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Sonja Bekker

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# Hardening and softening of country-specific recommendations in the European Semester

Sonja Bekker 

Department of Social Law and Social Politics, Tilburg University, Tilburg, The Netherlands

## ABSTRACT

This article conceptualises and illustrates hardening and softening trends in country-specific recommendations (CSRs) that are part of the European Semester. It proposes an analytical framework that meets the specific characteristics of CSRs: its adaptable and non-uniform norms, which are co-determined by actors operating across governance levels. It proposes three elements to analyse hardening and softening of CSRs, adding the degree of 'centralisation' to the often used elements of 'obligation' and 'enforcement'. Then it illustrates the framework with trends in CSRs given to Belgium and the Netherlands on pensions and wages. Both countries and topics show hardening as well as softening trends regarding the degree of obligation, enforcement and centralisation. The article suggests that a complete analysis of hardening and softening of CSRs requires assessing the degree of centralisation as well. Looking at obligation and enforcement alone could misinterpret the hardness or softness of CSRs.

**KEYWORDS** European Semester; EU governance; EU social policy; legalisation; Belgium; Netherlands

This article deals with hardening and softening of the country-specific recommendations (CSRs) that the Commission drafts and the Council endorses within the scope of the European Semester (Semester). It develops a framework to analyse hardening and softening trends in CSRs, fitting the dynamic character, which distinguishes them from stable and uniform norms. The article answers the question: what elements constitute a comprehensive analysis of hardening and softening trends in country-specific recommendations? It starts with an overview of the literature, describing the specific characteristics of CSRs. Next, the article builds on contemporary conceptualisations that distinguish hard from soft norms (Saurugger and Terpan 2020), and uses these to construct an analytical framework. By way of illustration, the article gives trends in CSRs on wages and pensions for Belgium and the Netherlands, using the elements and indicators of the framework.

**CONTACT** Sonja Bekker  [s.bekker@tilburguniversity.edu](mailto:s.bekker@tilburguniversity.edu)

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## Country-specific recommendations in the European Semester

The Semester is an annual governance cycle that coordinates socio-economic policies. It was implemented in 2011, aiming to strengthen EU economic governance. Moreover, the Semester integrates coordination mechanisms belonging to different policy domains, including social, employment, economic and financial policies (Bekker and Klosse 2013). The Semester coordinates these policy fields within one period and drafts a single list of CSRs for all policy fields. These CSRs may thus be underpinned by various coordination instruments with different legal bases: the Stability and Growth Pact (SGP), the Macroeconomic Imbalance Procedure (MIP) and the employment policy coordination.

The SGP, MIP and employment coordination each consist of different stages of policy monitoring, requiring actions from the EU level as well as the national level. Employment policy monitoring is non-binding, and is referred to often as an Open Method of Coordination (OMC) (Sabel and Zeitlin 2008). It starts with setting EU-level goals, to which member states respond in national reform programmes, followed by EU-level country evaluations (e.g. in Country Reports). These evaluations form the basis of CSRs that recommend how a country should or could improve its performance. While the SGP and MIP have similar coordination processes, a main difference is that they have a preventive and a corrective arm. The latter consists of stricter monitoring, including additional requirements such as writing extra reports. An ultimate option is imposing fines for perpetual non-compliance. Thus, some CSRs have more coercive elements if underpinned by the SGP or MIP. Others are ‘soft’, referring to the employment OMC. These coordination mechanisms and related rules have been explained extensively elsewhere (e.g. Dawson 2015; Hinarejos 2016). The coordination mechanisms underpinning the CSRs influence each other, as policy issues do not belong exclusively to a single coordination instrument (Dawson 2018). Social policies, such as health care, education or poverty reduction, may be based on the ‘hard’ SGP or MIP, or on the ‘soft’ employment OMC (Armstrong 2013; Bokhorst 2019; Hinarejos 2016). Thus, coordinating social policies might happen with more force, using economic and financial coordination instruments (Dawson 2018). For instance, the topic of (un)employment, which seemingly fits the employment OMC, is also part of the MIP, and sometimes even features in CSRs stemming from the SGP (e.g. Italy in 2018 and Spain and France in both 2014 and 2015). In 2013, Bulgaria and Hungary received CSRs on poverty, underpinned by the MIP (Bekker 2015). After 2015, the Juncker Commission started focusing CSRs on priorities, reducing their number per country, as well as giving vaguer policy descriptions (Zeitlin and Vanhercke 2018).

**Table 1.** Analytical framework for hardening and softening of CSRs in the European Semester.

Element		Indicators towards softening	Indicators towards hardening
Obligation	<i>Codification</i>	Attaching norm to a non-binding rule: employment OMC	Attaching norm to a binding act: moving towards MIP and/or SGP
	<i>Precision</i>	Getting less precise <ul style="list-style-type: none"> <li>• Vague description;</li> <li>• General standards</li> </ul>	Getting more precise: <ul style="list-style-type: none"> <li>• Unambiguous rules explaining conduct they require, authorise, or proscribe;</li> <li>• Highly elaborated or dense, detailing conditions of application, spelling out required or proscribed behaviour</li> </ul>
Enforcement		Moving towards preventive arm Less frequent policy monitoring	Moving towards corrective arm More frequent policy monitoring
Centralisation		More national actor involvement in drafting a norm Fit with national priorities Uncontroversial, not challenging institutional arrangements, minor policy changes	Less national actor involvement in drafting a norm No fit with national priorities Far-reaching structural reforms, undermining institutional context, requiring fundamental change

Source: own conceptualisation, building on Abbott et al. 2000; De la Porte and Heins 2015; Saurugger and Terpan 2020.

