

# NEW INSTITUTIONAL PERSPECTIVES AND DEVELOPMENTS OF THE SOCIAL POLICY AT THE EU LEVEL

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## Abstract

*The landscape of social policy which is evolving within the EU presents challenges and opportunities for both institutional reform and policy innovation. Our research explores the potential of social policy in order to occupy a more central role in EU governance, and to also enhance the well-being of the European citizens. The challenge at hand is to strengthen social policy mechanisms at the supranational European level as to reinforce the EU's social dimension, ensuring at the same time greater cohesion and fairness across all member states.*

*Social policy is one of the fundamental aspects of European integration, aiming at ensuring that the EU is not only a common market, but also a community which is centered on its citizens. The Treaty on European Union and the Treaty on the Functioning of the European Union, after the Lisbon Treaty, establish as core objectives: social cohesion, workers' rights, and, of course, employment protection. This article examines the following aspects: the evolution of EU social policy over time, the competence structure, and new transversal approaches to labor market challenges.*

*A key focus is the competence distribution within social policy, especially the distinction between shared, coordination, and complementary competences in the EU.*

*Moreover, this article addresses key policy areas, such as: social security coordination, minimum wage frameworks, worker protection, and professional internships. The Draghi Report that is cited in this paper highlights the skills gap, stressing the need for EU-wide investment in training and mobility. Also, the Minimum Wage Directive (2022/2041) and regulations on platform workers shows the EU's commitment to reduce inequalities and ensuring fair labor conditions.*

*Finally, the article considers potential institutional reforms to strengthen the EU's social governance, arguing for an enhanced role in ensuring labor market resilience and social cohesion. By analyzing institutional perspectives and transversal approaches, this study contributes to the debate on expanding the EU's social dimension for the benefit of all citizens.*

**Keywords:** EU, integration, European Commission, social policy, competence, CJEU.

## 1. Introduction – the citizens as the center of the EU common market through the EU social policy

From the very beginning of the European integration process, social policy was included as a fundamental aspect of the European Economic Community (EEC). The Treaty of Rome (1957), which established the EEC, contained important provisions related to social policy, particularly in the areas of workers' rights, equal pay, and social security coordination. Art. 119 of the Treaty (now art. 157 TFEU) introduced the principle of equal pay for equal work between men and women, demonstrating an early commitment to social justice alongside economic integration. Additionally, the Treaty provided for the European Social Fund (ESF), which was created to improve employment opportunities and support workers affected by structural changes in the economy.

Throughout the time, social policy gradually expanded its role within the EU framework. This, in the 1970s, in response to economic crises and also social pressures, the European Economic Community began to, consequently, develop more structured policies for labor rights and social protection. After, that, the Single European Act (1986) continue to further emphasize the importance of social dimensions, by introducing provisions on health and safety at work. However, it was the Maastricht Treaty (1992) that marked an important

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step, by formally recognizing social policy as a core EU policy area and by incorporating the Social Chapter, which strengthened workers' rights and social dialogue between the employers and the trade unions.

The development of social policy continued through the treaty, namely with the Amsterdam Treaty (1997), which made employment policy a shared concern/competence among member states and the EU institutions. The Lisbon Strategy (2000) reinforced the EU's commitment to promote social inclusion, to fighting poverty, and also ensuring sustainable economic growth with an important social dimension. The culmination of these efforts was, of course, the Treaty of Lisbon (2009), the most recent modifying treaty, which explicitly recognized the EU's commitment to a "social market economy" and also introduced the Charter of Fundamental Rights of the European Union as legally binding, with treaty status, thereby securing fundamental social rights, such as fair working conditions, social security, and also access to healthcare.

Moreover, the European Pillar of Social Rights (2017)<sup>1</sup> represents a recent effort to strengthen social policy at the EU level, which outlines 20 key principles aimed at ensuring equal opportunities, fair working conditions, and social protection for all EU citizens.

These historical developments demonstrate that social policy has always been an important part of European integration, evolving alongside economic policies, in order to ensure that the EU remains not just a common market, but also a community that prioritizes the well-being of its people.

As we all know it, the EU was founded on the principles of economic integration, yet its evolution over time demonstrated that it aims to be much more than a mere economic project. While the Treaty of Rome (1957) established a common market, which was based on the four fundamental freedoms – free movement of goods, persons, services, and capital – legal and institutional developments that followed after reveal a broader view. Thus, the EU has reinforced its commitment, through legislation and caselaw, to placing the individual at the center of its legal and political framework, as reflected many times in the jurisprudence of the Court of Justice of the European Union.

