

Sweden, the SAP and European integration

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Abstract

European integration has increasingly come to depend on the abolition of national regulations, driven by the Court of Justice of the European Union (ECJ). According to previous research, this mode of integration effectively undermines the institutional foundations of social democratic welfare states and coordinated systems of industrial relations – something which has not been fully appreciated by social democratic parties in these countries. The purpose of the thesis is to explain the Swedish Social Democratic Party's (SAP) response to these challenges. Through the application of theories from the literature on Europeanization and welfare state retrenchment, two cases are analysed: the liberalization of healthcare, and the controversial interpretations of the Posted Workers Directive.

In both cases the SAP identified the initial “misfit” caused by EU policies and mobilized to resist it. It was however only in the second case that the party came to the conclusion that changes to secondary law would not suffice and that Treaty change was necessary. This difference is explained by trade union mobilization, caused by threats to the institutional power bases of these actors. In Sweden, the social partners remain highly relevant also to the study of welfare state retrenchment, as they did in its expansion phase.

Key words: welfare state retrenchment, social democracy, Sweden, negative integration, Europeanization, EU

Words: 21467

Table of contents

1 Introduction.....	1
1.1 Disposition.....	4
1.2 Abbreviations.....	4
2 Characteristics of the Swedish model.....	5
2.1 The welfare state.....	5
2.2 Industrial relations.....	9
2.3 The usefulness of regimes.....	11
3 Challenges to national welfare states.....	14
3.1 Boundaries eroded.....	14
3.2 The structural bias for negative integration.....	17
4 A theoretical framework.....	22
4.1 The roots and causes of misfit.....	22
4.2 Contributing factors.....	25
4.2.1 Organized interests.....	25
4.2.2 Other parties' positions.....	26
4.2.3 Financial vulnerability.....	27
4.2.4 Changing preferences among citizens.....	28
4.3 Summary of factors.....	29
5 Empirical analysis.....	31
5.1 Methodological considerations.....	31
5.2 European healthcare.....	32
5.3 Posted workers.....	36
6 Discussion and summary.....	42
6.1 Summary.....	46
7 Bibliography.....	47
7.1 Books and academic articles.....	47
7.2 Official documents.....	51
7.3 Media articles and other material.....	52

1 Introduction

”They are enthusiastic because they are deluding themselves.”

The quote above was made by the political scientist Fritz W. Scharpf. It contains his response to the question of why organized labour, in the form of social democratic parties and trade unions, continue to lend their support to a European project that according to Scharpf is working against their fundamental interests (Social Europe Journal, Autumn 2008: 16). Indeed, Scharpf is far from alone in claiming that the last twenty-five years of European integration has been primarily focused on liberalization and deregulation in many areas, while efforts to counter this development with some sort of “social dimension” have largely fallen flat. Others have claimed that this sustained support from centre-left parties can best be explained by pointing to how the EU provides them with a “capacity to retain their social democratic credentials, despite the absence of corresponding policy output” – in essence, as a tool for obfuscating political impotence at the national level (Bailey 2005: 18). I find these explanations crude and unsatisfactory. Either social democratic parties are viewed as not being able to actually grasp current events and realise that resistance would be for their own good. Or, they are described as purely office-seeking, rational actors who happily mislead voters by blaming the EU to hide their own shortcomings. Surely, a more nuanced explanation can be found; one that takes stock of differences between policy areas and the specificities of national institutions, as well as the role of other domestic actors.

In the wake of his government's decision to apply for EC membership in 1990, then Swedish prime minister Ingvar Carlsson stated his belief that it was still possible to pursue a distinct social democratic economic and social policy agenda – but only as long as it was done at the European level. It had by then become common knowledge that the room for manoeuvre for a small, export-oriented country such as Sweden had been severely circumscribed. National discretion in the field of economic policy had been fundamentally altered in a globalized economy with deregulated capital markets. The Swedish Social Democratic Party's (SAP) economic experiments during of 80's, the so called “Third way”, had ended in huge capital outflows and a severe recession with unprecedented levels of unemployment. The SAP subsequently lost office to a centre-right coalition in 1991, but only after publicly announcing that Sweden would hold a referendum with a view to become a full member of the EC. Sweden's economic woes undoubtedly had significant impact on the government's sudden policy change, as the decision to hold a referendum was presented as an explicit part of the austerity program adopted to deal with the crisis (Pontusson 1992: 323).

Some have argued that the Swedish model, that had been the envy of progressives across the globe and was credited with producing one of the most affluent and equal societies in the world, ceased to exist with the 90's crisis (Brenner and Bundgaard Vad 2000: 67). Undoubtedly, major changes to the Swedish economy took place during those years and have continued to do so in the years that have followed (Berg and Ö. Erlingsson 2008: 74-76). But the fundamental characteristics of the welfare model seems nevertheless to be holding up quite well. Sweden still comes out remarkably close to the “ideal type” social-democratic (or Scandinavian) welfare state, largely irrespective of the indicators used for measurement (Arts and Gelissen 2002; Kammer, Niehues and Peichl 2012; Ferragina and Seeleib-Kaiser 2011).

Equally eye-catching is the outstanding popular support the comprehensive welfare state continues to enjoy. If anything, the view that social services and transfers should be publicly financed has actually become slightly more common in recent years. As has the willingness to pay for this via taxes (Svallfors 2011). The Swedish welfare state can even be said to form an integral part of the national identity. It has throughout modern Swedish history served as a “mobilizing image” (Ryner 2007: 64), seized upon by actors across the political spectrum to justify policies and render them appropriate to the public. During the campaign leading up to the membership referendum of 1994, the ability to preserve, expand, or even export the Swedish welfare model was invoked by actors on both sides of the vote (Aylott 1999: 70). The lasting importance of the model as a tool for framing and rendering policy legitimate in Swedish politics can thus be established. As can the fact that it played a significant role in the early years of EU membership, when many (but certainly not all) actors seemed quite optimistic regarding the compatibility of the Swedish welfare state with the prospects offered by European integration.

The consequences of the current trajectory of European integration for national welfare states are disputed and often hard to assess. Researchers differ in their judgements as to whether the EU undermines, complements or even enhances different national models. This is in a way to be expected. One's point of view is necessarily influenced by a number of factors, such as how one chooses to define the characteristics of national welfare models. Or by which criteria are employed to evaluate the development of supranational social policies (Falkner 2009: 13). Still, most research done in the field seem to indicate two, and to a somewhat lesser degree three, things. First, that there still have been very few significant advancements in the area of common social policy in the EU. Some explain this by pointing to structural factors while others take a more actor-centered approach. Second, that many aspects of European integration since the late 80's has posed serious challenges to national welfare states, and that this is true even when accounting for pressures emanating from globalization in a more general sense. Third and last, in addition to the second point, some argue that these challenges are most severely felt by the social-democratic and conservative families of welfare states, and less so by the liberal.

The purpose of this thesis is not to assess the viability of the social democratic welfare state in a globalized economy. Nor is it to examine which factors are to

blame for the failure of a true “Social Europe” to emerge. Rather, the intention is to analyse how the SAP has reacted when faced with external pressure to change in issues that, according to the research mentioned above, should run counter to many of the fundamental values of the Swedish model. Which challenges to the Swedish model, emanating from the process of European integration, have given rise to political mobilization and resistance from the SAP and which have not? How can this be explained?

In Europeanization research, it is commonly held that some sort of misfit between the national and European level concerning either policy, politics or polity is a precondition for transformative pressure to materialize (Börzel and Risse 2000: 3-5). This is not disputed in the thesis. I do however stress that misfit has to be conceptualized in different ways to give an accurate picture. In short, ideas matter just as much as material factors for actor's preference formation and actions. Misfit is, to no small extent, discursively constructed (Schmidt and Radaelli 2006: 187). All actors involved are forced to adhere to a “logic of appropriateness” when formulating their responses (March and Olsen 2004). This is perhaps never more true than in issues related to the welfare state, since “the welfare state itself [...] could not exist without the support of normative arguments and moral convictions” (Schmidt 2000: 230). And it is certainly the case in Sweden, where the welfare state forms such an indispensable part of the national identity.

The case put forward by those arguing that the EU is undermining the institutional (and, as a consequence, normative) foundations of national welfare states is that the misfit now emerging is more systemic in nature. The consequences for some member states will not just be a cosmetic trimming of expenditure levels of certain public schemes. For Sweden, which has seen its reformed welfare model once again become the subject of international attention and, to some extent, admiration, this would risk eliminating the comparative advantages which has formed the basis for its success in the globalized economy (Kleinman 2002: 77; Scharpf 2009: 27). This makes it necessary to distinguish between “policy retrenchment” and “institutional retrenchment”, where the latter is what is at stake in the cases studied (Elmerud-Præstekær's and Baggesen Klitgaard 2012). In order to capture these more profound developments I will draw on the work of Gøsta Esping-Andersen. His use of the concepts of de-commodification and stratification help explain the sociological underpinnings of different welfare “regimes” and how these might be affected by institutional retrenchment.

The analysis will be conducted through the examination of two cases, both of them rather recent policy developments at the EU level which according to academic research each ought to cause tensions when confronted with the Swedish model. These are:

1. The controversies concerning the so called Posted Workers Directive (96/71/EC), including the judgements of the ECJ in the Viking and Laval cases.
2. The efforts to create a European market for healthcare, including the negotiations regarding the Services Directive (2006/123/EC).

1.1 Disposition

The thesis is structured as follows. In the first chapter, the characteristics of the Swedish model are described through the application of Esping-Andersen's concepts of decommodification and stratification. Both the welfare state and the system of industrial relations will be addressed. Chapter 3 deals with the challenges posed by European integration to national institutions and policies; a brief history will be given of relevant developments in ECJ case law, before attention is turned to the concept of “negative integration” as described by Fritz W. Scharpf. The next chapter, which is the fourth, will discuss some of the potential factors identified by Europeanization and welfare state retrenchment literature as potentially having an impact on actions of the SAP. A theoretical framework is proposed. This framework guides the two case studies conducted in chapter 5, before the results from the analysis, and a short summary, concludes the study in chapter 6.

1.2 Abbreviations

Abbreviations will be explained throughout the text, but some occur more often and will hence be spelled out here as well. The Swedish Social Democratic Party is referred to as either “the SAP” or “the party”. The Court of Justice of the European Union is referred to as either “the ECJ” or “the Court”. “Europe” and “the EU” are used interchangeably.

2 Characteristics of the Swedish model

In the following chapter the main characteristics of the Swedish model will be described and its underlying mechanisms explained. The purpose is to provide a solid basis of knowledge before launching into the more specific arguments put forward in chapter 3 and in the empirical analysis. I will in the following in one way apply a rather broad definition of what is to be included in the Swedish model. This is necessary for the purpose of the thesis, since the criticism put forth by Scharpf and others is that European integration poses threats to the institutional foundations of the model as such, rather than merely chipping away at the edges. This necessitates a theory that is focused on systemic, macro-level changes. It also leads to a definition that includes both aspects of the welfare state and of the national system of industrial relations. These institutions form an symbiotic relationship in all modern capitalist societies, and in Sweden even more so than usual.

But this definition also means that some aspects which are more or less commonly included in the concept of the Swedish model will not be dealt with. Among these can be noted the long tradition of high levels of female employment (Esping-Andersen 1999), or a general political culture of pragmatism and incrementalism (“the Swedish consensus”)(Berg and O. Erlingsson 2008: 84). They are excluded because they do not clearly link to the mechanisms described below, and are hence not thought to be so fundamentally affected by those aspects of European integration dealt with in this thesis.

2.1 The welfare state

Ever since Gösta Esping-Andersen's seminal work on welfare regimes, “The three worlds of welfare capitalism”, was published in 1990, welfare state typologies have been a matter of great academic interest and debate. Some have criticized the scientific usefulness of Esping-Andersen's ideal types, and from a feminist perspective it has been pointed out that the typology failed to recognize the gendered division of paid and unpaid work (Arts and Gelissen 2002: 148). Esping-Andersen himself responded to some of this criticism, and further developed his arguments, in his “Social Foundations of Postindustrial Economies” (1999). I will draw upon two of Esping-Andersen's central concepts when describing the characteristics of the Swedish model: those of de-commodification and stratification. Together they can be said to form a two-dimensional property space (Arts and Gelissen 2002: 140). The later addition of de-familiarization,

which is used to capture the degree to which an individual's reliance on the family is lessened by a particular regime (Ibid: 45), will not be dealt with. As noted, this aspect of the Swedish model is generally not considered to be affected by the forces of European integration in the same fundamental way.

Esping-Andersen's work broke with both of the then dominant explanations of welfare expansion after the second world war. The first of these, the old "logic of industrialism" school, held that nations more or less followed the same linear path. More industrialization equalled higher living standards, causing citizens to demand more and more comprehensive welfare provisions. Other scholars echoed this view, with the caveat that the driving force behind expansion was working-class mobilization and labour power. Both thus entertained a rather simplistic understanding of welfare states as simply providing "more" or "less" welfare to its citizens. The focus was predominately on levels of expenditure (Kleinman 2002: 32).

But public expenditure is undoubtedly a crude measurement. Esping-Andersen sought to problematize the assumption that modern welfare states were, if subjected to the same stimuli (industrialization, working class mobilization), bound to follow similar trajectories. Fundamental to this is the understanding of the modern welfare state as more than the sum of the social policies offered within its polity. Indeed, it constitutes "a new political commitment, a rewritten social contract" between the state and its citizens (Esping-Andersen 1999: 34). There is not one, but many "logics" of welfare state development. Each is the product of its own peculiar historical and institutional circumstances, which it at the same time serves to reproduce and uphold. This path-dependency will also influence each state's response to external or internal adaptational pressure (Ibid: 172).