The use of more coercive forms of EU governance to trigger national social policy reforms has sparked quite some debate, including on national autonomy, legitimacy, effectiveness, and the domination of economic over social goals (Copeland and Daly 2015; Crespy and Menz 2015; De la Porte and Heins 2015; Verdun and Zeitlin 2018; Zeitlin 2016). Simultaneously, the Semester adjusts its goals over time and tailors CSRs to national challenges (Bekker 2018). Consequently, CSRs may change from year to year and may differ from country to country. While national governments might experience higher or lower degrees of pressure to implement reforms along the lines of the CSRs (Chang *et al.* 2019; Vanheuverzwijn and Crespy 2018), the Semester is neither a centralised form of hierarchical steering nor a purely intergovernmental exercise. The Semester oscillates somewhere in between (Verdun and Zeitlin 2018). This means that analytical frameworks using only ‘top-down’ and ‘bottom-up’ approaches may be too static or incomplete (De la Porte and Natali 2014; Verdun and Zeitlin 2018). Therefore, this article attempts to develop a framework that also captures hardening and softening in the phase of drafting norms by EU-level and national actors, as well as the fit of reforms proposed by CSRs with national debates and practices (see Table 1).

Apart from norms (CSRs) having different legal bases and an ever-changing content, it is relevant to understand the Semester as a process where different actors meet to negotiate targets, CSRs, and the timing of

reforms (Maricut and Puetter 2018; Zeitlin and Vanhercke 2018). Scholars point at ‘feedback loops’ from the national to the EU level (Saurugger 2014) or set the dynamic interactions of actors within a multi-level framework (Schmidt 2018; Zeitlin 2016). At present, the Semester allows for several bilateral meetings and negotiations between EU-level and national-level representatives. This could lead to ‘softening’ the message of a CSR. Normally this softening may be viewed as a watering down of reforms within the national-level interpretation and implementation stages. As such, national instruments, resources, politics and willingness might play a role in implementing EU policies, regardless of these being communicated using soft or hard law instruments (Eihmanis 2018; Ferrera 2014; Hartlapp and Hofmann 2020; Louvaris Fasois 2018; Martinsen and Vollaard 2014; Vanheuverzwijn and Crespy 2018). However, a softening process might also happen while formulating the norms in joint interaction with national actors, thus before the final norms are communicated to the national level. Actors’ dynamic interactions might lead to a softening of draft CSRs if core EU messages get weakened or adjusted to national concerns before being communicated to the national level. Important in this respect is the opening up of the Semester after 2015, including more dialogue with national stakeholders (Vanheuverzwijn and Crespy 2018; Zeitlin and Vanhercke 2018).

This article contributes by clearly spelling out the elements and related indicators that matter when analysing hardening and softening processes in CSRs. It builds on current frameworks using the degree of obligation and enforcement (Saurugger and Terpan 2020). However, given the particular characteristics of the Semester as an example of multilevel governance, which includes dynamic interactions of policy-makers across governance levels, as well as an absence of uniform and stable norms, the article suggests adding the degree of centralisation as a third element to analyse hardening or softening (see Table 1). Additionally, the framework gives indicators, operationalising ‘obligation’, ‘enforcement’ and ‘centralisation’ in the particular case of CSRs. Then the article illustrates the framework by looking at the CSRs that the Netherlands and Belgium have received on wages and pensions.

### **Analysing hardening and softening trends in recommendations: a framework**

The proposed framework to analyse hardening and softening of CSRs builds on the definitions of legalisation and the continuum between soft and hard law. Abbott *et al.* (2000) distinguish three elements when defining legalisation: obligation, precision and delegation. On one side of the continuum, are precise and legally binding obligations with related third-

party delegation. Moving towards the other side of the continuum, softer forms of legalisation are less precise, include less binding obligations, and have weaker forms of delegation (Abbott and Snidal 2000). Each of the three elements comes in different degrees and gradations, making the definition of legalisation a continuum, and not a rigid dichotomy (Abbott *et al.* 2000). Moreover, each of the elements can vary independently from each other. For instance, a single norm might combine high precision, medium obligation and a weak level of delegation.