These rulings reaffirm that the EU is not merely an economic construct, but a political and social entity, in which the citizen is and should always be the primary beneficiary. The Court's decisions have systematically reinforced the fact that market rules must serve individuals, and not the other way around. By affirming principles such as: non-discrimination, equal treatment, and individual rights, the Court of Justice of the European Communities has gradually shaped the European construct into a community, in which economic policies are instrumental in achieving broader social and political objectives.

This perspective, of course, challenges traditional views of economic integration. While the single market remains a fundamental pillar of the EU, a integration international organization, it is increasingly evident that economic policy cannot be detached from its social considerations. Thus, the principle that individuals – not corporations or economic interests – are at the core of the European project is a recurrent theme in EU's jurisprudence and EU's policy-making.

This evolving approach has significant implications for the future of social policy in the EU. If the European market is to be more than just an economic space, then the role of social policy must be reassessed to ensure that it adequately supports individuals in a rapidly changing economic and political environment. This includes revisiting institutional competences to enhance the effectiveness of social policy at the EU level, a question that becomes particularly relevant when considering whether coordination in social matters, as currently regulated under article 5 of the Treaty on the Functioning of the European Union, should remain as it is or be transferred to shared competence.

In this context, the next sections of this paper will examine the institutional perspectives and transversal approaches to social policy in the EU, with a particular focus on the potential for Treaty's revision to enhance the EU's capacity to address social challenges effectively.

Through a legal and institutional analysis, we will explore whether a more integrated social policy framework could strengthen the EU's social dimension, aligning it with its foundational principle that individuals, rather than markets alone, are the heart of the European project.

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<sup>1</sup> [https://commission.europa.eu/system/files/2017-11/social-summit-european-pillar-social-rights-booklet\\_en.pdf](https://commission.europa.eu/system/files/2017-11/social-summit-european-pillar-social-rights-booklet_en.pdf), last consulted on 28.03.2025.

## 2. The allocation of competence in the Treaties between EU and the Member States in the area of social policy

As we stated above, from its initial focus on economic integration, EU has evolved into a political and social project that seeks to balance economic growth with social cohesion and citizen well-being. This shift is explicitly recognized in art. 3 of the TEU, which establishes the EU's objectives and affirms the role of social policy as an integral part of the Union's mission.

At its core, the EU is built around the principle of the internal market, as stated in art. 3(2) TEU. However, the economic dimension is not pursued in isolation but is accompanied by a strong social component. The Treaty defines the EU as a „social market economy” that ensures not only high levels of competitiveness, but also strives for full employment and social progress. This highlights the EU's current commitment to an economic model that is not purely driven by market efficiency, but is instead human-centered, ensuring that economic growth benefits all citizens.

Along with its economic objectives, art. 3(3) TEU explicitly outlines the Union's social objectives, demonstrating the growing importance of social policy within the European framework. Title X on the Social Policy of the third party of the TFEU is a proof for this approach, establishes several key-priorities, such as: combating social exclusion and discrimination, ensuring that all citizens have access to opportunities and are protected from systemic disadvantages; promoting justice and social protection, reinforcing mechanisms that secure workers' rights, fair labor conditions, and access to social security; ensuring gender equality, a fundamental principle of EU law, aimed at eliminating discrimination in the workplace and fostering equal opportunities in all aspects of society; fostering intergenerational solidarity and protecting children's rights, acknowledging that social policy must consider the needs of both the young and elderly population; enhancing economic, social, and territorial cohesion, reducing disparities between regions; encouraging solidarity between Member States, a principle of the EU's redistributive policies, including funding mechanisms such as the European Social Fund (ESF) and the Cohesion Fund.

This comprehensive approach recognizes that sustainable development requires a balance between economic growth and social well-being. The emphasis on scientific and technological progress within the same provision also highlights the EU's vision on a social policy which is dynamic and forward-looking, also adapting to modern challenges, such as digitalization, climate change, and labor market evolutions.

By the explicit inclusion of social objectives in art. 3 TEU and by setting ambitious goals for social protection, inclusion, equality, and cohesion, the EU establishes a framework in which social policy is not merely a secondary concern, but a fundamental pillar of European integration. This way, the current legal foundation paves the path for further strengthening social policy, ensuring that the Union remains committed to creating a fair, inclusive, and socially just Europe.

As regards the allocation of competence, social policy is unique in that it is not governed by a single category of competence as other types of domains, but is instead divided into shared competence, coordination competence, and also complementary competence.

