol. 3, pp- 295-323. Available [here](#).
- Pochet, P. (2010), *What's wrong with EU2020?*, Policy Brief, European Social Policy 2, ETUI, Brussels. Available [here](#).
- Rhodes, M., Ferrera, M., and Hemerijck, A. (eds.) (2002), *The Future of Social Europe: Recasting Work and Welfare in the New Economy*, Oeiras, Celta Editora. Available [here](#).
- Rodrigues M. J. (2001) The Open Method of Co-Ordination as a New Governance Tool, in Telo M. (ed.), *L'evoluzione della governance europea*, Special issue of Europa/Europe, 2-3, 96-107.
- Sabato, S. and Corti, F. (2018), 'The times they are a-changin'? The European pillar of social rights from debates to reality check' in Vanhercke, B., Ghailani, D. and Sabato, S. (eds.), *Social policy in the European Union: state of play 2018*, ETUI, Brussels, pp. 51-65. Available [here](#).
- Sabato, S. and Vanhercke, B. (2014), *About the baby and the bathwater: assessing the European Platform Against Poverty*, Working paper, ETUI, Brussels. Available [here](#).
- Sabel, C. and Zeitlin, J. (2010), *Experimentalist Governance in the European Union: Towards A New Architecture*, Oxford University Press. Available [here](#).
- Scharpf, F. (1999), *Governing in Europe: Effective and Democratic?*, Oxford University Press, Oxford. Available [here](#).
- Scharpf, F. (2002), 'The European Social Model: Coping with the Challenges of Diversity', *Journal of Common Market Studies*, Vol. 40 No 4, pp. 645-670. Available [here](#).
- Tholoniati, L. (2010), 'The Career of the Open Method of Coordination: Lessons from a 'Soft' EU Instruments', *West European Politics*, Vol. 33 No 1. Available [here](#).
- Vandenbroucke, F., Hemerijck, A. and Palier, B. (2011), *The EU needs a social investment pact*, OSE European Social Observatory opinion paper No 5, Brussels, May. Available [here](#).
- Vandenbroucke, F., Keune, M., Ferrera, M. and Corti, F. (2021), The nature and rationale for European social rights, *EuSocialCit Working Paper*, 19 February. Available [here](#).
- Vanhercke, B. (2020), 'From the Lisbon strategy to the European Pillar of Social Rights: the many lives of the Social Open Method of Coordination', in Vanhercke, B. et al (eds.), *Social policy in the European Union 1999-2019: the long and winding road*, European Trade Union Institute, pp. 99-123. Available [here](#).
- Vesan, P., Corti, F. and Sabato, S. (2021), 'The European Commission's entrepreneurship and the social dimension of the European Semester: from the European Pillar of Social Rights to the Covid-19 pandemic', *Comparative European Politics*, Vol. 19, pp. 277-295. Available [here](#).

- Vesan, P. and Pansardi, P. (2021), 'Speaking social Europe: A paradigmatic shift in the European Commission Presidents' social policy discourse?', *Journal of European Social Policy*, Vol. 31 No 4, pp. 365-379. Available [here](#).
- Vogel, L. (2019) One swallow doesn't make a summer — European occupational health policy at a crossroads, in B. Vanhercke, S. Spasova, and S. Sabato (eds.), *Social policy in the European Union: state of play 2018*, European Trade Union Institute, pp. 135-152. Available [here](#).
- Von der Leyen, U. (2021) Speech by President von der Leyen at the European Parliament Plenary on the presentation of the programme of activities of the Portuguese Presidency of the Council of the EU. Available [here](#)
- Waddington, L. and Bell, M. (2021), 'The right to request flexible working arrangements under the Work-life Balance Directive – A comparative perspective', *European Labour Law Journal*, Vol. 12 No 4, pp. 508-528. Available [here](#).
- Zeitlin, J. (2005), 'Conclusion: The Open Method of Coordination in Action: Theoretical Promise, Empirical Realities, Reform Strategy' in Zeitlin, J. and Pochet, P. (eds.), *The Open Method of Coordination in Action: The European Employment and Social Inclusion Strategies*, pp. 441-498. PIE-Peter Lang, Brussels. Available [here](#).
- Zeitlin, J. (2009), 'The Open Method of Coordination and National Social and Employment Policy Reforms: Influences, Mechanisms, Effects', in Heidenreich, M. and Zeitlin, J. (eds.), *Changing European Employment and Welfare Regimes: The Influence of the Open Method of Coordination on National Reforms*, Routledge, London, pp. 214-15. Available [here](#).