Still, Esping-Andersen's sociological explanation does not mean that all generalizing ambitions must be done with. It can serve to cluster similar welfare states according to their score on the decommodification and stratification indicators described below. This clustering in turn forms the basis for his famous three-fold typology of conservative, liberal, and social-democratic welfare regimes. These are sometimes also labelled the Continental, Anglo-Saxon, and Scandinavian regime, denoting their main geographical areas of proliferation in the real world. I do however much prefer the original terminology, since it brings our attention to the political ideologies which have informed the historical origins of each regime. The term "regime" itself is used by Esping-Andersen in order to highlight how countries deal with social risks through different constellations of state, market, and family; it is according to him misleading to speak of only the welfare *state* (1999: 34-35). Put crudely, the liberal regime tends to encourage market-based solutions, while the conservative to a higher degree relies on the family. Social-democratic regimes, lastly, are "inevitably a state-dominated welfare nexus" (Ibid: 80). Why it is so will be explained below. But "regimes" in Esping-Andersen's work are always ideal-types, never thought to exist in pure form in the real world. I will hence for the remainder of this thesis use the term "welfare state" to refer to this part of the Swedish model.

We turn now to the concepts of decommodification and stratification, which together form the basis of Esping-Andersen's sociological explanation of the origins and successive developments of the three regimes. The worker's need to become decommodified stems from one of the most basic functions of capitalism: namely, that it “commodifies” wage-earners, rendering them effectively unable to secure their welfare outside the labour contract (Esping-Andersen 1990: 21). This was first described by Karl Polanyi, who showed how in modern capitalist societies work was artificially separated from other human activities and rendered a commodity on the (constructed) market (2002 [1944]: 192). Social rights in modern welfare states were in some places designed to act as countervailing forces to this. Decommodification is not an all-or-nothing concept. Rather, it is a matter of degree, namely “the degree to which individuals, or families, can uphold a socially acceptable standard of living independently of market participation” (Esping-Andersen 1990: 37). Very few real-life welfare states achieve any real decommodification to speak of. Still today, and even more so in the past, this is further complicated by the fact that most women never become commodified in the first place. They remain “pre-commodified”. In order to get on equal footing with the majority of men in modern capitalist societies – to gain the same level of “independence”, if the term is allowed – many of these women thus need rather to be de-familiarized, i.e. their reliance on the family for welfare lessened (1999: 45).

It is important to note that not all social policies are inherently decommodifying. The case might very well be the opposite: many means-tested schemes couple low benefits with high levels of social stigma. They are explicitly designed to compel all but the most desperate to participate in the market (Ibid: 22). The decommodifying potential of a particular scheme or policy can be assessed along two dimensions. First, eligibility rules and duration: who has the right to what and for how long. Second, the level of income replacement offered. Also, when analysing an entire regime, it is useful to consider the overall range of entitlements. This entails whether citizens' are protected only against the most basic social risks or if the coverage is more comprehensive (Ibid: 47). Liberal regimes typically only provide a narrow range of needs-based, means-tested benefits at a fairly low level. Some schemes might offer benefits on an equal basis for all citizens, but as these are also kept at a low level they do not really constitute genuine options to working. This is why liberal regimes are considered the least decommodifying. Conservative regimes, on their hand, remain reliant on social insurances where benefits depend almost entirely on contributions through employment. These schemes may indeed be rather generous in their income-replacement levels. But the eligibility rules nonetheless renders them a low decommodifying score (Ibid: 22-23).

Stratification is a widely used term in many fields of social science. When applied to this particular subject, it is used to explain how the organizational features of welfare regimes “help determine the articulation of social solidarity, divisions of class, and status differentiation” (Esping-Andersen 1990: 55). This means that different regimes by their own inherent nature produce different class-based coalitions. Stratification is in this way tightly connected to the processes of

decommodification described above. Social policy in liberal regimes tend to reproduce, rather than alleviate, the stratifying effects of the market. First, the system of means-tested poor-relief leads to social stigma and class dualism. Second, universalistic social insurance at low benefit levels will provide decommodification only to those with the very lowest levels of income, making the majority of citizens reliant on private alternatives (Ibid: 64). In conservative regimes, social rights are typically tied to occupational status. In some states, a legacy of etatist paternalism has resulted in a stratification process where civil servants still enjoy a particularly privileged position. The main heritage is however that of corporatism. Built around “occupational groupings seeking to uphold traditionally recognized status distinctions”, often encouraged by the state and the church, this system of social policy provision also counteracts the formation of broad class alliances (Ibid: 60).

After this excursion on the characteristics of the liberal and the conservative regimes, we can turn our focus to the central object of our investigation. The social-democratic welfare regime guarantees its citizens a comparatively high degree of decommodification through the services and benefits provided. This is a product of the regime's commitment to fuse universalism with generosity and a broad conception of what is to be considered a social risk (Esping-Andersen 1996: 79). We have seen that liberal regimes might also carry a universalistic trait by granting certain benefits as a matter of right (rather than need). What is unique about the social-democratic approach lays in “the quality and arrangement of social rights, not in their existence *per se*” (1990: 47). Since the purpose of the social-democratic regime is to close of the market in order to maximize equality, it is not enough to ensure that most citizens are eligible. It is only when social services and schemes are upgraded to cater to the needs and tastes of the middle classes that a virtuous circle of sorts can be achieved: “All benefit; all are dependent; and all will presumably feel obliged to pay” (Ibid: 28).

According to Esping-Andersen, this universalism of middle-class standard has led to the “consolidation of a vast popular majority wedded to its [the welfare state's] defence” (1990: 69). A more detailed explanation for this phenomena has been proposed by Swedish political scientist Bo Rothstein. Whether a particular welfare scheme or service gains popular support depends on it being perceived as substantively just, meaning it has to be based on acceptable normative principles. But the issue of procedural justice is perhaps even more important. Whereas means-tested benefits easily become stigmatizing and might lead to a division between “strivers” and “skivers”, universalistic policies are more likely to be seen as just in this respect. Provision on the basis of equal rights greatly simplifies the system, makes the division of responsibilities between bureaucrats more clear-cut, and renders the expensive control apparatus superfluous. The public has less of an incentive to worry about “welfare scroungers” and issues of free-riding (2006: 193). Rothstein and other scholars working in the “Quality of Government”-school thus point to an important factor at the micro level: the need to conceptualize support for the welfare state as dependent both on citizens' trust in welfare providers, and on the level of reciprocal trust between citizens (Rothstein,

Samanni and Teorell 2012: 10). Both of these are enhanced by universal provision.

2.2 Industrial relations

After this excursion into the foundations of the Swedish welfare state, we turn our attention to Sweden's system of industrial relations. This is an essential addition for a multitude of reasons. First, the two institutions have become largely interwoven and mutually dependent, and should be studied as such (Esping-Andersen 1990: 149). Industrial relations are defined here as the interplay between labour, employers and the state. I have thus chosen not to include aspects often studied in the literature on “Varieties of Capitalism” (see for example Höpner and Schäfer 2010), such as industrial policy, corporate governance, etc. These are undoubtedly important characteristics of the national economy in a wider sense, but arguably less directly connected to the mechanisms central to this thesis. It is easy to see how social policy can have significant impact on the labour market by de-commodifying workers. But it is also true that systems of industrial relations may be “instrumentalized to serve welfare-state purposes” through the regulation of wages and working conditions (Scharpf and A. Smith 2000: 11). As we will see, this has historically often been the case in Sweden.

When characterizing different systems of industrial relations, Scharpf and A. Smith (2000) have proposed a useful two-dimensional model. They distinguish, firstly, between systems of coordinated and uncoordinated wage bargaining, and secondly, between those with a high degree of state involvement and those where employers and labour are left largely to their own (Ibid: 12). Sweden was long recognized as the ideal-type corporatist regime. This entailed a highly coordinated, nation-wide system of wage bargaining where the “social partners”, i.e. the peak-level associations of business and unions, met in institutionalized settings. From this position they were highly involved in shaping social and economic policy choices of the state. Though there was significant state involvement as far as facilitating and institutionalizing these negotiations, this should not be interpreted as saying that the state interfered in the setting of wages (Ibid: 13).

It is commonly noted that the social-democratic welfare regime is critically dependent upon the maintenance of high, if not full, employment (Esping-Andersen 1990: 28). The rationale behind this is both economical and sociological. First, and perhaps most obvious, there is the financial element; a comprehensive, universalistic welfare model is a costly thing, and a substantial portion of the financing needs must almost inevitably be covered by payroll taxes. The sociological part ties into the discussion above about free-riders and reciprocal trust. In a society where everyone is seen as contributing to the best of their abilities, citizens' trust tends to be higher – both in one's neighbour and in the state. Such virtuous circles are a prerequisite for the viability of the social democratic regime. It can also be argued, in line with proponents of the “power

resource theory”, that employment should be considered the basic power resource of the working class. When unemployment rises, the supply of labour does too, and prices (i.e. wages) fall. Workers become increasingly commodified. This redistributes power in favour of employers who are more prone to call for welfare state retrenchment (Korpi 2003: 592; Korpi and Palme 2003: 428).

Full employment during *les trentes glorieuses* was achieved in Sweden primarily through the intricate arrangement known as the Rehn-Meidner model, named after the two union economists seen as its main architects. The basic premise was that wages ought to be determined by the nature of the work rather than the employers' ability to pay. This served to create a more compressed wage structure (Pontusson 1992: 312-313). As a consequence, less productive firms were eliminated while those surviving the competitive environment could prosper. Workers laid off due to this rationalizing process could count on a wide range of active labour market policies as well as a generous unemployment insurance. This, along with demand management through monetary and fiscal policy, was the state's part of the deal (Ryner 2003: 83). But the Rehn-Meidner-model was perhaps even more dependent on union strength for its successful implementation. This was because it necessitated a highly centralized wage bargaining system, which enabled unions to resist wage drift which otherwise would have jeopardized productivity growth (Brenner and Bindgaard Vad 2000: 403). In sum, the Rehn-Meidner model formed an integral part of the Swedish model. By ensuring full employment, it mitigated the disciplinary effects of the labour market. It was the institutional framework which “rendered the universal welfare state compatible with the reproduction of the national capitalist society” (Ryner 2003: 85).

In contrast, the so called “Third road” economic policies favoured by the SAP in the 80s diverged from the traditional system in some important aspects. Most notably, unions' capacity for wage restraint was diminished. The centre piece of the strategy for recovery from the international economic slump of the late 70s was a rather massive devaluation of the currency. During the first half of the decade this path seemed rather successful. But eventually, fuelled by the deregulation of capital markets, the economy overheated and inflation soared. The unions' capacity for wage restraint was tested to the limit, and would ultimately prove insufficient (Brenner and Bundgaard Vad 2000: 423). Steinmo argues that this was further exacerbated by the expansion of public sector employment, as wages in this sector were not subject to the disciplinary effects of international competition (2010: 36). This is somewhat contradicted by Ryner's account. He emphasizes instead how the state as an employer strove to keep a lid on public sector wages, while much of the export-oriented manufacturing sector was subject to wage drift despite a lack of corresponding productivity gains (2003: 151). Regardless, the result was intra-union competition, fragmentation of bargaining, and a cost-push inflationary spiral which eventually (when demand for exports fell) contributed to the fiscal crisis of the 90s (Ibid: 52).

Even if Swedish corporatism certainly is not the same today as in the 70s, the overall picture seems to be one of “resilience rather than collapse and continuity rather than change” (Wood 2001: 402). And as noted by several authors, the

competitive advantage of Sweden's industrial relations regime still relies on strong unions which are able to maintain the overall competitiveness of the economy through responsible wage increases. The main difference has been a move towards the German model of industry-level, but still highly coordinated, bargaining (Hubert and Stephens 2001: 132). A somewhat contrasting view is provided by Lindvall and Sebring. Their study shows that, in some important respects, both the institutional and normative foundations of Swedish corporatism have disappeared. This has led to less “horizontal coordination” between trade unions and employers' organizations, as these have become more partisan and more closely tied to the political left and right, respectively (2005: 1063). This does however not take away from the fact that the Swedish model still entrusts the social partners with a great deal of autonomy and responsibility when it comes to labour market regulation.

The fit between welfare models and different ways of managing industrial relations is far from perfect. Even though Esping-Andersen notes that “comprehensive, universalistic welfare states almost invariably go hand-in-hand with centralized, nation-wide and co-ordinated bargaining” (1999: 17), he also admits that the overall relationship is rather weak (Ibid: 21). Others make the observation that social democratic welfare states tend to be corporatist, with high union coverage, low wage dispersion, and high female employment (Hubert and Stephens 2001: 117). This is an empirically observable fact. But it is equally true that there seems to be no simple causal relationship. There are, for example, significant differences between the Scandinavian social democratic welfare states' coordinated bargaining systems – and Sweden especially has remained distinct (Tallberg et al 2010: 114). However, the existence of neat and tidy causalities is irrelevant for our purposes. What matters is, first of all, that which has been shown above: that the Swedish welfare model and the model of industrial relations are intimately connected and mutually reinforcing institutions. The social partners played an instrumental role in the expansion of the welfare state and continues to form an indispensable cornerstone of the system today. Secondly, we need to properly understand the modern-day relationship between the SAP and the “second leg” of the labour movement, i.e. the trade unions, since this should potentially inform the SAP:s choice of action in the cases studied. I will return to this point below.