### 2.1. Shared Competence – art. 4(2) TFEU<sup>2</sup>

- Art. 4(2) TFEU indicates that social policy falls under the domain of shared competence between the EU and its Member States<sup>3</sup>.
- This means that both the EU and national governments have the authority to adopt legislative measures in this field. However, Member States can exercise their legislative powers only if the EU has not already acted in a given area (this is the 'occupying the field' principle, according to the subsidiarity principle).
- This is the strongest form of competence in which the EU can take legally binding measures<sup>4</sup> that override national legislation when necessary.

<sup>2</sup> See J.-P. Paul Jacqué, *Droit institutionnel de l'Union européenne*, 10<sup>th</sup> ed., Dalloz, Paris, 2023, p. 194.

<sup>3</sup> See J. Roux, *Droit général de l'Union européenne*, 8<sup>th</sup> ed., Lexis Nexis, Paris, 2024, p. 110.

<sup>4</sup> Fr. Martucci, *Droit de l'Union européenne*, 4<sup>th</sup> ed., Dalloz, Paris, 2025, p. 235: there are two questions: who adopts the binding legal act and what is the relationship between the EU legal act and national provisions.

## 2.2. Coordination Competence – art. 5(3) TFEU

- Art. 5(3) TFEU grants the EU competence to coordinate policies in social matters among Member States.
- Unlike shared competence, in this case, the EU does not have the power to impose binding legislation but can adopt measures to support and encourage coordination between national policies.
- Coordination typically occurs through soft law mechanisms such as recommendations, guidelines, and the Open Method of Coordination (OMC), which provides a framework for exchanging best practices.

## 2.3. Complementary Competences – art. 149 and 153 TFEU

- Art. 149 and 153 TFEU indicate that the EU has a supporting or complementary competence in certain aspects of social policy.
- In these areas, the EU can only take actions to support, coordinate, or supplement national policies but cannot adopt legally binding measures that require Member States to act.
- This means that legislative power remains with the national governments, while the EU can provide incentives, conduct studies, and facilitate cooperation between countries.

Robert Schütze is one of the authors who criticizes this *one policy – three competences* situation, analyzing the inclusion of social policy at the same time on the list of shared competences in art. 4 TFEU and within the coordination powers of the EU from art. 5 TFEU. The author finds the answer to this in the wording of art. 5 para. (3) TFEU, which talks about the fact that the EU *may* adopt initiatives to coordinate the social policy of the member states, in contrast to the *imperative* wording regarding the coordination of economic and employment policies. At the end of this analysis, the author asks why this express reference was necessary; is it because coordination initiatives are not already included in the shared competence for social policy in art. 4 TFEU? Is it necessary to conclude that the EU cannot adopt coordination initiatives outside the areas expressly mentioned by art. 5 TFEU? The latter conclusion does not contradict the reasoning „who can do more can also do less?“, asks Robert Schütze.<sup>5</sup>

## 3. The objectives of the current EU social policy: „Social Rights and Skills, Quality Jobs and Preparedness”<sup>6</sup>

The EU's social policy objectives have continuously evolved to address the challenges of a changing labor market, demographic shifts, and economic transformation.

### 3.1. The recommendations of the Draghi and Letta Reports

The Draghi Report<sup>7</sup>, authored under the leadership of former ECB President Mario Draghi, highlights the urgent need for structural reforms in the EU labor market and social policies, with a strong emphasis on bridging the skills gap. The report underscores that Europe faces a critical mismatch between labor market demands and workforce skills, exacerbated by rapid technological advancements, demographic shifts, and the green transition. In the field of social affairs and employment, the Draghi Report stresses that many workers lack the digital, technical, and soft skills necessary for emerging job sectors, particularly in healthcare, social care, and digital public services. This gap threatens not only economic growth but also social cohesion, as underqualified workers face job displacement and wage stagnation.

To address this, the report advocates for increased investment in education and vocational training, stronger public-private partnerships, and greater EU-level coordination to enhance workforce mobility. The EU's Recovery and Resilience Facility (RRF) and the European Social Fund Plus (ESF+) are key financial instruments to support skills development and requalification programs, and by tackling these challenges, the Draghi Report wants to ensure that social policy and employment strategies contribute to a more resilient, inclusive, and future-proof European labor market.

<sup>5</sup> See: M.-A. Niță, O.-M. Salomia, *Dreptul Uniunii Europene II*, 2<sup>nd</sup> ed., Universul Juridic Publishing House, Bucharest, 2023, p. 104.