Annex

Table B. Social investment normative power resources: deontic, legal, and soft

	NORMATIVE DEONTIC RESOURCES	NORMATIVE LEGAL RESOURCES	NORMATIVE SOFT RESOURCES
CHILDREN AND FAMILY POLICIES	<p>Principle 11 EPSR (Right to childcare)</p> <p>Art. 153(1)(j) TFEU (Combating social exclusion)</p> <p>Art. 164 TFEU (quality education)</p> <p>Art. 14 CFR (right to education)</p> <p>Art. 24 CFR (the rights of the child)</p> <p>Art. 33 CFR (right to work-life balance).</p> <p>Art. 151 TFEU (improving equality of opportunities)</p> <p>Art. 153 (2)(b) TFEU (equality between men and women with regard to labour market opportunities and treatment at work)</p> <p>Art. 157 TFEU (principle of equal pay for work of equal value)</p> <p>Art. 3 UNCRC (Promotion of best interests of the child in all actions concerning them)</p> <p>Art. 18 UNCRC (Children's right to state assistance)</p> <p>Art. 27 UNCRC (Children's right of adequate standard of living)</p> <p>Art. 28 UNCRC (Children's right of education)</p> <p>Art. 24 UNCRC (Children's right of highest attainable standard of health)</p> <p>Art. 31 UNCRC (Children's right of rest and leisure and to participate freely in cultural life and the arts).</p>	<p>Council Directive 2010/18/EU implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC</p> <p>Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parent and carers and repealing Council Directive 2010/18/EU</p>	<p>Commission Recommendation 2008/867 on the active inclusion of people excluded from the labour market [OJ L 307]</p> <p>Commission Recommendation 2013/112 Investing in children: breaking the cycle of disadvantage [OJ L 59]</p> <p>Council Recommendation of 22 May 2019 on High-Quality Early Childhood Education and Care Systems [OJ C 189]</p> <p>Council Recommendation (EU) 2021/1004 of 14 June 2021 establishing a European Child Guarantee</p>

EDUCATION	<p>Principle 1 EPSR (Right to education) Art. 165 TFEU (development of quality education) Art. 166 TFEU (Vocational training policy) Art. 14 CFR (the right to education). Art. 15 CCFSRW (Worker’s right to vocational training) Art. 9 TFEU (Promotion of high level of education and training) Art. 9 ESC (right to appropriate facilities for vocational guidance) Art. 10 ESC (right to appropriate facilities for vocational training) Art. 15 ESC (Right to vocational training, rehabilitation, and resettlement, for disabled persons whatever the origin and nature of their disability) Art. 26 UDHR Art. 13 ICESCR Art. 2 Protocol No. 1 to the ECHR</p>	<p>Decision (EU) 2018/646 of the European Parliament and of the Council of 18 April 2018 on a common framework for the provision of better services for skills and qualifications (Europass) and repealing Decision No 2241/2004/EC (Text with EEA relevance.)</p> <p>Decision No 291/2003/EC of the European Parliament and of the Council of 6 February 2003 establishing the European Year of Education through Sport 2004</p>	<p>Recommendation of the European Parliament and of the Council of 12 February 2001 on European cooperation in quality evaluation in school education</p> <p>Recommendation of the European Parliament and of the Council of 10 July 2001 on mobility within the Community for students, persons undergoing training, volunteers, teachers and trainers</p> <p>Recommendation 15 Feb 2006 on quality assurance in higher education [OJ L 64]</p> <p>Recommendation of the European Parliament and of the Council of 18 December 2006 on transnational mobility within the Community for education and training purposes: European Quality Charter for Mobility (Text with EEA relevance)</p> <p>Council recommendation of 20 November 2008 on the mobility of young volunteers across the European Union</p> <p>Recommendation of 18 Jun 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training [OJ C 155]</p> <p>Council Recommendation of 28 Jun 2011 on early school leaving [OJ C 191]</p> <p>Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning [OJ C 398]</p> <p>Council Recommendation of 22 April 2013 on establishing a Youth Guarantee, [OJ C120]</p> <p>Council Recommendation of 19 Dec 2016 on Upskilling Pathways: New Opportunities for Adults [OJ C484]</p> <p>Council Recommendation of 22 May 2017 on the European Qualifications Framework for lifelong learning [OJ C 189]</p> <p>Council Recommendation of 20 Nov 2017 on tracking graduates [OJ C 423]</p> <p>Council Recommendation of 15 March 2018 on a European Framework for Quality and Effective Apprenticeships [OJ C 153]</p> <p>Council Recommendation of 22 May 2018 on key competences for lifelong learning [OJ C 189]</p> <p>Council Recommendation of 22 May 2018 on promoting common values, inclusive education, and the European dimension of teaching [OJ C 195]</p> <p>Council Recommendation of 28 June 2011 on policies to reduce early school leaving Text with EEA relevance</p> <p>Council Recommendation of 26 November 2018 on promoting automatic mutual recognition of higher education and upper secondary education and training qualifications and the outcomes of learning periods abroad</p> <p>Council Recommendation of 22 May 2019 on a comprehensive approach to the teaching and learning of languages</p> <p>Council Recommendation of 29 November 2021 on blended learning approaches for high-quality and inclusive primary and secondary education 2021/C 504/03</p>
------------------	---	--	--