2.3 The usefulness of regimes

Esping-Andersen goes on to show that when operationalized in a proper fashion and applied to real-world welfare states, these states do indeed cluster into three rather distinct sets of regimes. The mechanisms thus seem to possess a high degree of explanatory power. As touched upon above, “The Three Worlds of Welfare Capitalism” reinvigorated the debate on the welfare state, sparking a new wave of research that has either sought to refine, complement or sometimes reject its findings. Some have called for additional types to be added to the original

three, for example a “Mediterranean” regime (Arts and Gelissen 2002: 142). Most authors, however, seem to have been occupied with developing new and better indicators and statistical techniques for measurement (Ferragina and Seeleb-Kaiser 2011: 587). Which programmes, schemes, and policies of the welfare state are relevant for determining its propensity to decommodify and the class alliances it will produce? Esping-Andersen himself chose to analyse old-age pensions, unemployment insurance, and sickness benefits (1990: 49). It has been argued that most studies which have shown a deviation from Esping-Andersen's clustering can be explained by the inclusion of variables which are not really related to either decommodification or stratification, and that healthcare and education (Ferragina and Seeleb-Kaiser 2011: 587). But surely, according to the logic outlined above, also the provision of these services should influence the formation of class solidarity in a society. A universal right to high-quality, publicly provided healthcare should lead to the same kind of broad alliances that, say, a similarly designed unemployment insurance would.

Criticism none withstanding, a rather clear academic consensus has emerged regarding Sweden as a near-perfect real-world representative of the social democratic welfare regime. This finding continues to be confirmed almost irrespective of the indicators used in research (Arts and Gelissen 2002; Berg and Ö. Erlingsson 2008; Ferragina and Seeleb-Kaiser 2011; Kammer, Niehues and Peichl 2012). Some scholars disagree: for example, Brenner and Bundgaard Vad claim that Sweden's “model-like coherence” has effectively disappeared, and that some aspects were lost as early as the late 1970s (2000: 414). But such a strict definition is of little use for the purposes of this thesis. As emphasized above, focus will lie on the most fundamental mechanisms of the Swedish model, i.e. those of decommodification and stratification, as these are presumed to work to the advantage of the SAP. Certainly, cuts in specific welfare schemes might be interpreted as a slow and steady erosion, constituting a systemic shift over time. But as to this date the underlying logic of the model still seems to hold up quite well. And as noted, public support remains high, indicating a rather robust cross-class alliance.

As noted by Robert Cox in his characterization of the Scandinavian welfare model, it is the values rather than the specific policies that matter, in the sense that allusions to universalism and solidarity can serve to legitimize a rather wide spectrum of reforms (2004: 205). This of course ties into the theories of discourse and “logic of appropriateness” further described below. I would however disagree with Cox' claim that the model has been “shot full of contradictions and inconsistencies”, rendering it useless for theoretical purposes (Ibid: 216). The underlying mechanisms and concepts developed by Esping-Andersen and other welfare scholars have proven to possess plenty of explanatory power, and hence remain valuable (Hubert and Stephens 2001: 108). Ideal-types of this kind can provide guidance when theorizing about the impact of different factors on specific welfare models, for example when formulating hypotheses.

From the mechanisms outlined above, it seems highly unlikely that social democratic parties should ever want to push a predominately social democratic regime, such as Sweden, in a more liberal or conservative direction. Not only

would it be at odds with their basic ideological preferences. It would also undermine the stratifying mechanisms that help shape the broad class-coalitions which have made their electoral success possible.

3 Challenges to national welfare states

Regardless of one's view on the existence (or desirability) of common social policy at the EU level, one question looms in the background: what are the consequences of European integration for the national welfare state? As we have noted, economic globalization during the last thirty years has circumscribed the policy space left for individual states. Competition is stiffer, capital moves at the blink of an eye, and firms readily relocates production to cut costs. And at the same time most countries in the developed world face demographical challenges in the form of ageing populations. But has European integration exaggerated the effects of these developments? And have the effects been equally felt by all member states? The answers to these questions, according to many authors, is “yes” and “no”, respectively. Below, I will offer a more general explanation of how political and judicial developments at the EU level has affected national welfare states. Following this will be some of the points made by Fritz W. Scharpf, who has written extensively on the subject and its consequences for “coordinated market economies” such as Sweden.

3.1 Boundaries eroded

Social rights can be seen as “demanding political products”, in the sense that they require both material resources and a certain degree of moral commitment from citizens (Ferrera 2005: 46). The former depends on the latter; the willingness to pay the taxes required to finance welfare provisions derives from a mutual feeling of solidarity between the members of a society.

But as the crisis has shown time and again, the moral commitment felt by citizens of Europe towards one another is not yet sufficiently strong to allow for such transfers *between* member states. This is in fact very much in line with what the “founding fathers” of the Union envisioned. The dominant philosophy of the Treaty of Rome in 1957 was that social policy and issues affecting the welfare state should remain a national prerogative. The pie was to be made bigger by greater economic openness and liberalizations, but how to divide it was left for each member state to decide (Falkner 2009: 9; Höpner and Schäfer 2010: 349). The birth and gradual expansion of the welfare state was intimately linked to other aspects of nation building in post-war Europe. In the words of Maurizio Ferrera, *les trentes glorieuses* meant unprecedented levels of both welfare state “closure” and “lock-in” at the national level (2005: 75). Closure refers to the restrictions placed upon the access to welfare provisions by non-nationals. In some cases it was possible for foreign workers to gain access to social insurance benefits, but

mostly these were tied to temporary residence and work permits. The lock-in effect was the other side of the same coin. It meant that the institutional arrangements of the welfare state more or less forced its citizens to become members of public schemes (Ibid). Territorial belonging constituted the central organizing principle (Ferrera 2008: 84). Drawing on the work of Stein Rokkan, this leads Ferrera to conclude that the European welfare state during this period reached its greatest degree of both internal and external closure, while at the same time becoming more encompassing than ever before. These developments were interdependent and mutually reinforcing (2005: 76).

These assumptions form the starting point for Ferrera's analysis of how European integration affects the member states' ability to uphold the traditional boundaries of social citizenship. The central argument is that the last twenty-five years or so of European integration has created a new “spatial politics” of the welfare state. By imposing restrictions on member states' power to control the different aspects of both internal and external closure that the national welfare state developed dependent on, EU policies and ECJ rulings have given rise to a “destructuring of internal constellations” (2005: 120). These internal constellations consist of for example institutional arrangements, political cleavages, and centre-periphery relations – all of which helped shape the country-specific characteristics of European welfare states (and continues to do so) (Ibid: 167-169). Citizens' capacity for exit from, and transnational business ability for entry into, national welfare systems has been greatly increased (Davies 2006: 27). But it is also worth noting that a corresponding mobilization *against* entry has taken place in some places. Several countries has seen rising populist sentiments as a reaction against the perceived threat of “welfare tourism”, when free movement grants EU-migrants access to previously closed national welfare systems (Ferrera 2005: 220).

The foundations for this accelerating process of destructuring were laid early. Already in 1963 the ECJ confirmed that EU law had to be seen as constituting a distinct legal order capable of having direct effect (Van Gend & Loos, C-26/62). This gave individuals the possibility of deriving subjective rights from it against their respective states. The following year, with the Costa vs. Enel (C-6/64) ruling, the Court famously stated the supremacy of EU law in relation to the law of the member states.

Central to the whole issue of “integration through law” and market-making liberalization is the question of which impediments to free movement in the EU are to be tolerated. In Dassonville (C-8/74), the ECJ made a wide interpretation of what is now article 28 TFEU. All measures which “directly or indirectly, actually or potentially” hindered intra-community trade should according to the Court be seen as having an effect equivalent to quantitative restrictions (Ibid: para. 5). The ensuing Cassis (C-120/79) ruling established when exemptions to this general rule could be allowed. The central issue became whether restrictions could be seen as necessary to satisfy one or several of the “mandatory requirements” listed: “the effectiveness of fiscal supervision, the protection of public health, the fairness of commercial transactions, and the defence of the consumer” (Ibid: para. 8). This development had the effect of establishing a “procedural asymmetry” where the

Court's interpretative discretion in relation to the “mandatory requirements” was maximized. The burden of proof was shifted to the member states. And if a restriction was accepted, it still had to pass a proportionality test (Scharpf 2009: 12). An equally important (and perhaps more famous) consequence of Cassis was the principle of mutual recognition – or, as it is sometimes called, the country of origin principle. This meant that a product “lawfully produced and marketed in one member state” must be considered good enough for the whole of the EU, and thus be sold in any market unless the mandatory requirements could be invoked (C-120/79 para. 14).

Dassonville and Cassis involved the free movement of goods. Case law has developed in somewhat different fashion with regard to services (both concerning cross-border service provision of temporary nature, and more permanent operations, i.e. establishment). But the fundamental principles at work are essentially the same, as illustrated by the Gebhard (C-55/94) case. There the ECJ concluded that national regulations that had the potential of hindering the exercise of a fundamental freedom had to fulfil four requirements: “they must be applied in a non-discriminatory manner; they must be justified by imperative requirements in the general interest; they must be suitable for securing the attainment of the objective which they pursue; and they must not go beyond what is necessary in order to attain it” (Ibid: para. 39). And as for goods, restrictions on the free movement of services include those which are only potential and indirect. In reality this has come to mean also cases without any apparent cross-border element (Gekiere, Baeten and Palm 2010: 474).

For a service to be subject to free movement, it needs first of all to be of economic nature. This generally means that it has to be provided for remuneration, i.e. a financial transaction of some sort has to take place (art. 50 TEU). Similarly, EU competition law becomes applicable when an entity (undertaking) carries out a service in exchange for a market-like transaction. Such transactions indicate that there is a structural potential for competition and choice (Davies 2006: 16). It should be noted that while competition law and the freedom to provide services (whether temporary or permanently) often overlap in specific cases, they need not always do so. As pointed out by the Advocate General in the FENIN case, actors performing services for remuneration are not automatically to be considered undertakings subject to competition law (C-205/03: para. 51). But the two legal concepts can arguably be said to make up two sides of the same deregulatory coin.

One can hence argue that the ball is in the member states' court; unless they create such “proto-markets” in their welfare services, economic law remains inapplicable. But in the EU today most states have already introduced vouchers, payment by result etc. in efforts to contain costs and increase choice. Most have also already allowed for private domestic providers to enter these systems (Ibid: 20). When such steps have been taken, it becomes very hard to deny entry for foreign providers – or to deny the full spectrum of EU economic law to become applicable (Greer and Rauscher 2011: 801). It can be noted that the Court so far has been slightly more inclined to allow for national exemptions from competition law than from freedom of movement. For example, in AOK Bundesverband it

conceded that “some competition” might be introduced into national welfare services without them being subject to the whole body of EU law (joined cases C-264/01, C-306/01, C-354-01 and C-355-01: para. 56). This ruling hardly served to clarify matters, and it remains to be seen just how much competition “some competition” means in practice (Prosser 2010: 324; Edwardsson 2007: 72).

The principle of mutual recognition has been an especially contested subject in recent years. The issue has been that the principle, when applied to services, has very different and more far-reaching consequences than when goods are concerned. Firstly, for services consumption nearly always coincides with production. This entails either that the consumer travels to another member state, or, as more often in the cases brought before the ECJ, that the producer does so (Höpner and Schäfer 2010: 352). And because of this merging of production and consumption, process standards – i.e. the rules governing how a service is produced, including labour law and corporate law – are much more important for producers' ability to differentiate their product in the market. This gives producers the incentive to engage in “forum-shopping” and locate production in member states with less stringent regulation. They would then still be able to rely on their freedom of movement and the principle of mutual recognition in order to carry out business across borders (K. Schmidt 2009: 852). The controversies surrounding the Services Directive (2006/123/EC) resulted in a restriction of the scope of the directive as well as any explicit mentioning of “country of origin” being removed (Ibid 2011: 44). Contrary to the intentions of the member states and the European Parliament, this does not seem to have changed the ECJ's interpretations of the fundamental freedoms listed in the Treaty.

In the cases analysed below I will offer more detailed descriptions of the areas of healthcare and labour law/industrial relations. The cumulative effect of the case law has been that the direct effect of EU law now has become applicable in areas few member states had envisioned only ten years ago (K. Schmidt 2011: 39). Furthermore, it can be argued that many national political actors have either failed to fully appreciate, or chosen to downplay, the fact that jurisprudence has indeed gone as far as it has; EU law is in this respect “in a strange state of unfulfilled potential” (Davies 2006: 13). This observation brings us to the next section.

3.2 The structural bias for negative integration

When explaining the liberalizing thrust of the last twenty-five years, Scharpf emphasizes the importance of the institutional arrangements of the EU and the decision rules therein. This aspect, he argues, has been neglected by scholars working in both the intergovernmentalist and neofunctionalist traditions. These have been too occupied with the policy preferences of actors, either in the form of member states' governments or the supranational institutions such as the ECJ or the Commission (1999: 64-67). This is not to say that we should do away with agency as an explanatory factor altogether. But when trying to capture the overall

thrust and direction of the European project, structural factors needs to be given due weight (2009: 6-7).