<sup>6</sup> [https://commission.europa.eu/about/organisation/college-commissioners/roxana-minzatu\\_en](https://commission.europa.eu/about/organisation/college-commissioners/roxana-minzatu_en), last consulted on 28.03.2025.

<sup>7</sup> [https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961\\_en?filename=The%20future%20of%20European%20competitiveness%20-%20A%20competitiveness%20strategy%20for%20Europe.pdf](https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961_en?filename=The%20future%20of%20European%20competitiveness%20-%20A%20competitiveness%20strategy%20for%20Europe.pdf), last consulted on 28.03.2025.

The Draghi Report, along with the Letta Report<sup>8</sup>, constitute the foundation for the new Political Guidelines of the European Commission President for the 2024-2029 mandate<sup>9</sup>, providing key insights and strategic recommendations that will shape the Commission's upcoming social policy initiatives, which are aimed at enhancing the European Union's competitiveness and also implementing the concept of a social economy.

The Letta Report, on the other hand, which is authored by former Italian Prime Minister Enrico Letta, provides for a complementary perspective, by analyzing the future of the EU's Single Market and its role in driving social and economic integration. Thus, it explores ways to strengthen the balance between market efficiency and social cohesion, and underlines the importance of social investments, such as: in healthcare, education, and public infrastructure, as key-elements in fostering a sustainable and people-centered economy.

Both reports play a crucial role in shaping the European Commission's strategic direction for the next five years, especially in social policy reforms, influencing legislative measures in areas, such as:

- The European Pillar of Social Rights (EPSR) Implementation – Strengthening commitments to fair working conditions, social protection, and labor rights.
- Skills Development and Workforce Competitiveness – Expanding lifelong learning programs, digital upskilling, and vocational training initiatives to bridge the skills gap.
- Fair and Inclusive Economic Growth – Ensuring that policies support economic productivity while maintaining strong social safeguards.
- Advancing the Social Economy – Encouraging social enterprises, sustainable business models, and inclusive economic policies that prioritize social impact alongside profitability.

By integrating the recommendations of both reports, the 2024-2029 European Commission will focus on modernizing social policies to adapt to evolving economic realities, ensuring that competitiveness and social inclusion go hand in hand. This marks a shift towards a European economy that is not only growth-oriented, but also socially responsible, reinforcing the EU's role as a global leader in economic and social governance.

### 3.2. The social objectives of the 2024-2029 European Commission

Under the current European Commission<sup>10</sup>, the main pillars of social policy are framed around „Social Rights and Skills, Quality Jobs, and Preparedness”, reflecting a renewed commitment to inclusive growth, social protection, and resilience.

The first pillar, Social Rights and Skills, aligns with the principles of the European Pillar of Social Rights (EPSR), which seeks to ensure equal opportunities, access to the labor market, and fair working conditions for all EU citizens. A strong emphasis is placed on lifelong learning and skills development, particularly in response to digitalization and green transition challenges. Initiatives such as the Pact for Skills and increased investment in vocational education and training (VET) aim to equip workers with the competencies needed for future industries.

The second key objective, namely Quality Jobs, highlights the EU's commitment to fair wages, decent working conditions, and social protection. The Directive on Adequate Minimum Wages wants to reduce precarious employment; furthermore, providing enhanced labor rights for platform workers demonstrate a proactive approach to ensuring that economic growth translates into concrete benefits for workers. The Commission also seeks to improve job security, particularly for vulnerable groups, for example: young workers and those in non-standard forms of employment.

The third pillar, titled Preparedness, focuses on ensuring that the EU is also resilient to economic shocks, demographic change, and crises such as pandemics. It provides measures meant to enhance social security coordination across Member States, to strengthen healthcare and care systems, and to also support workforce adaptability in times of crisis.

<sup>8</sup> <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>, last consulted on 28.03.2025.

<sup>9</sup> [https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683-f63ffb2cf648\\_en?filename=Political%20Guidelines%202024-2029\\_EN.pdf](https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en?filename=Political%20Guidelines%202024-2029_EN.pdf), last consulted on 28.03.2025.

<sup>10</sup> The Vice-President Commissioner of the European Commission is a Romanian national, Roxana Mînzatu, whose portfolio includes both social affairs and education, grouped under the overarching objective of establishing a „Union of Skills”. This initiative aims to strengthen skills development, lifelong learning, and workforce adaptability across the EU, ensuring that education and social policies work in tandem to enhance employment opportunities, economic competitiveness, and social inclusion.