Building on Abbott *et al.* (2000), Saurugger and Terpan (2020; Terpan 2015) propose using two instead of three elements to place hard and soft law on a continuum: obligation and enforcement. First, and contrary to Abbott *et al.* (2000), they do not view ‘precision’ as a distinctive element, but rather see it as part of the element ‘obligation’. Second, they broaden the notion ‘delegation’, and propose using the term ‘enforcement’ for a second element. Explaining ‘obligation’, Saurugger and Terpan (2020) argue that the difference between hard and soft law does not depend only on the mere existence of an obligation, but also on how obligation is enforced. The degree of precision co-determines the existence and intensity of an obligation (Terpan 2015). ‘Enforcement’ is a broader notion than delegation, allowing account to be taken of a range of mechanisms that ensure that actors fulfil obligations or achieve the assigned goals. It includes delegation to a third party, as well as different procedures and instruments such as guidelines, standards and instructions. Using the elements of obligation and enforcement, norms can be placed on the continuum by looking at their nature and content (Saurugger and Terpan 2020). This continuum is also helpful to determine hardening or softening trends, as a trend would mean a move towards one side of the continuum, at least on one of the elements. Specifying the framework to analyse CSRs, this article proposes to add a third element of ‘centralisation’ to complement ‘obligation’ and ‘enforcement’. Centralisation may help to account for the absence of stable and uniform norms as well as the inclusion of both EU and national-level actors in the design of CSRs (see also De la Porte and Heins 2015). The remainder of this section spells out the indicators for assessing the degree of obligation, enforcement and centralisation of CSRs.

### ***Obligation: coordination mechanisms underpinning CSRs and precision of CSRs***

Two aspects of obligation are relevant: the codification of a norm and its precision. A high degree of obligation means that states or other actors are legally bound by a rule or commitment (Abbott 2000), and that it describes precisely the nature of the obligation (Terpan 2015). It matters whether a

norm is codified in a binding act and/or whether a norm is clear and leaves little to no room for interpretation. Translated to CSRs, this refers firstly to the coordination mechanisms underpinning a CSR: the SGP, MIP or employment OMC. Shifts towards being underpinned by the MIP and/or SGP constitute ‘hardening’, while softening occurs when moving from the SGP or MIP towards the employment OMC. Secondly, precision is of eminent importance to assess hardening and softening trends in CSRs. CSRs may become less ambiguous in reform demands, having highly elaborated or dense messages, detailing conditions of application, or spelling out required steps towards reforms (Abbott *et al.* 2000). This narrows down the scope for interpretation on what needs to be done, and limits choosing alternative policies, which may be seen as hardening. In practice, CSRs may mention the names of specific reforms, or a specific national Act that needs to be adopted, at times including deadlines for implementation (Zeitlin and Vanhercke 2018). The softening of a CSR would entail a trend towards vaguer norms, communicating less precise ideas of what the member state needs to do.

### ***Enforcement: preventive versus corrective arm and frequency of monitoring***

Enforcement in CSRs is viewed in two interconnected ways. The first is whether CSRs that are underpinned by the MIP or SGP belong to countries in preventive or corrective arms of surveillance. The second is the frequency with which monitoring takes place. Countries within the preventive arm might experience less pressure to reform than countries in the corrective arms of surveillance. Going from a preventive to a corrective arm, or moving up the ladder within a corrective arm, constitutes hardening attached to the CSR. In corrective stages, the frequency of monitoring increases, demanding additional evaluation reports from the Commission or national governments. De la Porte and Heins (2015) point at the relevance of *ex ante* versus *ex post* surveillance, or a combination of the two. Infrequent and only *ex post* surveillance, such as in the employment OMC, is the softest form within the Semester, meaning that assessments of meeting CSRs relate to national reforms that have been implemented already, rather than predetermining a country’s course.

### ***Centralisation: national actors co-determining EU norms and their fit with national policies***

This article argues that the specific characteristics of the Semester and its CSRs require looking at the degree of centralisation as well. In particular, the influence of national actors on drafting CSRs is relevant, as they

might change the content and/or precision of a CSR before it is communicated to the national level. Such changes may entail softening the message of a CSR. One could argue that actors changing the content of a CSR may already be captured by the degree of precision (part of the element of obligation). Rather, centralisation refers to national actors being involved in changing the content of a CSR, as well as the degree of ‘intrusiveness’ of EU policy suggestions into national affairs (Clauwaert 2016; Copeland and Daly 2018; De la Porte and Heins 2015; Guidi and Guardiancich 2018). De la Porte and Heins (2015) refer to the fit of proposed reforms with national priorities, as well as reforms requiring minor versus fundamental policy changes.

This content of a norm is not always taken into account. Abbott *et al.* (2000: 412) explicitly view the ‘substantive content’ and ‘legalisation’ as distinct characteristics, and find a precise rule not necessarily more constraining than a more general one, as their actual impact on behaviour depends on many factors. They define legalisation explicitly in terms of key characteristics of a rule or a procedure, and not in terms of their effect. This article does not assess the effect of CSRs either. Rather, it looks at the space national actors have to influence the content of a CSR before it is communicated to the national level. An example of why this matters is the CSR on ‘statutory’ versus ‘effective’ pension age. In terms of the degree of obligation and enforcement these CSRs might be similar. Still, these recommendations might have a completely different meaning to national governments, in terms of the perceived severity of reforms they propose or the fit with national challenges. Therefore, changes to draft CSRs have been bargained for by national actors (see below). This article proposes that centralisation is low if CSRs propose policy changes that are uncontroversial, recommending minor policy changes. Furthermore, centralisation is low if there is a large involvement or influence of national actors in drafting CSRs. Moreover, centralisation is low if reforms suggested by CSRs have been addressed already by lower-level actors prior to them being incorporated in CSRs. A shift towards hardening would mean more centralisation in terms of higher influence of EU-level actors on the content of CSRs, CSRs addressing issues that higher-level actors find relevant and CSRs proposing far-reaching structural reforms that undermine existing national institutions and require fundamental policy changes (De la Porte and Heins 2015). Table 1 gives the variables and indicators to detect hardening and softening trends in CSRs.