The central distinction is that between “positive” and “negative” integration. Positive integration refers to the process of political decision-making where the member states and the supranational institutions propose, agree upon, and implement common legislation which replaces national laws. According to Scharpf and other advocates of this perspective, the absence of positive integration in the area of social policy is hardly surprising. They note that agreement was hard to come by even among the original six founding member states, despite the fact that these shared many traits in the area and broadly can be said to (at least at the time) have belonged to the conservative welfare regime (Scharpf 2009: 8). Even though formal unanimity requirements have been somewhat relaxed in the area of social policy following the Maastricht Treaty (Falkner 2009: 10), formal and informal rules on consensus in the Council still often leads to proposals getting stuck in the “joint-decision trap” (Ibid 2011: 3-5).

Depending on the policy area concerned, there are a however a number of possible ways out of this trap. The ambitious relaunch of European integration project in the 80s, consisting of the completion of the internal market and the first steps towards the EMU, was made possible largely thanks to a thrust of “integration through law”, i.e. a more activist role for the ECJ (K. Schmidt 2011: 41). The member state economies were diagnosed as stagnant, inflexible and uncompetitive. All in all, the emerging consensus was that only a “quantum leap in terms of economic integration and competition rules and discipline” would suffice to get Europe back on its feet (Ferrera 2005: 113). The efforts to achieve this would primarily come to centre around what Scharpf terms “negative integration”, in particular through the principle of mutual recognition described above (1999: 48). It offered a way of advancing the project of European integration without having to engage in the increasingly cumbersome process of harmonization.

Again, it needs to be stressed is that Scharpf does not view this as primarily an ideological choice, neither by national or supranational actors. Rather it should be interpreted in structural terms by focusing on the “path-dependent doctrinal development” led by the ECJ (2009: 23, n. 40). What began with the principles of supremacy and direct effect in the 60's, and continued in the 70's with the cases of *Dassonville* and *Cassis*, provided a “ratcheting mechanism” for negative, Court-led integration through the abolishment of national regulations (Ibid).

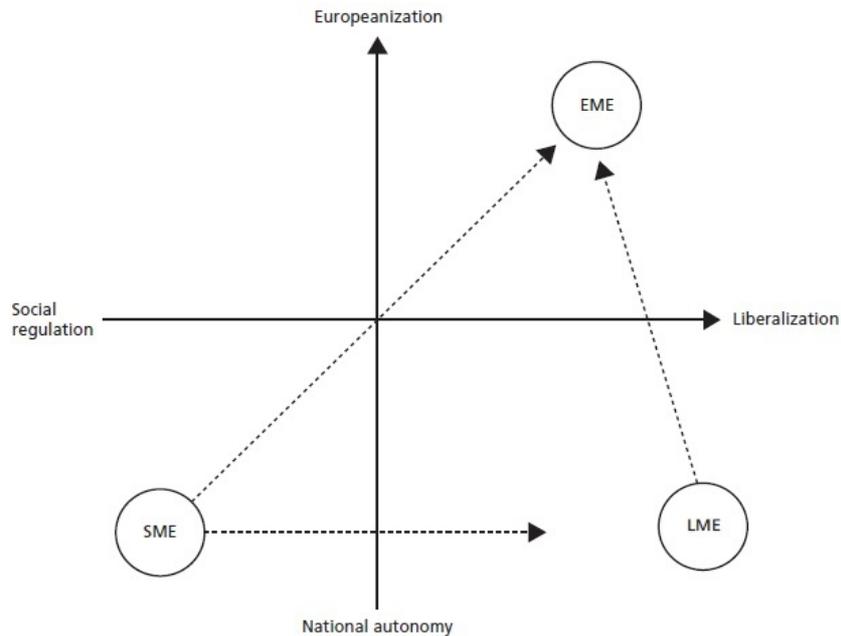
Some genuine harmonization of social policy did occur in the 90's. The member states were, for example, able to agree on common minimum rules regulating health and safety in the workplace. And not all forms of deregulation can be seen as purely “market-making”. Some aspects of gender equality was improved as several national rules and practices restricting women's access to the labour market were struck down during the process (Ferrera 2005: 116). The mid-90's also saw the European centre-left gaining ground, with social-democratic governments taking office in several member states. The “Employment Title” in the Amsterdam Treaty of 1999 was a product of this growing transnational cooperation between Europe's social democrats (Johansson 1999). The corner

stone of the Title was the Open Method of Coordination (OMC). The OMC, as a new and “softer” form of policy making relying on bench-marking and learning between member states, promised to break the stalemate that the unanimity requirements of the Council had hitherto posed and has since spread to other politically sensitive areas (Falkner 2009: 8).

How has this been possible given the difficulties of harmonization? According to K. Schmidt one possible explanation is that the member states simply have sought to pre-empt further action by the ECJ, the Commission, and/or private actors. They have thus agreed to measures “against their interests” in an effort to settle the matter once and for all (2011: 49). And as for the OMC and other innovations in the field, Scharpf concludes that the policies pursued through these instruments face the same constraints as member states do otherwise, as they are subject to the same EU legislation (2002: 655). Such initiatives hence have little to contribute to the creation of a more embedded or “social” market economy.

As has been suggested above, there is ample evidence that there is not only one, but several, ways to prosperity for advanced capitalist states in today's globalized economy (Scharpf and A. Schmidt 2000; Esping-Andersen 1999; Höpner and Schäfer 2010). Any predictions regarding the inevitable convergence around any one “model” or “regime”, whether discussing welfare states or systems of industrial relations, has proven premature indeed. Sweden's ability to uphold a stable economic performance whilst at the same time remaining true to the core characteristics of the social democratic welfare model should prove a case in point (Steinmo 2010: 44). Scharpf's central argument is that the current path of European integration dramatically alters this balance. For “social market economies”, which are characterized by combining a social democratic or a conservative welfare model with a highly coordinated market economy (implying for example various forms of corporate industrial relations and relatively regulated labour markets), the implications will be significant (Scharpf 2009: 25). They can be summarized by the figure below. It shows how social market economies (SME:s), as a consequence of negative integration, will have the national institutions underpinning their comparative advantages dismantled as the EU moves invariably into the upper right corner, a liberal European market economy (EME). Liberal market economies, such as the UK, Ireland, and many member states in Central and Eastern Europe, will have ample reasons to support this development as it plays to their economic advantage (Ibid: 29).

Figure 1 The effect of Europeanization on Social Market Economies (SME), Liberal Market Economies (LME) and the emerging European Market Economy (EME)



(Scharpf 2009: 27)

The series of controversial decisions taken by the ECJ in for example the Viking (C-438/05), Laval (C-341/05), Rüffert (C-346/06) and Luxembourg (C-319/06) cases will be dealt with in more detail in the next chapter. In short, these judgements have disallowed national regulations concerning the right to strike, the right to collective bargaining, and legislative wage determination, since they were deemed to impede the exercise of the freedom of establishment or service provision (Scharpf 2009: 21). As we have seen in previous chapters, these developments affects the very cornerstones of the Swedish model of industrial relations; as Scharpf puts it, “the Court’s decisions are undermining the institutional foundations on which the comparative advantages of coordinated market economies have depended” (Ibid: 27). Diminishing union power can, all else being equal, be presumed to lead to more fragmented bargaining and less wage restraint. Higher labour costs would in turn render Swedish companies less competitive and cause unemployment to rise.

For welfare services in these countries, the deregulatory effects of negative integration through ECJ jurisprudence has equally disruptive potential. The subjection of these areas to EU competition law and free movement principles clearly runs counter to the most basic purpose of social democratic welfare states: the struggle to “deliberately close of the market so as to maximize equality” (Esping-Andersen 1999: 79). Marketization of welfare services risks undermining the cross-class coalitions whose support Sweden's welfare model depend on in two simultaneous movements. Firstly, the financial balance of universal public

services depends crucially on the state's ability to plan and regulate both provision and consumption. The former is made more difficult by the introduction of new private providers, while the latter is complicated by both the exit of the state's own citizens (for example for seeking medical treatment abroad) and the entry of foreign citizens (Scharpf 2009: 28-29). This poses threats to the financial viability of the welfare state and might induce retrenchment, leading to deteriorating middle-class support when the quality of services suffers.

Secondly, the introduction of competition would necessitate a significantly more elaborate control system. If states lose control over the provision of services, this will be the only way of retaining their commitment to equality. As Davies notes: "Good, or tight, regulation can therefore fashion public institutions out of private components, and there is therefore no automatic decline in the sense of shared experience in a move to a regulated market" (2006: 49). In contrast, an inescapable aspect of market principles free at work is that there will, from time to time, be some providers that are "worse" than others. Equality is challenged, and citizens' will be stratified according to different logics. Those with the financial means to do so might be tempted to seek private solutions of higher quality.

Unless this asymmetry is in some way addressed, the consequence will not only be a gradual dismantling of social democratic and conservative welfare models. According to Ferrera, the current path will eventually cause a "political backlash" with "defensive mobilisation around the status quo" (2008: 90). Scharpf stresses that the institutional arrangements of today's EU are simply unable to deal with nationally salient issues in a satisfactory way. The principle of subsidiarity is insufficient in this respect. As a legal concept, it needs always to be interpreted in a uniform and predictable way. This makes it impossible for the Court to include country-specific political and normative aspects, for example related to the welfare state and systems of industrial relations, however democratically legitimate these might be (2009: 22).

One's view of the potential for change within the current system of course comes down to one's interpretation of how we got here in the first place; a structural explanation (in line with Scharpf) necessitates structural change. The problem that arises from the asymmetry between positive and negative integration is that the member states have lost control over national systems, without being able to counteract this by common legislation at the supranational level (Sindbjerg Martinsen and Falkner 2011: 129). This exacerbates the disruptive impact of globalization in general; rather than providing a common response to mitigate these challenges, the EU serves to further circumscribe national problem-solving capacity (Scharpf 1999: 193). It is also the case that negative integration through judicial activism by the Court is extremely hard to reverse. The only way of affecting the ECJ's interpretation of the Treaties is to change the Treaties themselves – which of course requires unanimity and is subject to the same difficulties that led to the preference for negative integration in the first place (2009: 10). Despite explicitly seeking to exclude several nationally salient policy areas from the reach of EU economic law, the member states have not been able to hinder the extension of Treaty-based, fundamental freedoms into these areas as well (Ibid: 23).

4 A theoretical framework

The aim of this section is to construct a theoretical framework that can explain why and in what ways the SAP has acted in the cases analysed. In doing so, I intend to draw on relevant findings from both theories in the field of Europeanization, and the research done on welfare state retrenchment. The concept of “misfit” forms the basis for my analysis as a precondition for the SAP to mobilize. It will be further elaborated upon before presenting the different potential causes for this misfit and other explanatory factors emphasized in the literature.

4.1 The roots and causes of misfit

Neither Europeanization or welfare state retrenchment literature contain theories that can be handily applied to the cases in this study without varying degrees of modification. Both tend predominately to be concerned with explaining or measuring observable change in different national domains. Europeanization is commonly used to describe how processes of European integration affects and causes (or fails to cause) change in the policies, politics, and polities of the member states (Börzel and Risse 2000: 2-3). Similarly, the study of welfare state retrenchment involves analysing how modern welfare states have responded (or failed to respond) to challenges posed by for example unemployment, declining productivity growth, changing demographics, or increasing middle class demand for service differentiation. Both these processes thus aims at explaining some sort of change – or lack thereof. This necessitates modification of some theories and exclusion of others.

Both Europeanization and retrenchment research is naturally mostly occupied with governments and their actions. The institutional design of the EU holds a prominent place for governments as legislators, although sometimes (and increasingly often) in tandem with the European Parliament. National parliaments and political parties in opposition have few means by which to formally feed into the policy process. But some theories of Europeanization do consider the response of national actors more broadly and might thus be useful for my purposes. The same can be said of many theories of welfare retrenchment; they deal with more general phenomena such as the role of organized interests or economic constraints, and how these affect actors' room for manoeuvre. The modifications undertaken nevertheless reduces the cumulativity of the study and its comparability with previous research in either field (George and Bennett 2005:

71). I will return to this issue in the final chapter when discussing the results and their generalizability.

I have taken inspiration from Vivien A. Schmidt's writings on "discursive institutionalism". Her central argument is that this aspect has been under-theorized and under-researched in many studies of Europeanization, in the sense that they do not include an analysis of how the existence of a misfit to some extent must be viewed as discursively constructed (A. Schmidt and Radaelli 2006: 187). Most theories simply do not account for how discourse can act as an "enabling" factor, to "overcome or neutralize interest-based opposition by appealing to commonly accepted or newly activated values and normative criteria of appropriateness" (A. Schmidt 2000: 308). It should be noted that "discourse" here is defined as "who said what to whom where and why", which is analysed in order to explain how ideas influence collective action (2010: 15). It is thus not seen as coming with certain ontological or epistemological presumptions (A. Schmidt and Radaelli 2006: 194).

The value of discourse (in the sense described above) to the study of the welfare state in general and the Swedish model in particular are obvious. Following Esping-Andersen, most scholars have come to emphasize the persistent differences and path-dependency of national models, rather than succumbing to a "end of history" theory of inevitable convergence. While the underlying mechanisms of decommodification and stratification might work in sufficiently similar ways across countries to enable us to talk of distinct regimes, it is nevertheless true that welfare states and systems of industrial relations have (to no small extent because of those very mechanisms) come to form inextricable parts of national identities. As a consequence, as Davies points out, pride in one's welfare model has to many Europeans become "the last bastion of respectable nationalism" (2006: 34).