In conclusion, by structuring its social policy objectives around the above-mentioned three key-areas, the European Union aims to foster a socially inclusive, fair, and resilient Europe, also ensuring that economic development goes hand in hand both with social justice and the protection of citizens' rights.

From an institutional perspective, the creation of a Vice-President<sup>11</sup> portfolio within the new European Commission dedicated to the social domain highlights the importance given to social policy within the EU's strategic agenda. This decision underscores the need for cross-sectoral coordination between social policy and other key areas such as budgetary and financial policies, the internal market, and cohesion policy. By elevating social affairs to a higher institutional level, the EU signals a stronger commitment to ensuring that social policy is integrated into broader economic and governance frameworks, reinforcing its role in promoting inclusive growth, labor market resilience, and social cohesion across Member States.

Additionally, European Commission President Ursula von der Leyen has established fourteen Project Groups in the Commission to ensure, without prejudice, to the decision-making process the coordination on topical issues, on key crosscutting initiatives and horizontal policies. The aim of the Project Groups is to ensure preparation and political steer in the delivery of initiatives from conception to implementation. Each Project Group has its own mandate, composition, duration, and working methods. And each Group will be chaired by a Member of the College, designated by the President. The respective group chairs will be responsible for ensuring the successful delivery of its mandate<sup>12</sup>; one of this groups is dedicated to Skills, Jobs and Social Rights is chaired by the Executive Vice-President for Social Rights and Skills, Quality Jobs and Preparedness.<sup>12</sup>

### 3.3. Important social policy aspects: coordination of the insurance systems, minimum wage, worker protection, professional internships

The European Union's social policy framework encompasses several crucial aspects aimed at ensuring fair labor conditions, social protection, and equal opportunities across all Member States. One of the fundamental pillars of EU social policy is the *coordination of social security and insurance systems*, which guarantees that individuals who work, study, or retire in another EU country do not lose their social protection rights. This is regulated under Regulation (EC) no. 883/2004<sup>13</sup>, ensuring the portability of social benefits such as pensions, healthcare, and unemployment benefits across borders. By preventing the loss of social entitlements due to mobility, this system enhances the free movement of workers, a core EU principle, and strengthens social cohesion across the Union. The finalization of the revision procedure for the Regulation represents one of the first priorities of the new Commission in the social field<sup>14</sup>.

Another crucial aspect is the *minimum wage*, which remains a significant policy area aimed at reducing wage inequalities and ensuring decent living standards for all workers. While minimum wage policies are primarily under national competence, the EU has taken steps to establish common guidelines through the Directive on Adequate Minimum Wages (2022/2041)<sup>15</sup>. This directive does not impose a uniform minimum wage but requires Member States to promote fair and adequate wages through transparent mechanisms and collective bargaining, ensuring that all workers receive wages that meet cost-of-living requirements. Given the disparities in wage levels across the EU, this initiative is essential in reducing the risk of in-work poverty and strengthening the EU's commitment to social justice and economic convergence. Recently, the Opinion of Advocate General Emiliou delivered on 14 January 2025 in the case C-19/23 proposes to „annul in full Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union, on the ground that it is incompatible with article 153(5) TFEU and, thus, with the principle of conferral laid down in art. 5(2) TEU<sup>16</sup>.

*Worker protection* is another major area of EU social policy, ensuring that labor rights are upheld in the face of evolving workplace conditions, particularly in the digital and gig economy. The EU has introduced several directives aimed at improving health and safety standards, regulating working hours, and enhancing protection

<sup>11</sup> J.-P. Jacqu , *op.cit.*, p. 420: the decisions are taken by the College of Commissioners and are binding on it. The solidarity is the rule as in any government.

<sup>12</sup> [https://ec.europa.eu/commission/presscorner/detail/ro/ip\\_25\\_221](https://ec.europa.eu/commission/presscorner/detail/ro/ip_25_221), last time consulted on 28.03.2025.

<sup>13</sup> <https://eur-lex.europa.eu/eli/reg/2004/883/oj/eng>, last time consulted on 28.03.2025.

<sup>14</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52016PC0815>, last time consulted on 28.03.2025.

<sup>15</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022L2041>, last time consulted on 28.03.2025.