### **Illustrating hardening and softening trends in country-specific recommendations**

In order to illustrate the use of the analytical framework, this article explores hardening and softening trends in the CSRs on wages and



pensions that Belgium and the Netherlands have received between 2011 and 2019. It triangulates documentary analysis with elite interviews. More than 50 policy documents have been analysed, including all documents containing the proposed and endorsed CSRs to Belgium and the Netherlands between 2011 and 2019, and relevant Country Reports, National Reform Programmes and specific reports belonging to the corrective stages of the SGP and the MIP. In addition, nine elite interviews have been held with key Dutch and Belgian policy-makers and stakeholders. For the Netherlands, four interviews were conducted in 2017 with five key policy-makers belonging to the Ministry of Economic Affairs (NL-MinEc), the Dutch Social and Economic Council (NL-SER; national tripartite consultation organ and advisor to the government), a national employers' association (NL-Employr) and a national trade union (NL-Union). For Belgium, four interviews were carried out in 2019, with key policy-makers from the Flemish regional government (BE-Reg), the federal government (Department of Social Security, the Department of Employment – BE-FedSoc and BE-FedEmpl) and a large employers' association (BE-Employr). All interviewees represent their respective organisation within the Semester process and regularly attend meetings with the Commission.

Belgium and the Netherlands are most likely cases, as both countries have received CSRs on wages and pensions. Both countries are also similar cases due to their small size and strongly institutionalised, coordinated bargaining systems and policy concertation (Dekker *et al.* 2017; van Gyes *et al.* 2017). The small size of both countries could mean that they experience tougher effects from the enforcement mechanisms of the Semester (Dawson 2015). Conversely, their strong social dialogue systems might make them firm partners in interaction with the EU (Sabato *et al.* 2017). This might especially be salient in CSRs on wages and pensions, which belong to the core interest of the social partners. Belgium differs from the Netherlands due to its federal structure with regions that have some degree of autonomy (Bursens and de Blauwer 2018). Moreover, Belgium is seen as quite EU-minded (Louvaris Fasois 2018).

Using the proposed analytical framework, the research looks at the degree of obligation, enforcement and centralisation, as outlined in Table 1. The interviews and documents illustrate how national actors perceive the CSRs and related pressure to reform, as well as their influence on norm-setting. The purpose of the next section is to illustrate the framework, without aiming to give a full account of trends in the Netherlands and Belgium.

### **Illustrating trends in the degree of obligation**

Table 2 gives the legal basis of all CSRs that Belgium and the Netherlands have received on pensions and wages within the scope of the Semester.

**Table 2.** Legal bases of pension and wage CSRs to Belgium and the Netherlands (2011–2019).

		2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>BE</b>	<i>Pensions</i>	SGP	Soft	MIP	Soft	SGP & MIP	No CSR	No CSR	SGP	SGP
	<i>Wages</i>	Soft	MIP	MIP	MIP	MIP	Soft	No CSR	No CSR	No CSR
<b>NL</b>	<i>Pensions</i>	SGP	Soft	Soft	Soft	MIP	MIP	MIP	MIP	MIP
	<i>Wages</i>	No CSR	No CSR	No CSR	MIP	No CSR	No CSR	MIP	MIP	No CSR

Source: Council recommendations to Belgium and the Netherlands 2011–2019.

Both hardening and softening trends occur in both countries and on both issues. For example, the Belgian CSR on pensions is attached to the MIP in 2013, then softens in 2014, then hardens quite severely to being attached to both the MIP and SGP in 2015. Then two years of softening follow without a CSR, while the 2018 and 2019 coordination hardens, using the SGP. For the Netherlands the CSRs seem less volatile in terms of their underpinning by a coordination mechanism. The pension CSR was underpinned by the SGP in 2011, and three years of soft CSRs followed, while for the last five years pension CSRs have been hardened by attaching them to the MIP.