Hence, as important as Sweden's degree of empirical "fit" in different typologies is the notion of the Swedish model as a "mobilizing image" of remarkable endurance (Ryner 2007: 64). Perhaps more so in Sweden than in any other country, welfare state expansion was from the beginning tightly linked to nation-building as a highly deliberate strategy by the SAP. The most obvious example is probably the 1928 speech by party leader Per Albin Hansson. His famous appeal to the Swedish citizenry to join in the social democratic vision of a "people's home" (*folkhem*) effectively wrangled nationalism out of the hands of the right and, in the ensuing decades, helped consolidate the SAP as the main exponent of public interest (Berman 2012: 245). Aylott makes a similar point in his study of the SAP and European integration. The main reason behind the Euroscepticism felt by many Swedish social democrats by the time of the referendum on membership, he argues, was not ideological in the sense that they opposed free trade or market integration. Rather, it was a distinct case of "welfare nationalism" (1999: 185).

Popular support for the national welfare model remains extraordinarily strong (Svallfors 2011). This is of course to be expected given the theories of positive feedback and stratification described above. This in turn helps create the peculiar "logic of appropriateness" of Swedish politics, where even parties ideologically

opposed to the current system should find it very hard to explicitly argue for radical change without paying the price at the ballot box. Whether certain parties are “really” committed to the aspects of Swedish model analysed here, or just paying lip service, is of course both hard to conclude and outside the scope of this thesis. I would however argue that the SAP can be safely assumed to consider themselves supporters of the model they invested decades of political struggle to put into place. They would do so for both ideological and electoral, office-seeking reasons.

Robert Cox makes a relevant observation with regard to the “Scandinavian” model; that its most important function today might be its usefulness as a strategic tool to political actors. As he puts it: “one need only adjust the priority given to different values to create an interpretation of the model that would resolve the conflict with the changing policies” (2004: 207). But he also notes that these core values (decommodification, solidarity, and universalism) do put a limit on the amount of conceptual stretching tolerated. It is paramount to once again state that the cases analysed below are chosen on these merits: that they are identified in the literature as posing potential *systemic* threats to the Swedish model. They are described by several authors as running counter to precisely those “core values” mentioned by Cox, or the basic underlying mechanisms of Esping-Andersen.

Here I find Elmerud-Præstekær's and Baggesen Klitgaard's (2012) distinction between “policy” and “institutional” welfare state retrenchment useful. Most studies of retrenchment deal with the first kind, which refers to direct and highly visible cutbacks in specific schemes or services (Ibid: 1089). This gives the researcher the opportunity to perform quantitative analyses and cross-country comparisons. Institutional retrenchment, on the other hand, is the term used for systemic, less visible changes. According to the authors these can involve transfers of authority between local and national levels of government, alterations to the balance between public and private providers, or changes to the role of interest groups in policy making and/or implementation process (Ibid: 1098). The fact that such developments probably only have longer-term effects (via for example the mechanism of stratification) which are hard to gauge by the average voter, they are not generally assumed to cause political mobilization. This is the central argument made by proponents of the “new politics” theory. According to Paul Pierson and other scholars working in this influential tradition, retrenchment is unlikely if it produces clear, highly visible losers which are sufficiently organized to punish politicians electorally (Starke 2006: 105-106). This is clearly not the case for institutional retrenchment.

Returning to the concept of misfit, it thus seems as if pressure to engage in institutional retrenchment should pose a rather tricky problem for social democrats. If the SAP is a rational actor, the party should be expected to fiercely oppose the changes at hand, since they undoubtedly constitute profound misfits in relation to the Swedish model. Some theories of Europeanization proposes that such high levels of misfit has the consequence of changing national opportunity-structures, making change more probable by giving voice to new actors (Börzel and Risse 2000: 11). If exogenous pressure empowers the opponents of the Swedish model, the SAP should have ample reason to mobilize in its support. But

what if the SAP never conceives of these challenges as misfits? Certainly, those making the case for change in line with EU policies can be expected to argue that they in fact are compatible with the basic values and principles of the Swedish model. But we cannot discern the possibility of political actors themselves not fully appreciating the scope and magnitude of some forms of institutional retrenchment. Hence, a paradoxical scenario might arise where changes are too big and fundamental to be perceived as changes at all.

4.2 Contributing factors

With the above observations in mind, I will now present the different factors that have been deemed relevant for the cases analysed in order to explain the SAP's actions.

4.2.1 Organized interests

As mentioned above, a central argument of the “new politics”-school is that the welfare state creates (stratifies) citizens into client- rather than class-based coalitions (consisting of beneficiaries of certain schemes), and that the mobilization of such groups help explain why welfare retrenchment generally is such a cumbersome endeavour. But, as we have also seen, one of the central characteristics of the social democratic regime is that universalistic policies of high quality can counteract such tendencies. Anderson (2001) has sought to refine Pierson's conclusions that partisan politics and labour mobilization have less explanatory power now than in the period of welfare state expansion. Her findings indicate that class actors, such as trade unions and employers' organizations, remain the relevant actors of analysis when studying welfare retrenchment in Sweden (Ibid: 1086). This is something also emphasized by Korpi and Palme (2003: 442). While Pierson's theory assumed a liberal welfare state, where benefits accrue to rather narrow groups who are easily identified and mobilized, the Swedish model largely rests on principles of universalism. Furthermore, a substantial part of the financing is covered by employer's contributions. This gives them an incentive to engage constructively in discussions on future policy changes. It is also worth noting that unions in Sweden are still responsible for the administration of unemployment insurance (through the so called “Ghent-model”), which to them remains a vital source of power (Anderson 2001: 1068). In sum, this underlines the need not to disregard the influence of the social partners in Swedish politics.

One might object that as the SAP are not in government for most of the period studied, corporatist arrangements should matter less. But we must also take into account the very strong affinity that still exists between the SAP and the Swedish Trade Union Confederation (LO). Even though collective (automatic) membership in the SAP for LO members was abolished in the late 80's,

institutional ties remain largely intact, especially at the local level (Haugsgjerd Allern, Aylott and Juul Christiansen 2007: 616). LO makes early donations to the SAP in the order of approximately 6 million SEK. This sum does not include contributions to election campaigns (LO 2012a: 2). In recent policy papers, LO states that the organization is “committed to social democracy and opposed to the bourgeoisie in accordance with that which forms the basis for all of the trade union movement's activities; power over the working life and over the distribution of the results of production” (Ibid: 8, author's translation). And as we have seen above, even if Swedish corporatism today suffers from an overall lack of “agreement on overall aims and problem descriptions”, this has if anything led to closer ideological kinship and organizational ties between the SAP and LO (Lindvall and Sebring 2005: 1070, 1063).

Can we make more detailed predictions of for example union mobilization? Anderson observes that “encompassing” organizations such as LO might in some cases be more prone towards accepting retrenchment, if this is perceived as an necessary evil in order to preserve the system at large (2001: 1073). But as we are dealing here with institutional retrenchment, such strategies seem implausible. What could be assumed to impact, though, is whether the proposed policies result in institutional changes that diminishes trade union power and influence (Elmerud-Præstekær's and Baggesen Klitgaard 2012: 1093). They should then be inclined to act politically, through the channels available, to resist retrenchment. And as Schumacher points out, LO in particular not only has a privileged position vis-à-vis the SAP, but also maintains the power to affect public opinion (2012: 1038). There may of course also be other actors that may be similarly affected; we should not ex ante rule out the possibility of other forms of organized interests mobilizing and having an impact on the SAP's actions.

4.2.2 Other parties' positions

Besides organized interests, the actions and policy preferences of other political parties should be presumed to play an important part. This is of course even more true when the SAP is not in office, as in most of the period covered by the cases. As the government represents Sweden's voice in the EU (or at least in the Council), they clearly hold a privileged position as regards agenda-setting and access to information. It is also the case that the opposition parties generally refrain from criticizing the government on EU-related matters. This is especially true when Sweden has held the Council presidency. Though there are notable signs of EU politics becoming more partisan and contested, the need for broad parliamentary consensus still forms the overriding concern (Tallberg et al 2010: 103).

Kitschelt argues that the policy retrenchment enacted by the SAP in the 80's and 90's was possible since disaffected voters “certainly could not turn to the more market-liberal bourgeois opposition parties and thus found themselves with limited alternatives to voice their satisfaction” (2001: 291). For similar reasons it is valuable to study the positions taken by parties close to the SAP on the political

spectrum. If these parties are perceived by voters as having a credible stance on welfare issues, social democratic parties should according to Kitschelt be more reluctant to propose retrenchment for fear of voter deflection (2001: 276).

Welfare policy in general still holds as one of the SAP's strongest issue areas. It is the issue most commonly associated with the party, significantly more often than for any other Swedish party (Statistics Sweden 2011: 56). Furthermore, the SAP is by a large margin perceived by the voters as the party with the best welfare policies (Ibid: 83). But in other respects the political landscape in Sweden has indeed changed, with the SAP suffering two consecutive election defeats to the centre-right coalition. It has been a widely reported fact that both these general elections (in 2006 and 2010) were fought primarily over employment – an issue up until 2006 firmly in the hands of the SAP, when it was taken over by the Moderate party (Ibid: 59). This development has not been lost on the SAP. In recent years the party has come to increasingly emphasize employment issues in its campaigns and policy proposals, as made evident in for example the policy paper agreed upon at the 2013 Party Congress (SAP 2013). The point here is that issue-specific credibility is both a relative concept and something that changes over time. It is far from self-evident what a “credible” welfare policy agenda looks like, or how important it will be in the struggle for marginal voters come election day. This, and because of the uniqueness of EU politics in general, is why I am wary of applying Kitschelt's more detailed hypotheses to the cases studied below. Still some general points can be made bearing in mind the insights from discursive institutionalism. The SAP will have to relate not only to “objective” economic or institutional factors when formulating their responses to exogenous challenges. Equally, and in some cases even more important will be the ideas and discourses put forward by other political actors, as these influence the framing of an issue. The SAP can be expected to be more inclined to mobilize if an issue already has been politicized by another party and framed in a way that poses it as a challenge to the Swedish model. If an issue on the other hand is handled by other parties as a matter of EU politics, in the sense that it constitutes foreign policy and thus requires cross-party consensus, this should make the SAP less prone to mount a staunch defence.

4.2.3 Financial vulnerability

Elmerud-Præstekær and Baggesen Klitgaard find empirical evidence in support of their hypothesis that policy retrenchment is relatively more likely when the need for urgent budgetary improvements are greater (2012: 1093). Indeed, one of the most taken-for-granted assumptions of much of the literature on welfare retrenchment is that it is primarily driven by financial constraints; that we are now for a multitude of reasons living in an “age of austerity” which forces governments to cut spending in one way or another (Pierson 2001: 82). The presence of an acute economic crisis and/or deteriorating competitiveness is similarly identified in Europeanization research as an important enabler for change (Schmidt 2002: 896). The question of course becomes to which extent

such pressures can be assumed to influence the propensity to enact also institutional retrenchment. As noted, such changes often only have long term effects. Acute budgetary concerns should thus not be assumed to be an important driving factor. Moreover, Sweden's public finances were widely regarded as being exceptionally strong during the period covered. Low public debt and a large accumulated fiscal surplus allowed the government to let automatic stabilizers play their part in full at the onset of the financial crisis of 2008 (OECD 2012: 25). There was no perceived pressure to impose the kind of excessive austerity measures seen in many other EU countries, most notably in the eurozone. Thanks to this and an accommodating monetary policy, Sweden's economic recovery has been strong from a public finances perspective (Ibid).

What could influence the SAP's actions, though, are concerns regarding the more long term economic sustainability of either the welfare system in general or specific schemes/services. A strong current position must not rule out worries about the future. During the 90's crisis, the SAP proved to be no stranger to rather severe policy retrenchment (Berg and O Erlingsson 2008: 77), as well as institutional retrenchment regarding for example the pension system. In the latter case long term financial sustainability was a clear concern for both the SAP and LO (Anderson 2001: 1078). With regard to the impact of European integration, fears of "welfare tourists" and spiralling costs could lead the SAP to oppose deregulation (Ferrera 2005: 220). As would the threat of a "race to the bottom" caused by regulatory competition and mutual recognition for service providers (K. Schmidt 2009: 852).

4.2.4 Changing preferences among citizens

Since the SAP is intimately linked to the Swedish model, public discontent with the quality of welfare services is likely to have a negative impact on the party's electoral support. Quality is of course largely determined by the financial factors discussed above. But, as Rothstein (2006) points out, the overall legitimacy of the system is also a matter of how services and schemes are implemented and organized. Not least following the so called "Study of Power and Democracy in Sweden" (Maktutredningen), a comprehensive committee inquiry which was initiated in 1985 and published its official report in 1990 (SOU 1990:44, Demokrati och makt i Sverige), there was a growing concern within the SAP that fundamental reform of the welfare model was necessary to accommodate citizen's changing preferences (Baggesen Klitgard 2007: 184). If the system was seen as rigid, overly bureaucratic, and insufficiently attentive to the increasingly heterogeneous preferences of the citizenry, the cross-class coalition between the working and middle classes might become endangered. In order to keep the middle class on board, choice and differentiation in some form would have to be introduced.

Such reforms would clearly constitute a form of institutional change, albeit not necessarily retrenchment. There is nothing inherently anti-social democratic about accommodating citizen's demands for a certain degree of differentiation.