<sup>16</sup> CJEU, Opinion of Advocate General Emiliou, *Kingdom of Denmark v. European Parliament*, Council of the European Union, Case C-19/23, ECLI:EU:C:2025:11.

for platform workers. The Work-Life Balance Directive (EU) 2019/1158<sup>17</sup>, for example, strengthens parental and caregiving rights, while the Directive on Transparent and Predictable Working Conditions (2019/1152)<sup>18</sup> ensures that all workers, including those in precarious jobs, receive clear contractual terms and fair working conditions. The rise of digital labor platforms has prompted further EU-level initiatives to protect gig workers<sup>19</sup> from exploitation, reinforcing the need for modernized labor laws that reflect new forms of employment<sup>20</sup>.

Finally, *professional internships*<sup>21</sup> play a vital role in youth employment strategies, bridging the gap between education and the labor market. The EU promotes quality internships through the European Framework for Quality and Effective Apprenticeships, which establishes minimum standards for fair remuneration, learning opportunities, and working conditions. While internships provide crucial hands-on experience, concerns over unpaid or exploitative internships persist, prompting further EU discussions on ensuring fair compensation and legal protections for young workers entering the job market. Through funding initiatives like Erasmus+ and the Youth Guarantee, the EU seeks to improve access to quality traineeships and apprenticeships, ensuring that young people acquire the necessary skills for sustainable careers.

Together, these policy areas – social security coordination, minimum wage regulation, worker protection, and professional internships – demonstrate the EU's commitment to fostering an inclusive and resilient labor market. In this way, EU social policy aims to reduce inequalities, to promote labor mobility, and to enhance social protection, at the same time ensuring that economic progress benefits all European citizens, regardless of their employment status or location within the European Union.

#### 4. The transposition in Romania of the relevant EU legislation

Art. 1 of the 2003 Romanian Constitution explicitly states that „Romania is a democratic, social, and rule-of-law state”. Additionally, art. 41 contains provisions regarding „labor and social protection of labor”, while art. 47 focuses on „the standard of living”.

European regulations in this domain were transposed into the national legislation or applied directly, in order to ensure that Romanian citizen's benefit from the rights guaranteed at the EU level. Thus, this alignment with EU social policy and labor rights reflects Romania's commitment to implementing the European standards, ensuring that its social protection framework is consistent with Union's relevant regulations and principles.

The revised Regulation (EC) no. 883/2004<sup>22</sup> was transposed into national legislation during Romania's pre-accession period to the EU, while subsequent amendments and updates introduced through regulations have been directly applied. However, in certain cases, Romanian authorities have adopted specific national legislation to ensure the correct and efficient implementation of the Regulation's provisions.

An example of such an effort is Order no. 322/2024, issued by the President of the National House of Pensions on April 3, 2024, which approves the Methodology for Calculating Pension Rights in the application of Regulation (EC) no. 883/2004 of the European Parliament and the Council of April 29, 2004, on the coordination of social security systems, along with its subsequent amendments and Regulation (EC) no. 987/2009 of September 16, 2009, which establishes the procedure for the implementation of Regulation (EC) no. 883/2004. Additionally, this Order applies the provisions of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, on the one hand, and the United Kingdom of Great Britain and Northern Ireland, on the other, as well as bilateral social security agreements to which Romania is a party. These provisions entered into force alongside Law no. 360/2023 on the Public Pension System, further aligning Romania's social security framework with EU regulations and international agreements.

<sup>17</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1158>, last consulted on 28.03.2025.

<sup>18</sup> <https://eur-lex.europa.eu/eli/dir/2019/1152/oj/eng>, last consulted on 28.03.2025.

<sup>19</sup> A person who does temporary or freelance work, especially an independent contractor engaged on an informal or on-demand basis.

<sup>20</sup> See C.-A. Moarcăș, *Labour and social security in the third millennium – The touchstone of the knowledge society*, CKS Journal 2023, Challenges of the Knowledge Society, Bucharest, May 19<sup>th</sup>, 16<sup>th</sup> ed., „Nicolae Titulescu” University Publishing House, [http://cks.univnt.ro/cks\\_2023.html](http://cks.univnt.ro/cks_2023.html), p. 146. Discrimination in hiring and salaries, disregard of suitable working conditions, lack of transparency and participation in the decision-making processes that are relevant to employees' rights, surveillance at the working-place, including under teleworking circumstances are several aspects where over-reliance on AI tools are conducive to predominantly negative consequences and call for appropriate regulations and rules to be conceived and implemented”.

<sup>21</sup> The legislative proposal is currently under discussion at the level of the EU Council.

<sup>22</sup> Regulation (EC) no. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland).

Regarding the transposition of Directive (EU) 2019/1158, Romania has notified the European Commission's database of 40 national transposition measures/legal acts. Similarly, for Directive (EU) 2019/1152, Romania has reported 18 national transposition measures.