Interestingly, the coordination mechanism underpinning a CSR does not necessarily determine the degree of pressure domestic actors attribute to it (BE-FedSoc; BE-FedEmpl; NL-MinEc; NL-Emplyr). In the Netherlands, all interviewees understand that pushing for social policy reforms is a matter of national and social partner autonomy, and not for the EU to decide. Neither the content of a CSR nor its legal basis matters per se, in terms of perceived pressure to reform. Rather, Dutch actors look for sound arguments for reforms, based on proper statistics and evaluations. Moreover, the institutional set-up and traditions require the consultation of relevant actors, such as the social partners, making it impossible to copy and paste proposed reforms (NL-SER; NL-MinEc). Additionally, Dutch actors interpret a CSR as non-binding if it includes the sentence ‘in consultation with social partners’. The Dutch employers’ association even weighs the amount of time and effort it spends on the Semester now that it appears to be a non-binding process (NL-Emplyr). This does not mean that the Netherlands does not see a need for reform. Existing reform demands do not stem (solely) from CSRs, but follow the interplay of nationally perceived challenges, demands, political space and time to negotiate complex dossiers (NL-MinEc). This seemingly contrasts with the quick pension reform after the SGP-related CSR in 2011, gradually increasing pension ages from 65 to 67, and linking it to life expectancy thereafter. However, this reform was already part of a government proposal in 2009, prior to the implementation of the Semester. It was also a controversial reform. The largest Dutch trade union was strongly

against this, while employers lacked enthusiasm for it. Implementation thus failed at first; however, the difficult talks between the social partners resumed, starting in a bipartite and moving to a tripartite setting. Finally, an accord was reached in 2011, creating the basis of a legislative change, and also disrupting the largest trade union (De Beer and Keune 2018). In spite of the difficulties, Dutch actors were aware that reforms were needed to safeguard the sustainability of the pension system. Because of this national awareness, the Dutch government agreed with the Commission's observations and pension recommendations (NL-MinEc). Yet the large reform was a result neither of the CSR nor of the legal basis underpinning the CSR. In Belgium, actors also feel reforms are needed, regardless of the legal basis of a CSR (BE-FedSoc). Reform awareness rather stems from the high Belgian public debt. Louvaris Fasois (2018) observes trade-off mechanisms in this respect. Introducing pension reforms would immediately result in more fiscal space, due to the chain of evaluation exercises linked to the SGP. Although reforms were perceived a necessity, the years that Belgium did not receive CSRs on pensions saw less pressure to reform (BE-FedSoc). This period coincided with many initiatives on pensions, including in a Pension Committee, eventually leading to a pension agreement (Louvaris Fasois 2018; Pecinovsky 2019). Thus, no CSR did not mean no reforms. Moreover, at that time, the Commission started focusing the CSRs on priorities, from which Belgium also benefited by getting fewer as well as less precise CSRs (BE-FedSoc).

With regard to CSRs fluctuating per country, theme and year of scrutiny, an example of a precise norm is the 2012 CSR to Belgium on wages.<sup>1</sup> It covers a wide range of wage-related elements (including: wage growth should reflect productivity; ex post correction of the 'wage norm'; improving cost-competitiveness; using opt-out clauses from sectoral collective agreement), spelling out which part of the system needs to change, as well as what to do first and what next. It is much more precise than the 2018 and 2019 CSRs to Belgium that recommend continuing with pension reforms to ensure fiscal sustainability, including limiting early retirement. This degree of precision is very relevant to domestic actors, and gives rise to discussions between the Commission and the Council or individual countries (BE-FedSoc; NL-MinEc). This may lead to changes in formulation, for instance adding sentences such as 'if the economy allows', thus giving national governments more leeway in the timing and severity of reforms (NL-MinEc).

Another example is the 2014 CSR, asking the Netherlands to increase wages. The government replied that the EU was talking to the wrong actor. This affected the next year's CSRs: the Commission stopped giving a CSR on wages, because 'the government has made clear that this is

solely a task for the social partners. No national policies will be implemented in this field' (EC 2015: 52). In the subsequent two years no CSRs on wages were given. In 2017 and 2018, wage CSRs returned, now underpinned by the MIP, and pointing at the current account surplus. Ever since, the Netherlands has used another argument for its hesitancy in implementing reforms: the Commission's lack of convincing arguments. The government started discussing the link between wage growth and the current account surplus, both nationally (with the Dutch Central Bank, the Bureau of Economic Policy Analysis and Statistics Netherlands) and with the Commission (NL-MinEc). These experts disagree on the problem and its causes, making the Netherlands unconvinced by the Commission's analyses and related CSR. Consequently, the Commission has added the words 'create conditions' to promote higher 'real' wage growth (respecting the role of the social partners) to the 2017 CSR. The Netherlands perceives this addition of 'create conditions' as allowing more space for it to develop its own policies, thus entailing a softening (NL-MinEc). Still, this issue remains highly salient, as the interviewees feel that it entails political arguments, pointing to similar CSRs to Germany. In 2019, the Netherlands no longer received a CSR on wages. The EC's Country Report 2019 explains that wage growth remains moderate and below expectations. Yet a further tightening of the labour market is likely to cause wages to rise in 2019 and 2020.