Returning to the discussion on the fundamental values or characteristics of the Swedish model, choice in welfare services should not be regarded as institutional retrenchment unless it breaks with the principles of universalism or equality. The precise point at which this occurs is not easy to pin down. Again, the overwhelming majority of research done on the Swedish model indicate that retrenchment has been of the policy rather than the institutional kind. Recent ECJ rulings and EU policies, however, risk leading to such levels of diversity and fragmentation, primarily through the introduction of competition and market principles, that the stratifying mechanisms of the system would suffer (Davies 2006: 52). The point here is that the SAP should, bearing history in mind, be presumed to be a rather pragmatic actor. It is conceivable that the party's interpretation of the challenges posed by the EU is influenced by these historical "lessons", leading it to view them as institutional *change* rather than retrenchment. If the party perceives these changes as necessary in order to satisfy citizens' preferences for increased choice, this should temper their resistance or abolish it altogether.

4.3 Summary of factors

After this discussion we can summarize our findings. A precondition for resistance is that EU demands for institutional retrenchment are perceived of as constituting a misfit in relation to the Swedish model. Misfit is seen as being determined by both material and discursive factors. Hence, whether a misfit is identified or not is hypothesized to depend primarily on the following.

Chance of resistance increases when changes:

1. Are framed by other political parties as constituting a challenge to the Swedish model.
2. Result in institutional changes that diminishes trade union power and influence.
3. Are seen as posing a risk to the financial sustainability of the welfare state or to Sweden's economic performance/competitiveness in a wider sense.

Chance of resistance decreases when changes:

1. Are framed primarily as an issue of foreign policy, demanding national unity.
2. Are seen as a necessary response to citizens' increasing demand for choice.
3. Are seen as necessary to ensure the financial sustainability of the welfare state or Sweden's economic performance/competitiveness.

The factors outlined above represent those commonly cited as important in the existing literature on welfare state retrenchment and Europeanization. It excludes those variables which have been deemed either irrelevant or inapplicable for the cases analysed. One of the inherent features of case studies as such is that they are much better at assessing *if* and *how* a certain factor contributed to the outcome, than at describing *how much* it contributed (George and Bennett 2005: 25).

Furthermore, few of the theories outlined above provide testable hypotheses when adapted to the cases of this study, especially after being modified to better suit the task at hand. The study will hence not result in the definitive dismissal of any one theory as they have been originally described. Rather, the explanation of the SAP's actions will be used to further theory development, leaving the door open to the possibility that more than one theory may have contributed to the outcome in each case, or even overdetermined it – either on its own or by interacting with others (Ibid: 217-218).

5 Empirical analysis

This chapter will provide an account of the SAP's actions in each of the cases studied, guided by the theoretical framework presented above. It will begin with a short explanation of some of the methodological considerations made regarding for example the choice of sources. Then follows the cases, beginning with the issue of healthcare and its subjection to EU economic law, followed by the controversies surrounding temporary service providers and posted workers.

5.1 Methodological considerations

In the following analysis, the SAP will to a large extent be dealt with as a unitary actor. Its policy preferences will hence be interpreted as those expressed by the party leadership. Partly this is of course a choice dictated by time constraints. But it is also a deliberate strategy born out of the observation that the SAP is generally regarded as a predominately hierarchical, top-down organization. Though often portrayed as a decentralized party, the actual possibilities for grass roots-influence are small. At party congresses, for example, debates are often lively. But it is very rare for motions introduced by the leadership to be defeated (Aylott 1999: 37).

Both Aylott (1999) and Gustavsson (1998) stress in their respective studies the importance of the leadership's strategic management of EU membership issue ahead of the 1994 referendum. In the referendum on EMU in 2003, a similar strategy of "compartmentalization", meaning efforts to isolate the question from everyday domestic politics, failed. It is however important to distinguish these instances of direct democracy from other EU-related issues. In referendums, party members can be assumed to feel less obliged to back the leadership, partly because of said strategy of compartmentalization. Such strategies causes the rebellion to be seen as less damaging to party unity (Aylott 2005: 563). Following the referendum on EMU the party stated explicitly its ambition to mainstream EU issues and treat them as "ordinary" politics. Still, the overall picture seems to be one of a select few members being very engaged in these issues, while the broad debate among grass roots has failed to materialize (Rosén 2009: 262). There are thus good reasons for focusing primarily on the party leadership (including spokespersons and high-ranking parliamentarians) when studying the SAP's EU policies and statements. The choices of material have been guided by this observation. It consists mainly of official party documents and press releases, parliamentary material such as protocols and legislative documents, and debate articles in large newspapers. Secondary media sources have also been used.

The original “case” of this thesis is of course the Swedish Social Democratic Party, the SAP. The purpose is to explain the party's responses to exogenous challenges to the Swedish model. Bearing this, and the writings of Scharpf, Ferrera, and others outlined above in mind, my ambition has been to provide as broad a picture of the phenomenon as possible. Following Scharpf's analysis I hence found it useful to include one case primarily associated with the welfare model as well as one with potential implications for the model of industrial relations. As argued before these institutions constitute two interdependent and mutually reinforcing elements of the Swedish model. Together they underwrite the financial viability of and popular support for the model through the mechanisms of stratification and decommmodification.

5.2 European healthcare

Healthcare may well be viewed as the prime example of negative EU integration driven primarily by ECJ jurisprudence (Greer and Rauscher 2011: 799). As described above, the gradual deregulation of member states' healthcare systems gives rise to two separate movements. Firstly, it will encourage exit from national systems by citizens seeking care in other member states (Ferrera 2005: 130). This development is further encouraged by the codification of case law through the adoption of secondary law such as the Patient Mobility Directive (2011/24/EU). The desirability of a directive, with the purpose of clarifying a number of legal questions surrounding the free movement of patients, was in fact first brought up in the Council in 2005 by the Swedish SAP-government. The issue has a long history in the EU, as already in 1971 regulation 1408/71 was adopted which concerned the portability of social security rights.

There are however good grounds for assuming that the outflow of patients from the Swedish healthcare system will be negligible. Travel costs, geographical distance, and perhaps most importantly language barriers are likely to discourage citizens (Edwardsson 2007: 73). Rather it is the second effect which has the greater disruptive potential on the Swedish model. As discussed above, the subjection of healthcare to EU competition law and free movement principles would severely challenge the state's ability to plan and regulate the sector, as new private providers would seek entry both on a permanent and temporary basis. In the longer-term perspective this would jeopardize the stratifying mechanisms of the Swedish model and erode middle-class support.

As discussed above in relation to changing citizen preferences, Swedish welfare services have to varying degrees already been deregulated as well as decentralized to allow for increased choice. There has also been a marked shift towards steering mechanisms based on economic incentives and New Public Management principles. Most of these processes were initiated well before Sweden became a member of the EU (Madell 2011: 115). The point here is that this partial marketization of public welfare services should be viewed as primarily driven by endogenous factors, and that it has been the result of conscious political

choices (albeit in response to structural changes). In contrast, negative European integration as conceptualized by Scharpf entails the abrupt dismantling of national regulations while at the same time taking away possibilities of restructuring, either at the national or at the European level. This is something altogether different from the gradual changes within the existing social democratic welfare state which for example Rothstein (2006) point to as possible.

One aspect of the Lisbon Agenda was a renewed political commitment to the completion of the Single Market. There was no explicit call for an all-encompassing approach to services, which had up until now been allowed to develop on a case-by-case basis, mainly through ECJ case law (de Witte 2007: 2). Nevertheless, in late 2000 the Commission presented its “Strategic Paper for Services” which in its annex mentioned the possibility of applying the principle of mutual recognition also to services (Ibid: 3). The draft directive (COM(2004) 2/final 3) presented by commissioner Bolkestein in 2004 was met with fierce criticism by many member states, among them Sweden. The perhaps most controversial aspect was the sweeping introduction of mutual recognition as the default mode of regulation (K. Schmidt 2011: 44). As regards healthcare, opposition in both the Council and the European Parliament resulted in its explicit exclusion from the Services Directive (2006/123/EC art. 2 para. 2f). Several authors have commented that these changes from the draft proposal changed little in substance. The member states' efforts to exclude welfare from free movement and competition law through secondary law does nothing to change the Court's interpretation of the Treaty (Edwardsson 2007: 27). From this perspective, the final Directive only resulted in less legal clarity (Davies 2006: 43). This unsettled tension was manifested by the ECJ ruling in the Watts case (C-372/04) in May 2006. Here the Court stated that healthcare indeed was a service in accordance with article 49 TEU, that this fact was not affected by the organizational features of a particular national system, and that member states were prohibited from “introducing or maintaining unjustified restrictions on the exercise of that freedom [to provide services] in the healthcare sector” (Ibid: para 86, 90 and 92).

As mentioned, the SAP government took a clear stance on the Services Directive from the beginning. SAP parliamentarians spoke out against the draft directive in rather straightforward fashion, warning that it constituted a clear threat to the Swedish model and accused the Swedish Moderate party of endorsing it (SAP 2004-04-10). Then minister for health Ylva Johansson said in November 2005, ahead of the Council adoption of the revised Directive, that the subjection of healthcare to free movement principles would result in a system where treatment was granted according to the ability to pay rather than by medical need (SAP 2005-11-04). But as the SAP lost office in the 2006 general elections, it fell upon the centre-right coalition government led by prime minister Fredrik Reinfeldt of the Moderate party to implement the Directive. This process was finalized in 2009 through the parliamentary adoption of a new law on services in the Single Market (Lag (2009:1079) om tjänster på den inre marknaden) alongside a number of changes to existing laws (Proposition 2008/09:187).

The opposition parties (the SAP together with the Greens and the Left party) in a joint motion stated that the final Directive was the result from hard work by

unions and politicians, who together had “averted the excesses of the original Commission proposal”. They did not make any further references to the implications for the Swedish welfare model (Motion 2008/09:N19). A Left party parliamentarian, in the debate before the vote, did bring up a statement from minister for trade Ewa Björling, in which the minister had called for the future extension of the Directive to cover also healthcare. Björling had further stated that this was something which the government would pursue when holding the presidency of the Council in the second half of 2009 (SvD 2009-05-27). A member of parliament from the Centre party endorsed the minister's ambitions but the matter was not further debated at the time (Riksdagens protokoll 2009/10:23).

It did however prompt two written questions to minister Björling by SAP parliamentarians asking for further clarification regarding the government's position. To these Björling offered rather evasive answers, stating the merits of the internal market in more general terms (Skriftlig fråga 2009/10:823; Interpellation 2009/10:127). As the government did not succeed in its ambitions to extend the scope of the directive during the presidency, the issue disappeared from the political agenda for a couple of years. This was until ahead of the European Council meeting in March 2012 prime minister Reinfeldt, together with eleven other heads of government, sent a joint letter to Council president Van Rompuy and Commission president Barroso. The letter was a call for more growth-oriented efforts to get Europe out of the economic crisis. It emphasized the need to “act with urgency, nationally and at the European level, to remove the restrictions that hinder access and competition and to raise standards of implementation and enforcement to achieve mutual recognition across the single market” (“Joint letter to President Van Rompuy and President Barroso”, 2012-02-20). The letter was debated ahead of the meeting and met no objections from the SAP (EU-nämndens stenografiska uppteckningar 2011/12:25).

Alongside these explicitly EU-related events, national debates concerning the marketization of healthcare has at times forced the SAP to react. Soon after the 2006 election the centre-right government proposed to abolish existing restrictions on the privatization of hospitals. It was also suggested that private hospitals should no longer be obliged to rely exclusively on public funds to finance their operations, but be able to charge additional fees to some patients (Proposition 2006/07:52). Ylva Johansson, now acting as SAP spokesperson on the issue, claimed that the proposals constituted “a systemic shift” for Swedish healthcare (Riksdagens protokoll 2006/07:103). Similar arguments were put forward in the party's 2009 policy programme on healthcare. It described the difference between the SAP's policies and those of the bourgeois government as being rooted in deep ideological differences. The government's policies would make it harder to maintain equality and high quality in public systems, which risked leading to deteriorating support and a system where “only those who can afford to pay for themselves will have access to the best care”. It was also stated that less regulated systems, such as the American, were more expensive (SAP 2009: 8). There was thus no lack of political debate or ideological differences on the issue of liberalization – but nor was there any efforts to link these developments to the EU, either to justify or to oppose the policies in question.

There was also another, related issue which proved to be decidedly harder to deal with for the SAP: whether or not to allow for-profit private providers. Even though the issue was not restricted to healthcare, it deserves attention as it eventually came to involve questions of EU law. The matter was debated at the 2009 Party Congress. Ahead of the Congress representatives from the Confederation of Swedish Enterprise (Svenskt Näringsliv) wrote a debate article in Sweden's largest daily newspaper. The central argument was that any move towards restricting profits would severely discourage private providers to compete in the sector, which in turn would lead to less cost containment and efficiency (DN 2009-10-29). While several motions were introduced at the Congress calling for an outright ban on profits, the party leadership managed to secure agreement on a more fuzzily worded proposal which neither side was particularly happy with (Fokus 2013-04-05). It stated that providers, through stricter regulation and higher quality requirements, would be forced to invest returns back into their operations (SAP 2009: 74).

In 2011 and 2012 this unresolved conflict within the party was brought to the fore by a series of scandals of mistreatment at elderly care homes operated by private providers, whose owners at the same time had been able to extract large profits from their operations (DN 2012-02-28). The ensuing public debate was (and still is by the time of writing) intense and at times highly polarized. Ahead of the 2013 Party Congress, LO sought to push the SAP into adopting a more restrictive stance. The union presented a report arguing that all private providers of welfare services should by default have to register as a particular form of company, subject to a non-profit principle (LO 2013: 51). LO's proposal drew heavy criticism from organized business interests. Almega, the employer's organization representing the services sector, claimed it to be in violation of EU public procurement law. A dramatically worded debate article directed at the SAP leadership was publicized. It stated that it would not be possible to discriminate between different providers unless the party was willing to "turn back the clock" and make all welfare services public (DN 2013-02-05). This claim was refuted by LO. They responded that since welfare providers in most cases operated in the country on a permanent basis, they were subject to the freedom of establishment, which meant that "Swedish rules are fully applicable". LO further warned against unnecessarily circumscribing national discretion by pre-empting the ECJ in the area (SvD 2013-02-05).