Law no. 283/2024, which amends and supplements various legislative acts to establish adequate minimum wages, has ensured the transposition of specific provisions from Directive (EU) 2022/2041 on minimum wages.

The European Commission's initiative on professional internships, once adopted, is not expected to pose significant challenges in terms of transposition, as some of its elements are already regulated under Law no. 335/2013 on internships for higher education graduates.

Furthermore, European social legislation, whether transposed into national law or applied directly by Romanian authorities, is also observed and interpreted by the judiciary in various labor disputes, ensuring compliance with EU labor and social protection standards. For example, in the case C-538/19 the request for a preliminary ruling concerns the interpretation of art. 56 TFEU and art. 20 of Regulation (EC) no. 883/2004 as amended by Regulation (EC) no. 988/2009 was made by the Court of Appeal Constanta in the context of a dispute between TS, UT and VU, the heirs of ZY, and the National Health Insurance Fund, Romania - Casa Națională de Asigurări de Sănătate and the Health Insurance Fund, Constanța - Casa de Asigurări de Sănătate Constanța concerning the latter's refusal to reimburse them the full cost of medical treatment given to ZY in Austria. The Court decided that art. 20 of Regulation (EC) no. 883/2004 in the line with the art. 56 TFEU, „must be interpreted as meaning that an insured person who has received, in a Member State other than his or her Member State of residence, a treatment which is among the benefits provided for by the legislation of the Member State of residence is entitled to full reimbursement of the cost of that treatment, under the conditions laid down in that regulation, where he or she has been unable to obtain authorisation from the competent institution, in accordance with art. 20(1) of that regulation, on the ground that, although the diagnosis and the urgent need for treatment were confirmed by a doctor belonging to the health insurance system of the Member State of residence, that doctor had prescribed a different treatment from the one which the insured person chose following a second medical opinion given by a doctor in another Member State, the treatment chosen, unlike the treatment initially proposed, not causing a disability”<sup>23</sup>.

## 5. Conclusions

Social policy has evolved along with the dimension of integration and the realization of freedoms of movement, while maintaining certain competences for Member States still at different levels of socio-economic development. The well-being of citizens remains at the heart of EU action in the social field, which has acquired a new dimension in the configuration of the current European Commission and its mandate.

One of the conclusions we could draw is that a revision of the EU Treaties could establish a common social policy under shared competence, eliminating the current coordination competence provided for in art. 5 TFEU.

As we know, the current framework of EU social policy is based on a mixed competence system, where social policy is divided between shared competence [art. 4(2) TFEU], coordination competence [art. 5(3) TFEU], and complementary competence (art. 149 and 153 TFEU). In our opinion, this fragmentation limits the EU's ability to implement binding measures in key areas of: labor law, social security, and employment protection.

Consequently, a potential revision of the EU Treaties could place social policy in its entirety only under shared competence, allowing the EU to adopt more uniform and enforceable social standards across all Member States. This shift would prevent legal discrepancies and inequalities in the application of social rights and worker protections across the Union. By eliminating the coordination competence, which currently restricts the EU only to a supporting role, the European Commission and Parliament would gain stronger legislative powers to enact policies that address: wage disparities, employment security, social inclusion, and also labor mobility.

Also, moving to shared competence would enable more effective enforcement of EU social regulations, ensuring that all Member States comply with minimum standards, particularly in sectors with cross-border labor mobility. This approach would strengthen worker protections, reduce social dumping (where companies relocate to Member States with weaker labor laws), and foster a more harmonized European labor market.

<sup>23</sup> CJEU, judgement from 6 October 2021, *TS, UT, VU v. Casa Națională de Asigurări de Sănătate, Casa de Asigurări de Sănătate Constanța*, Case C-538/19, ECLI: EU: C: 2021:809.



Another point that we consider important is the conclusion that the EU social policy regulations reinforce the free movement of persons, workers, and services, this fact ensuring that labor mobility is well supported by harmonized rights and protections.

The free movement of persons is enshrined in art. 45 TFEU and strengthened by secondary legislation such as Regulation (EC) no. 883/2004 on social security coordination, the ability of workers to move freely across borders being one of the most significant achievements of EU integration, conducing to economic growth, innovation, and of course to a more competitive labor market.