ACTIVE LABOUR MARKET POLICIES	<p>Art. 147 TFEU (support for high level of employment)</p> <p>Art. 153(1)(h) (integration to the labour market)</p> <p>Art. 166 TFEU (vocational training policy)</p> <p>Art. 14 CFR (right to education and access to vocational training)</p> <p>Art. 29 CFR (right to access job placement service free of charge)</p> <p>Art. 34 CFR (right to social protection)</p> <p>Art. 151 TFEU (Promotion of employment)</p> <p>Principle 4(1) EPSR (Right to assistance to improve employment or self-employment prospects)</p> <p>Principle 4(2) EPSR (Young people employment rights)</p> <p>Principle 4(3) EPSR (Support to unemployment people)</p>	<p>Council Decision 2018/1215 on guidelines for the employment policies of the Member States [OJ L 224]</p> <p>Decision 573/2014 on enhanced cooperation between Public Employment Services [OJ L 159]</p> <p>Regulation 2016/589 on EURES, workers' access to mobility services and the further integration of labour markets [OJ L 107]</p>	<p>Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning</p> <p>Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning (Text with EEA relevance)</p> <p>Commission Recommendation 2008/867 of 3 Oct 2008 on the active inclusion of people excluded from the labour market [OJ L 307]</p> <p>Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training (Text with EEA relevance)</p> <p>Council Recommendation of 28 June 2011 — 'Youth on the move' — promoting the learning mobility of young people</p> <p>2011/766/EU: Commission Recommendation of 22 November 2011 on the procedure for recognition of training centres and of examiners of train drivers in accordance with Directive 2007/59/EC of the European Parliament and of the Council Text with EEA relevance</p> <p>Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning</p> <p>Council Recommendation of 22 Apr 2013 on establishing a Youth Guarantee [OJ C120]</p> <p>Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships</p> <p>Council Recommendation of 15 Feb 2016 on the integration of the long-term unemployed into the labour market [OJ C 67]</p> <p>Council Recommendation of 19 December 2016 on Upskilling Pathways: New Opportunities for Adults</p> <p>Council recommendation of 22 May 2017 on the European Qualifications Framework for lifelong learning and repealing the recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning</p> <p>Council Recommendation of 15 March 2018 on a European Framework for Quality and Effective Apprenticeships</p> <p>Council Recommendation of 22 May 2018 on key competences for lifelong learning (Text with EEA relevance.)</p> <p>Council Recommendation of 30 October 2020 on A Bridge to Jobs – Reinforcing the Youth Guarantee and replacing the Council Recommendation of 22 April 2013 on establishing a Youth Guarantee 2020/C 372/01</p> <p>Council Recommendation of 24 November 2020 on vocational education and training (VET) for sustainable competitiveness, social fairness and resilience 2020/C 417/01</p> <p>Commission Recommendation of 4 Mar 2021 for Effective Active Support to Employment (EASE) [OJ L 80]</p>
-------------------------------	---	---	---

Source: Own elaboration