At the Party Congress a compromise was reached. It was stated that healthcare was to be "democratically governed and jointly funded". The possibility to extract profits was to be "substantially restricted" through tighter regulation regarding "quality-related costs". Defying the warnings of a potential clash with EU law, municipalities were decided to be given the ultimate say on whether they wanted to allow for-profit providers to apply for tenders or not (SAP 2013: 20). But apart from this intervention from employer's organizations the debate was, as in the earlier case of the government's liberalization proposals, overwhelmingly framed as a national issue, without references to the EU.

5.3 Posted workers

The controversial Bolkestein draft directive for services was at the heart of this issue as well. As mentioned, the draft directive sought to introduce radical reform through a wide application of the principle of mutual recognition. This move seems to have been the result of a rather gross miscalculation of its power to persuade on the Commission's side (de Witte 2007: 11). Both the member states and the European Parliament mounted significant opposition. In the end, this resulted in the rewriting of article 16 of the Directive. This would no longer be titled “Country of origin principle” and any further explicit mentioning of this principle was deleted (COM(2004) 2/final 3). Instead, the negotiated text contains a long list of measures which the member states may *not* impose. Those are followed by an enumeration of justifiable requirements, which also includes the following: “Nor shall that Member State be prevented from applying, in accordance with Community law, its rules on employment conditions, including those laid down in collective agreements” (2006/123/EC art. 16.3). The SAP's minister for business and industry, Thomas Östros, hailed the agreement as a “great success” which allowed Sweden to keep its model for the labour market (DN 2006-05-29).

Several academic commentators took a different view of the Directive. K. Schmidt, pointing to the above mentioned article 16.3, notes that the list of justifiable derogations therein is much narrower than existing case law. She summarizes the long legislative battle thus: “The paradoxical result was that the final Directive, rather than to ameliorate the far-reaching application of the principle set out in the draft proposal, actually went even further” (2011: 45). Davies echoes this view and claims that the Directive in fact does introduce the principle of mutual recognition, albeit implicitly: “The situation where competing service providers on a territory are subject to different legal regimes – that they essentially bring their own legal regime with them – becomes the usual one” (2007: 8).

Having secured guarantees that the Swedish model was safe from regulatory competition and attempts at social dumping, the ECJ's rulings in the Viking (C-438/05) and Laval (C-341/05) cases in December 2007 seems to have surprised the SAP. Viking Line was a Finnish shipping company plying the route between Helsinki and Tallinn. When the company announced to the Finnish Seamen's Union (FSU) their intention to reflag one of their ships to let it sail under Estonian rather than Finnish flag, and its crew thus be bound by Estonian collective agreements, the FSU notified the International Transport Worker's Federation (ITF). The ITF sent a letter to unions in Estonia urging them to refrain from entering into contract with Viking Line. The company took legal action and the case was eventually referred to the ECJ, which had to consider whether the actions threatened by the ITF constituted a restriction of Viking Line's freedom of establishment. The court found this to be the case. The restriction could be justified only if “the jobs or conditions of employment of the FSU's members liable to be adversely affected by the reflagging of the *Rosella* [the name of the

ship] are in fact jeopardised or under serious threat”, and if the actions taken were necessary and proportionate in order to hinder this (C-438/05 para. 84).

In *Laval*, a Latvian construction company (*Laval*) was contracted by the Swedish municipality of Vaxholm to build a school. When in 2004 the Swedish building and public works trade union (*Byggnads*) tried to strike a collective agreement covering the Latvian workers posted by *Laval*, the company refused as it had already signed one with a Latvian union (C-341/05 para. 28). *Byggnads* subsequently took collective action and together with other unions put the building site under blockade (*Ibid*: para 34). *Laval* decided to take legal action, and the case was referred to the ECJ as it concerned the application of the Posted Workers Directive (PWD) (96/71/EC). The directive, agreed upon in 1996, was at the time considered a major feather in the cap for the European left (*Dølvik and Visser 2009: 497*). It was commonly believed that “its primary aim was to reinforce the social protection of workers rather than to facilitate the trade in services” (*de Witte 2007: 6*). As the Swedish model prescribes that wages be set in agreements between the social partners and without state interference, the Swedish law implementing the PWD did not include specifications about an enforceable minimum wage. Given this and the fact that *Laval* already were bound by a Latvian collective agreement, the ECJ was asked to rule on whether the collective action taken by *Byggnads* was lawful (C-341/05 para. 40).

The Court stated that *Laval* had in fact been discriminated against. As the posted workers were already subject to a collective agreement struck with Latvian unions, *Byggnads* was in no right to treat *Laval* “in the same way as national undertakings which have not concluded a collective agreement” (*Ibid*: para. 117). It also came to the conclusion that collective action taken in order to enforce wages or regulations which went beyond the “hard core” of worker's right enlisted in article 3(1) of the PWD constituted a restriction on *Laval*'s freedom to provide services (*Ibid*: para 99). Since the wages demanded by *Byggnads* could not according to the Court be considered “minimum rates of pay”, they could not be enforced (*Ibid*: para 70). Given how the PWD was commonly seen as constituting a floor of protection for posted workers these rulings were surprising to most commentators. *Joerges and Rödl* questions “whether Sweden’s delegates had realised that the directive required quite a substantial modification of the Swedish system of collective labour relations” (2009: 17). *Höpner and Schäfer* argues further that *Laval* had the effect of partly reversing the compromise reached over the Services Directive. The Court had “effectively restored the country-of-origin principle for all regulations that go beyond those explicitly mentioned in Article 3(1)” (2010: 354).

Together with the cases of *Rüffert* (C-346/06) and *Luxembourg* (C-319/06) in 2008, *Viking* and *Laval* sparked wide dissatisfaction among European unions and parties on the left. In Sweden the SAP requested a special parliamentary debate to be held on the 17th of December 2004, in the middle of *Byggnads*' blockade of *Laval*, challenging the newly formed centre-right coalition to defend the Swedish model. SAP parliamentarians accused the opposition parties of making statements in relation to the *Laval* conflict which were “deeply hostile towards unions, and hence also towards wage-earners” (*Riksdagens protokoll 2004/05:54*). While

members of the Moderate party tried to play down partisan differences on the issue, the Liberal party struck a less conciliatory note, claiming that LO and the SAP had “mobilized the hard core of the labour movement in order to crush a handful of low wage earners” whose “ambitions will be crushed and dreams of a better life broken to pieces” (Ibid). After the debate LO issued a statement saying that the Moderate party had “spoken with a forked tongue” and failed to provide any definitive answers (LO 2004-12-17).

The issue of posted workers and foreign service providers proceeded in several partially separate tracks. Following the ruling in the Laval case in December 2007, the centre-right government appointed an inquiry in order to clarify whether the Swedish law implementing the PWD ought to be changed. The inquiry was to present its conclusions in December 2008. A leading SAP member of the European Parliament concluded in a debate article that Laval “introduces a kind of country of origin principle” which had been rejected in the negotiations on the Services Directive (Europaportalen 2007-12-19). The SAP reacted very critically to the ruling in the Ruffert case in April 2008, claiming that it demonstrated the need for concerted action at the EU level to protect the rights of workers (SAP 2008-04-03). In September SAP party leader Mona Sahlin posed a written question to prime minister Reinfeldt, urging him to back an initiative from the European Parliament. This called for a “social protocol” to be introduced to balance the economic freedoms provided by the Treaty. Sahlin also asked Reinfeldt to seek a revision of the PWD (Interpellation 2008/09:19). The government responded that it would not push these issues, as it was unlikely that discussions would result in compromises favourable to Sweden (Riksdagens protokoll 2008/09:16).

The idea of some sort of social protocol had been discussed in many member states for some time, but gained new momentum following Laval and Viking. It was then taken up by the European Trade Union Congress (ETUC) and progressives in the European Parliament. In November 2008 time had come for the Swedish parliament to ratify the Lisbon Treaty, a decision requiring a three-quarter majority and hence necessitating SAP support. LO had after intense debate decided to act for the ratification to be postponed until after the inquiry regarding the Laval ruling had presented its conclusions. The organization's leadership for its part supported ratification. There was also deep divisions within the SAP parliamentary group, with some leading members openly urging LO to take a harder stance against ratification as this would force the party to do the same (Arbetaren 2008-10-30). Eventually the SAP leadership managed to get its parliamentarians on board (Motion 2008/09:U1). In the debate preceding the vote the SAP argued that the Treaty did provide for some strengthening of workers' rights and the “social dimension” in general. Nevertheless the government was urged to work for the introduction of a social protocol as well as a revision of the PWD in the coming year (Riksdagens protokoll 2008/09:32). The Left party and the Greens voted against ratification.

In parallel with the heated conflict following Laval, the government presented its proposal for a law implementing the Services Directive. As mentioned earlier this was generally welcomed by the SAP. But the proposal also contained

provisions which enraged the unions. LO, the Swedish Confederation of Professional Employees (TCO), and the Swedish Confederation of Professional Associations (Saco) disapproved of the government's decision to remove existing rules forcing foreign providers to have a “competent representative” stationed in Sweden for unions to negotiate with (SvD 2009-11-4). The SAP together with the Left party and the Greens tabled a motion echoing this demand, explicitly referring to the concerns expressed by the unions (Motion 2008/09:N19). The government's proposition nevertheless won parliamentary approval.

When the conclusions from the inquiry concerning the Laval ruling were presented both trade unions and the political opposition, not least the SAP, were critical and claimed it contained loopholes for foreign service providers (SvD 2008-12-12). LO and TCO gave a joint opinion to the consultation process. They claimed that the proposed legal changes, which came to be known as Lex Laval, would in fact violate both the European Convention on Human Rights and the International Labour Organization's (ILO) conventions (LO and TCO 2009: 7-9). During the debate before the parliament's adoption of the proposal, SAP parliamentarians accused the government of undermining the Swedish model by unduly limiting the right to collective action. Furthermore, the government was criticized for not sufficiently making the case for change at the EU level. Representatives from all four government parties in return claimed to protect the Swedish model and that the proposal only entailed marginal adjustments to Swedish law (Riksdagens protokoll 2009/10:82). In January 2009 the SAP once again urged the government to discuss the PWD at the next Council meeting. Minister for employment Sven-Otto Littorin answered that he was unwilling to do this, as the consequences of the Laval case could be adequately addressed at the national level (Riksdagens protokoll 2008/09:63).

In the election campaign of 2010, the SAP ran on a joint platform together with the Left party and the Greens. It contained promises to scrap Lex Laval and work for a revision of the PWD as well as a legally binding social protocol (“Regeringsplattform 2011-2014”: 6). As the centre-right coalition mustered enough support to remain in office and form a minority government, the red-green alliance broke up, but the SAP did not abandon these demands. As the economic crisis deepened and increasingly came to be perceived as a crisis of the eurozone, calls for Treaty revision in order to ameliorate some of the exposed shortcomings of the institutional set-up of the EU became commonplace. This in turn offered new and fertile grounds for both the SAP and LO to push their pet idea of a social protocol. Furthermore, the new parliamentary situation following the 2010 general election gave the opposition parties considerable leverage vis-à-vis the now minority government. The opposition was far from united in most areas, with the far-right Sweden Democrats tending to lend their support to the government's policies, but on some salient issues concerning the Swedish model common ground was to be found.

The widespread dissatisfaction in many member states and in the European Parliament following the ECJ rulings described above caused the Commission to take action. In 2012 it proposed two new legislative instruments. First was the so called Monti II regulation (COM(2012) 130 final), which sought to clarify the

relationship between the fundamental freedom to provide services and the fundamental right to collective action. The second instrument was a directive concerning the enforcement of the PWD (COM (2012) 131 final). It contained a long list of mechanisms (inspections, sanctions, etc.) aimed at ensuring better protection for posted workers. As some commentators have noted, it is unclear whether Monti II would have had any substantive impact on the Court's interpretation of EU primary law (Malmberg and Johansson 2012: 3). The question will remain a hypothetical one for the foreseeable future, as the proposal was dropped after twelve national parliaments had ruled it was in violation of the principle of subsidiarity (EUobserver 2012-09-12). In Sweden the political parties unanimously decided that the Commission had acted outside its competences when trying to regulate national systems of labour relations (Arbetsmarknadsutskottets utlåtande 2011/12:AU14). Despite this seeming consensus among all Swedish parties, the SAP took great credit for having forced the Commission to drop Monti II. It was described as the result of a EU-wide social democratic coordination effort involving “tight contacts with other parliaments around Europe” (Arbetet 2012-05-25).