However, free movement alone is not sufficient; it must be accompanied by harmonized labor rights and social protections. Without adequate social policy measures, workers moving across the EU could face discriminatory labor practices, lack of access to social benefits, or difficulties in transferring their social security contributions. Regulations, such as the Posted Workers Directive (2018/957/EU), aim to combat wage disparities and ensure fair treatment of workers across all Member States.

Additionally, policies on minimum wages, worker protection, and professional mobility are essential to reducing inequality between higher-wage and lower-wage countries within the EU. By reinforcing the legal framework for labor mobility, the EU helps prevent exploitation and social dumping while encouraging businesses to comply with higher labor standards. Future legislative efforts could further integrate cross-border pension schemes, healthcare entitlements, and fair wage conditions, ensuring that the economic benefits of labor mobility do not come at the expense of social protection.

As regards the current institutional perspectives, we could notice that the creation of a Vice-President portfolio dedicated to social affairs and education under the European Commission demonstrates a stronger political commitment to social policy at the highest levels of EU governance. The appointment of Roxana Mînzatu, a Romanian national, signals that the new Commission's agenda will place significant emphasis on the „Union of Skills”, in order to promote lifelong learning, workforce adaptability, and also employment security.

We believe that this elevation of social policy within the EU's political hierarchy will ensure better coordination also with the economic policies, budgetary planning, the internal market, and the cohesion policy. Furthermore, by positioning social policy at the Vice-President level, the Commission can more effectively integrate labor rights, education, and employment reforms with broader EU priorities, such as the European Green Deal and Digital Transition.

Also, we can mention that the Draghi and Letta Reports have played an important role in shaping the EU's future social policy framework, influencing new measures that will enhance aspects such as: workforce competitiveness, minimum wage policies, and employment security. We could add that the increasing role of social enterprises, fair labor policies, and public investment in training programs are expected to be key pillars of the EU's 2024-2029 strategic agenda.

In conclusion, by aligning social policy with other European initiatives, the European Commission can ensure that the economic competitiveness does not come at the cost of social justice. Policies that protect workers' rights, regulate fair wages, and expand educational opportunities will not only strengthen the labor market, but also increase social cohesion and economic resilience in an era of rapid technological change, which is crucial nowadays.

From the jurisprudence's perspective, we believe that the CJEU will continue to develop EU social policy through its interpretation of primary EU law.

CJEU has historically played a pivotal role in shaping social policy, often stepping in to clarify, expand, and enforce workers' rights and social protections. Through landmark rulings such as *Defrenne v. Sabena* (Cases C-43/75 and C-149/77) and *Bosman* (C-415/93), the Court has confirmed the direct effect of social rights, ensuring that workers can invoke EU law in national courts when their rights are violated.

The CJEU has also reinforced the principle of equal treatment in employment, ruling in cases like *Drenne* (C-109/91) that occupational pensions must be treated as „pay” and thus subject to equal treatment requirements under EU law. Similarly, decisions regarding minimum wage implementation, posted workers' rights, and collective bargaining have shaped the interpretation and enforcement of EU directives in Member States.

Moving forward, the CJEU will continue to play a crucial role in expanding social protections, particularly as new labor market challenges emerge, such as platform work, AI-driven employment discrimination, and the

changing nature of employment contracts. Future rulings could further clarify issues, such as: the rights of gig<sup>24</sup> economy workers and their classification as employees or independent contractors; social security entitlements for cross-border workers, particularly in the post-Brexit regulatory landscape; the legality of national minimum wage laws in relation to the EU's Directive on adequate minimum wages (2022/2041); the application of EU labor protections in digital and remote work environments.

By interpreting primary EU law, the CJEU serves as a guardian of social rights, ensuring that national governments comply with European labor standards. Its case-law is expected to further integrate social protections across the EU, reinforcing the principle that economic freedoms must be balanced with social justice.

### Final remarks

The evolution of EU social policy reflects a broader shift towards ensuring fair and inclusive labor conditions, strengthening worker protections, and reinforcing the EU's social dimension alongside its economic goals. The potential revision of the TFEU could grant the EU greater legislative powers in social affairs, allowing for more harmonized policies across all Member States. Meanwhile, the European Commission's political agenda and CJEU case-law will continue to shape the practical implementation of social rights.

By addressing the skills gap, fair wages, labor mobility, and worker protections, the EU is moving toward a more socially just and economically competitive model. Strengthening social policy will not only benefit European citizens, but also enhance economic resilience, improve quality of life, and ensure that social justice remains a cornerstone of the European integration.

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<sup>24</sup> A person who does temporary or freelance work, especially an independent contractor engaged on an informal or on-demand basis.

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