### **Illustrating trends in the degree of enforcement**

Looking at enforcement, both the Netherlands and Belgium have been moving in and out of the Excessive Deficit Procedure (EDP), which is the corrective arm of the SGP. In the first years of the Semester, both countries had difficulties meeting the SGP's debt and deficit rules and both countries have been in the EDP between 2009 and 2014. This means a hardening of surveillance after 2009, while after 2014 softening followed. During this period, Belgium received additional letters regarding the Commission and Council decisions, demanding extra measures, at times attached to a deadline (Louvaris Fasois 2018). Simultaneously, deadlines for deficit reduction were postponed for both countries. After 2014, the Commission continued making reports on Belgium's high debt, increasing the frequency of monitoring. By 2019, the EC's additional report was inconclusive on whether or not Belgium complies with the debt criterion (EC 2019a). Whereas the country has made limited progress in addressing the 2018 CSRs, it has also implemented important reforms in the wage-setting and pension systems. In the draft budget of 2017–2019, the Commission assessed Belgium as risking 'significant deviations' and requested extra information.

Related to the MIP, the Alert Mechanism Reports of the Commission led to in-depth reviews for Belgium between 2012 and 2016. However, this process was never stepped up towards additional assessments. The Netherlands received in-depth reviews between 2013 and 2019, followed by specific monitoring between 2016 and 2018. The Commission has called this a ‘form of intensified dialogue’ with national authorities (EC 2019b: 1), including fact-finding missions of Commission officials to the country as well as follow-up reports on economic developments and further implementation of measures. This is thus a form of more frequent monitoring, suggesting a hardening of monitoring related to CSRs. Although the Netherlands’ largest imbalance is in the housing market and related high household debt, the Commission’s reviews of the progress on correcting imbalances also address measures to let wages grow (2017 and 2018) and reforms of the second pension pillar (2016–2018). The interviews illustrate that hardening towards more frequent monitoring in corrective arms does not necessarily always lead to fast and comprehensive reforms (see next sections).

### **Illustrating trends in the degree of centralisation**

On the degree of centralisation, for both countries the CSRs on pensions concerned far-reaching reforms with fundamental policy changes. A higher pension age impacts the lives of many citizens and is a very sensitive issue, also for trade unions and some political parties (De Beer and Keune 2018; Van den Bosch 2014; BE-FedSoc; NL-MinEc). For Belgium the CSRs on amending the wage-setting system was also a fundamental policy change, requiring a legislative change in the 1996 Wage Act on wage indexation (Pecinovskiy 2019). For both countries a CSR on wages belongs to the core business of social partners (NL-Union; NL-SER; NL-Emplyr; NL-MinEc; BE-FedEmpl). Addressing these issues did not stem from EU-level considerations only. Belgian and Dutch pensions as well as the Belgian wage-setting system had been part of national debates for a long time; well before they started appearing in CSRs (BE-FedEmpl; BE-FedSoc; NL-MinEc). The fit of pension and wage CSRs to current national discussions also means that national forecasts and calculations already existed, for instance on the costs of ageing (NL-MinEc; BE-FedSoc). It was a surprise to no one that CSRs started addressing pensions (BE + NL) or wage-setting (BE). Rather, it was remarkable that the Commission ‘dared’ to address such sensitive issues (NL-MinEc; NL-SER; BE-FedEmpl). At times CSRs suggested minor policy changes. An example is the 2014 CSR to the Netherlands suggesting more differentiated wage increases, using the existing institutional framework. Seemingly this does not reflect a major institutional change, however, as wage-setting belongs to the autonomy of social

partners; all Dutch actors found this to be quite an intrusive CSR (NL-Union; NL-Employ; NL-SER; NL-MinEc) (see above).

Regarding national actor influence on the drafting of CSRs, the interviewees from both countries describe a growing and frequent involvement of national-level actors in the Semester. Most interviewees see a change after 2015, when the Semester turned from an administrative exercise into a dialogue (all Dutch interviewees; BE-Employ; BE-Soc; BE-Reg). Actors meet frequently with Commission representatives, both bilaterally and in a tripartite setting with national government representatives and both sides of industry. Both Belgian and Dutch interviewees noted the relevance of what Vanheuverzwijn and Crespy (2018: 5) call institutional capacity: their capacity to shape the outcomes of policy-making through expertise or political arguments, thus influencing deliberations on the drafting of reform advice or the interpretation of statistics. All interviewees demonstrated knowledge about the Semester's content and process as well as their respective roles and standpoints in the Semester. One Dutch interviewee (NL-SER) emphasised the importance of the institutional set-up of Dutch social dialogue as a supporting factor to enter into dialogue with the Commission. He referred to it as a 'kind of polder model' (referring to the typical Dutch style of entering into dialogue) but with the EU involved. Although the Belgian social partners seem less able to come to joint viewpoints, all domestic actors are active in the Semester both bilaterally and in tripartite settings (BE-FedEmploy; BE-FedSoc; BE-Reg; BE-Employ; see also Louvaris Fasois 2018; Pecinovsky 2019). Being a firm part of the Semester process not only has a range of benefits, such as having good contacts both among national actors and with the Commission, it also means active and early inclusion in decision-making. It is indirectly a message that the EU should respect the division of competence (NL-SER). Moreover, it provides an opportunity to explain the complexity of certain dossiers, the political feasibility to reform and the required consent of other actors before reforms can be implemented (NL-MinEc; BE-Reg; BE-FedEmploy). Furthermore, in both countries actors have access to high-quality knowledge which they use to compare the EC's analysis and related CSRs (all interviewees). It gives a certain independence from EU-level information, and strong evidence-based arguments for alternative conclusions or reform proposals. In the remainder of this section some examples illustrate how the influence of national actors has led to softening of CSRs in the drafting stage.