Eventually the opposition parties were able to come together and outvote the minority government on two central issues. The first concerned the long-standing dispute over Lex Laval. In June 2011 the joint opposition, commanding a parliamentary majority, issued a notification (*tillkännagivande*) to the government. It dictated that the government was to launch a new inquiry regarding Lex Laval, as well as work at the EU level to revise the PWD (Arbetsmarknadsutskottets betänkande 2010/11:AU10). A new parliamentary inquiry, containing representatives from all political parties, was launched in 2012. In 2013 the International Labour Organization (ILO), following a petition from LO and TCO, issued an expert opinion stating that Lex Laval violated the ILO's Convention 87. The right to collective action could not be restricted by a proportionality principle (LO 2013-02-27). The SAP restated its commitment to abolish Lex Laval at the Party Congress in 2013 (SAP 2013-04-07). The second issue was the old demand for a social protocol. The opposition parties managed to gather a majority in favour of ordering the government to demand that the EU adopts a legally binding social protocol in connection with the next Treaty revision. Its purpose would be to make clear that the fundamental rights to collective action were not subordinate to the economic freedoms of the Treaty (Arbetsmarknadsutskottets betänkande 2012/13:AU5). The government parties called the idea “naive”, as the process of Treaty change risked “putting the Swedish model at stake” when consensus needed to be reached among 27 member states (SvD 2012-11-28).

The demand for a social protocol shows how the party had come to appreciate the need for changes not just to secondary law (the PWD), but to the Treaty itself. It is obvious that forces within LO had taken much inspiration from the academic debate on these issues, and the writings of Fritz W. Scharpf in particular. In late 2010 one of LO's legal advisors wrote a debate article calling on the government to use future debates on Treaty revision to push for a limit on the ECJ's powers. The article outlined the asymmetry between positive and negative integration, as

well as the structural imbalances of the EU which favoured the latter (Europaportalen 2010-12-14). In 2012, LO released a report titled “Democracy as an obstacle to the EU's free movement” (LO 2012b). The report draws heavily on Scharpf's writings, in particular the 2009 paper “The Double Asymmetry of European Integration Or: Why the EU Cannot be a Social Market Economy”. The authors draw similarly gloomy conclusions regarding the current path of European integration. It is stated that although a social protocol is necessary to ensure that workers' rights are protected, such an instrument cannot by its own repeal the EU's underlying structural flaws; for this more fundamental changes are required (Ibid: 26).

6 Discussion and summary

In this final chapter I will first briefly recapitulate on the purpose and theoretical foundations of the thesis. This will be followed by a discussion of the results from the cases analysed above. Finally, these results and the conclusions drawn from them will be put into context, discussing their contribution to previous research on the subject.

This study was prompted by an observation from Fritz W. Scharpf: that social democratic politicians in “coordinated market economies” were acting against their own interest by lending their support to the current path of European integration. They were, in Scharpf’s memorable words, “deluding themselves”. Other scholars claimed social democrats were rather deluding their voters, by using the EU as a cover for their own shortcomings (Bailey 2005). The purpose of the thesis has been to unearth why the Swedish social democratic party, the SAP, has reacted to the challenges of negative integration the way it has. Two cases have been analysed in detail: the subjection of healthcare to EU competition law and the freedoms of service provision and establishment, and the issue of posted workers, following the ECJ’s rulings in, in particular, the Laval and Viking cases. To which extent have these cases been perceived by the SAP as “misfits” in relation to the Swedish model? And which mediating factors have been influential in the process?

Since Scharpf’s basic argument is that social democratic parties have *not* mounted a sufficiently staunch resistance, and thus failed to appreciate the gravity of the misfit they are exposed to, this assumption has guided the choice of theoretical framework grounded in welfare state retrenchment and Europeanization literature. In some respects these theories have proven fruitful. In hindsight, however, Scharpf’s assertions might be seen as somewhat premature. The most obvious observation to be made from the cases above is that the SAP has both realised the threat of European integration and mobilized against it. This is the overall conclusion reached through the application of the chosen theories. But there are also noticeable differences between the cases.

I shall begin with those factors which have proven to possess less explanatory power for the cases studied. Economic vulnerability was not hypothesized to play a major role, for two reasons. Firstly, the fact that Sweden’s public finances during the period studied were by most observers considered very solid, even in the face of the economic crisis wreaking havoc on most of Europe. Secondly, as the institutional retrenchment at stake here is assumed to have mostly longer-term effects, more immediate cost containment is generally better pursued (and more easily sold to the electorate) through policy retrenchment. But how about the long run, then? The centre-right government has persistently argued in favour of retrenchment by invoking arguments of competitiveness and growth. This was

especially obvious in relation to its support for an extension of the scope of the Services Directive. Organized interests, for example in the form of the Confederation of Swedish Enterprises, have at times tried to push the debate on welfare services marketization in this direction – albeit not with reference to EU developments. The SAP has not justified support for retrenchment for economic reasons, either in healthcare or in the case of posted workers. In the latter case the opposite can be said to have occurred: it was often argued that Sweden's competitiveness was partly a product of its system of industrial relations, and that it had to be protected for this reason. And as for healthcare, the party pointed out that more deregulated systems were in fact less cost-effective.

To state that the positions taken by other parties has been important might seem like a trivial observation, given the government's privileged position as an agenda setter on EU issues. Sometimes, this has had the consequence of forcing the SAP to react to government proposals rather than take the initiative themselves. But this has far from always been the case. Especially following the government coalition's loss of a parliamentary majority in 2010, the SAP (in concert with the other opposition parties) has in several cases been able to take the driver's seat. The government has been forced to succumb to demands for a new inquiry regarding Lex Laval and whether Sweden should strive for a social protocol. These victories might have little substantive policy impact but have nevertheless been widely reported in the media. This also shows how Swedish EU politics have to a lesser degree come to be viewed as foreign policy, requiring cross-party unity, and more to resemble “ordinary” politics, subject to the same partisan divides. The ratification of the Lisbon treaty might be seen as an exemption to the rule, seemingly seen as too important by the SAP to “politicize” despite demands from LO grass roots to use the party's support as leverage vis-à-vis the government. On many occasions the SAP has tabled joint motions together with the Left party and the Greens. The three parties also ran on a joint policy platform in the 2010 general election. But there has been no findings to suggest that the positions taken by the other two have had any discernible impact on the SAP on these issues; the party has pursued the same policies independently both before and after these events.

Has changing citizen preferences affected the SAP's actions? As noted, the need to accommodate citizens' demands for increased choice and differentiation in welfare services has been a concern of the SAP at least since the 80's. The party today supports choice and private providers within a system of tight regulation and a high degree of public planning. But the prospect of having healthcare included in the Services Directive, and thus subjected to free movement and EU competition law, clearly constituted a step too far. With this threat seemingly disarmed the SAP leadership continued to thread a fine line in the national debates related to the issue. The question of profit extraction for private providers was a thorny one, often pitting ideologically motivated grass roots against the more pragmatic leadership. The ensuing compromise all the same disregarded warnings from business interests that its restrictions would be in violation of EU law.

The “new politics” strand of welfare state theorizing has held that class actors, such as trade unions and left parties, should play a less vital role in the process of

welfare state retrenchment than during its expansionary phase. This claim, put forward by for example Pierson (2001), has been refuted by proponents of the “power-resources” theory (Korpi and Palme 2003). I argue that the cases studied above provide support for the theory outlined by Anderson (2001). Trade unions clearly continues to constitute a major factor in countries with deep corporate roots, such as Sweden. Anderson noted that Swedish trade unions were able to mobilize effectively and avert threats to one of their institutional power sources, the administration of unemployment insurances. The ECJ's restrictive interpretations of their right to collective action, and the possibility of enforcing a general principle of mutual recognition for temporary service provision, undoubtedly represents similarly serious challenges.

As suggested by for example Lindvall and Sebring (2005), ties between the “two legs” of the Swedish labour movement, the SAP and LO, seems to be as close as ever (at least at the leadership level). It was earlier described how case studies are better at determining if and how a specific factor can explain a certain result – for example, in the form of claims that a factor is sufficient or necessary for the outcome observed (George and Bennett 2005: 26). I argue that union mobilization in this case constitutes a sufficient condition for SAP resistance to exogenous challenges. Swedish unions, also including the organizations for professional employees TCO and Saco but LO in particular, have throughout the process been a decisive force. They have participated actively in the public debate as well as used their institutional channels of influence to feed into the legislative process.

If what matters here is the potential of retrenchment geared at one of the unions' institutional power bases, as suggested by Anderson, the differences between the cases might be partially explained by the lack of actors with similar stakes in the area of healthcare. It is indeed hard to envision just which actor in the Swedish context that would take on this role. The losses resulting from this type of institutional retrenchment are exceptionally diffuse and, admittedly, rather hard to fathom. On the other hand, the gains from further deregulation would accrue to both domestic and foreign private providers. The Swedish employers' organization for service providers, Almega, did intervene in the national debate on profit extraction arguing that the SAP's proposals would violate EU law. They have also continued to push for the further liberalization of welfare services, including the inclusion of healthcare into the Services Directive (Almega, “Välfärden – nästa exportsuccé?”). But there is no evidence of this having an influence on the SAP's policy or actions. Indeed, what the analysis indicates is that the party is yet to fully grasp the potential implications of ECJ case law in this area.

Having secured a watered-down Services Directive before losing office in 2006, the SAP seemed confident that the threat had passed. None of the ensuing national debates on closely related issues were conducted with reference to EU law. There was an apparent, creeping suspicion of the centre-right government trying to extend scope of the directive, something which was duly noticed and criticized. In contrast, numerous academic commentators have pointed out that the Services Directive in fact did very little to change the way the ECJ is expected to

rule when it comes to free movement, competition law, and healthcare as a service among others. Secondary law is in these cases unlikely to affect the Court's interpretation of primary law.

This can be compared to case number two, in which LO issued reports drawing heavily on Scharpf's writings, and the SAP throughout the process demanded Treaty change and a social protocol. Admittedly, especially the Laval ruling might be seen as posing a more direct threat to the Swedish model as it took place on Swedish soil, with Swedish workers enforcing the blockade. But I would argue that this somewhat misses the point. What led the SAP to understand the severity of the misfit, and propose the policies necessary to amend it, was the heavy mobilization undertaken by LO and other national unions. In the absence of such organizations, whose institutional power bases are challenged by the changes at hand, it is hard to see what would give national politicians the incentive to look two, three, even four steps ahead in order to work out what the potential consequences might be of a string of ECJ rulings.

One additional factor contributes to this. Central to Scharpf's argument is the emphasis on structure rather than ideas and actors. I find this line of reasoning highly persuasive and illuminating. But it is also easy to see how it might fit rather uncomfortably with how most party politicians like to view the policy process and their part in it. If ideology and political preferences have not really mattered to the path which the EU has taken for the last decades, this insight might be partly "blocked" by politicians being predisposed to view politics as a battle over ideas, not decision rules and judicial interpretations. This cognitive bias is not something which can be either proven or dismissed by the findings of this thesis. But as a contributing explanatory factor it would form an interesting topic of investigation for future studies.

Also aside from the insights drawn from the application of the theoretical framework, some other points need to be made. The first is the role of pan-European left mobilization. In neither of the cases studied was the SAP alone in their resistance. Opposition to the inclusion of healthcare in the Services Directive was fiercely resisted by trade unions and left politicians across the EU, both at the national and transnational levels. The ECJ rulings in cases related to national systems of industrial relations sparked a similar, if not even greater, wave of political mobilization in a large number of member states as well as in the European Parliament and in the ETUC. As this aspect was not included among the initial factors, no strong claims regarding its importance can be made. But the demands for a social protocol in its current form clearly emanated at the European level. The SAP explicitly referred to the proposals put forward in the European Parliament, and ETUC's proposal (ETUC 2009) probably had an indirect effect as it was supported by LO.

As have been argued many times above, there is much merit to the approach of studying the welfare state and the national system of industrial relations as interdependent institutions. It is especially fruitful, even necessary, in countries such as Sweden, where the social partners have been entrusted with much power and influence over a wide range of areas. Still, this collapsing of policy areas is not without its complications. Though most of the challenges identified by

Scharpf and other scholars can be described in terms of institutional retrenchment, the results from the above analysis indicates that different policy areas are subject to rather different logics of mobilization and resistance. This makes it hard to formulate any general theories to hypothesize on and explain the strategic choices of actors, even when dealing only with a specific sub-class such as social democratic parties. It was explained in a previous chapter that the modification of certain theories to fit the task at hand might render the results less generalizable and accumulative. But the conclusions from the study nevertheless contribute to previous research. Anderson's observations regarding the enduring importance of trade unions was perhaps the theory which required the least modification to be applicable, as it already can be said to deal with institutional retrenchment. This fact makes it easier to directly evaluate its explanatory power – which, as mentioned, is deemed to be substantial. Ferrera hence made a valuable point when stating that “the new politics debate has tended at times to overstate its case, especially as regards the loss of explanatory potential of traditional variables” (2008: 99).

As far as the cases studied go, the SAP is hardly deluding themselves. The party has identified the misfits at hand and acted accordingly. But in order to fully understand the underlying mechanism causing the misfit, i.e. the structural asymmetry of European integration, and propose the changes necessary to ameliorate this, the party needed external pressure in the form of union mobilization.

6.1 Summary

The misfit of between EU policies and the Swedish model, resulting from negative integration driven primarily by ECJ jurisprudence, might be conceptualized as institutional retrenchment. A sufficient condition for it to be perceived as such by the SAP is that trade unions, and LO in particular, whose institutional power base is threatened by the developments at hand, mobilize to influence the party directly and/or through public opinion. The results support the claim that unions and employer's organizations, having been instrumental in the expansionary phase of the Swedish welfare state, remain the relevant actors also in cases of retrenchment. In both cases the SAP can be said to have resisted institutional retrenchment and identified a misfit. The issues were politicized and used to criticise the centre-right government. But it was only when subjected to union pressure that the party was able to draw the necessary policy conclusions, and propose changes not only to secondary EU law, but to the Treaty as well.

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