### **Softening the content when drafting CSRs**

Discussions on draft CSRs happen on various occasions, including in the Economic Policy Committee, Employment Policy Committee and the Social

Policy Committees CSRs (NL-MinEc). In these committees, member states debate the draft CSRs of the Commission. In 2017, the Commission started sharing the draft Country Reports as well, evaluating a wide range of social and economic policies of a country (NL-MinEc). The Economic Policy Committee may propose corrections of factual mistakes, and members may make ‘an educated guess’ which CSRs to expect based on the draft Country Reports. After the Commission proposes its CSRs, the Council discusses these and some countries suggest changes before the final endorsement by the European Council. The explanatory notes<sup>2</sup> of the Council give insight into the types of changes the Council makes to the Commission’s draft CSRs. The number of changes in draft CSRs by the Council has been decreasing over time (see also Guidi and Guardiancich 2018), which could concur with findings that after 2015 much of the work on CSRs is done in the Committees and not in the Council (Maricut and Puetter 2018). The changes in the proposed pension CSR to Belgium illustrate a changing content on linking the statutory retirement age to life expectancy, following discussions on effective versus statutory pension age. In the first years of the Semester, this was part of the discussion between the Commission and some countries. Some countries united before Council meetings to build support for changing draft CSRs (BE-FedSoc). These countries argued that it is a national matter how to increase pension ages. The Council has taken over such reasoning, for instance explaining changes in the 2012 CSR to Belgium as different channels leading to higher effective retirement ages, stating that the original Commission text was too prescriptive and too narrowly defined. The explanatory notes of 2013 clearly show the deletion of the phrase mentioning the statutory pension age and inserting a phrase on the effective pension age (Council 2013: 3). This change demonstrates that it was not so much the increase of the pension age that was contested, but rather the fit of the proposed method of increasing the pension age to national challenges (BE-FedSoc). It was agreed that the real challenge was keeping people in the labour market for longer, preventing early exits from the labour market, rather than raising the statutory pension age. The Council’s 2014 explanatory notes add that focusing on the statutory retirement age in the short run would be counterproductive and therefore mistimed.<sup>3</sup>

The frequent meetings actors have with the Commission also have the advantage of getting information, on how countries are performing, what challenges the Commission sees for a country, but also on how the Commission perceives the country. National actors therefore use these meetings to correct factual mistakes, to suggest alternative readings of statistics, or to come up with new or conflicting information. They also lobby for getting or keeping certain issues on the EU’s agenda, as this would support their national agenda (NL-Union; BE-Emplyr; BE-Reg).



However, meetings are also used to delineate the autonomy of national levels (NL-SER), making the Commission sensitive to the fact that major reforms take time to design and implement (see also Vanheuverzwijn and Crespy 2018). For instance, after 2015 the reform period has been an element of discussion regarding the Dutch CSR on pensions (NL-SER). Generally, the Commission expects a reform within 12–18 months after communicating a CSR. However, time is a key argument in national pension discussions, among Dutch social partners but at times also involving the EC, resulting in softening of coordination. In the tripartite Social and Economic Council, stakeholders have explained the complexity of the pension dossier to the Commission, arguing how essential time is to come to a good solution that gets wide support (NL-SER). This has resulted in CSRs with less predefined solutions (NL-SER). Although the CSRs keep being repeated, the Commission sees small steps and hurdles, acknowledging in the 2017 Country Report that the Dutch government sketched promising reform ‘directions’, which are nevertheless left to the next government after elections. The 2018 Country Report sees no progress, yet speaks of a government committed to reforms, while the 2019 Country Report still sees limited progress, in spite of stakeholder consensus that reforms are required. Also in the case of Belgium, implemented reforms are not necessarily the same as those suggested by CSRs (BE-Employ; BE-FedEmpl), creating better fits to the national situation.

## Conclusion

This article proposes adding the element of ‘centralisation’ to the elements of ‘obligation’ and ‘enforcement’ when exploring hardening and softening trends of CSRs. Building on existing definitions, it sees obligation as the codification of a norm and its degree of precision. Softening occurs if CSRs start getting underpinned by the soft employment OMC, instead of having the SGP or MIP as a legal basis. Softening also occurs when CSRs become less detailed, thus broadening the scope for interpretation. The CSRs on pensions and wages to Belgium and the Netherlands illustrate that both hardening and softening trends in the degree of obligation occur, depending on the country, the topic and the year of scrutiny. However, overall a move towards less precise CSRs seems to have occurred after 2015. Hardened enforcement happens when a country moves towards the corrective arms of surveillance and experiences more frequent monitoring. Looking at the two countries on pensions and wages, trends of both hardening and softening of enforcement occur. The article proposes to add the element of centralisation to the analytical framework, as norms may have a similar degree of obligation and enforcement, while differing in the way



they are perceived to fit national challenges, agendas, or the severity of proposed reforms (e.g. increasing ‘effective’ versus ‘statutory’ pension age). Regarding centralisation, both hardening and softening occur in the two countries, especially on the fit of CSRs addressing national priorities, and the degree to which CSRs suggest major reforms. This goes along with growing actor involvement of national actors that manage to explain country needs to the Commission, resulting in changes to draft CSRs, before they are communicated to the national level.

Thus, based on the Netherlands and Belgium and their CSRs on pensions and wages, the article concludes that CSRs do not have a dominant trend towards hardening and softening on all indicators and elements. Moreover, adding the element of centralisation is key to understanding that neither the legal basis nor its content determines solely the pressure on countries to reform. Even if countries experience pressure to lower debt and deficits, there is room to negotiate the nature of reforms, and their fit to national challenges. Indeed, CSRs are open to (re-)interpretation and changes in their content. This characteristic even leads important Dutch stakeholders to conclude that the Semester is a soft coordination tool. Additionally, the implementation of reforms also depends on the political feasibility and the process of accounting for stakeholder influence on reform ideas. Moreover, if CSRs address complex and sensitive dossiers such as the pension system, it takes time to map out reform scenarios and prepare well-designed reforms which get wide societal support.

Such adaptability of CSRs and their re-formulation and re-interpretation at the EU and national levels is not necessarily a sign of ‘weakness’ or ‘ineffectiveness’. Rather, the development of the Semester from an administrative exercise towards an open coordination cycle that welcomes dialogue may be seen as the Semester becoming mature. While Belgium and the Netherlands show that the messages of CSRs are not always implemented immediately in a strict way, it does not mean that countries are not open to reform. Rather, the countries understand the need to reform, even before receiving CSRs, yet (have to and should) follow their own pathway towards reforms, minding their institutions and the role of concertation in the design of reforms. In this respect, well-informed national actors have a role in informing EU-level representatives on how to interpret statistics or which policy alternatives may be equally effective. This allows for a better fit between national challenges and reforms, and generates broader support for reforms.

## Notes

1. For more complete overviews of changes in CSRs and national reforms, see e.g. Louvaris Fasois 2018; Pecinovsky 2019.

2. See Council Regulation No1466/97, which states that the Council is expected to, as a rule, follow the CSRs and proposals of the Commission or explain its position publicly.
3. Explanatory notes 2014/C 247/28, pages 1 and 2.

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No potential conflict of interest was reported by the author's.

## Notes on contributor

*Sonja Bekker* is an Associate Professor at Tilburg University and Jean Monnet Professor of European Social Policy and Employment Relations. [s.bekker@tilburguniversity.edu]

## ORCID

Sonja Bekker  <http://orcid.org/0000-0002-7526-7979>

## References

- Abbott, Kenneth W., and Duncan Snidal (2000). 'Hard and Soft Law in International Governance', *International Organization*, 54:3, 421–56.
- Abbott, Kenneth W., Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal (2000). 'The Concept of Legalization', *International Organization*, 54:3, 401–19.
- Armstrong, Kenneth A. (2013). 'The New Governance of EU Fiscal Discipline', *European Law Review*, 5, 601–17.
- Bekker, Sonja (2015). 'European Socioeconomic Governance in Action: Coordinating Social Policies in the Third European Semester', in *OSE research paper*, 19, Brussels: OSE.
- Bekker, Sonja (2018). 'Flexicurity in the European Semester: Still a Relevant Policy Concept?', *Journal of European Public Policy*, 25:2, 175–92.
- Bekker, Sonja, and Saskia Klosse (2013). 'EU Governance of Economic and Social Policies: chances and Challenges for Social Europe', *European Journal of Social Law*, 2, 103–20.
- Bokhorst, David (2019). 'Governing Imbalances in the Economic and Monetary Union. A Political Economy Analysis of the Macroeconomic Imbalance Procedure', Dissertation, University of Amsterdam.

- Bursens, Peter, and Joeri De Blauwer. (2018). 'Choosing Channels. Intra-State and Extra-State Strategies of Belgian Subnational Authorities in Response to the European Semester', *Regional & Federal Studies*, 28:5, 597–616.
- Clauwaert, Stefan (2016). *The Country-Specific Recommendations (CSRs) in the Social Field an Overview and Comparison; Update Including the CSRs 2016-2017*. Brussels: ETUI.
- Copeland, Paul, and Mary Daly (2015). 'Social Europe: From "Add-on" to "Dependence-upon" Economic Integration', in Amandine Crespy and Georg Menz (eds.), *Social Policy and the Euro Crisis: Quo Vadis Social Europe*. Houndmills: Palgrave macmillan, 140–60.
- Council (2013). 'Explanatory Note Accompanying document to Council Recommendations to Member States under the European Semester 2013', no. 11336/13, Brussels, 08-09-2013.
- Crespy, Amandine, and Georg Menz (2015). 'Commission Entrepreneurship and the Debasing of Social Europe before and after the Eurocrisis', *Journal of Common Market Studies*, 53:4, 753–68.
- Dawson, Mark (2015). 'New Governance in the EU after the Euro Crisis: Retired or Re-born?' EUI Working Paper, AEL2015/01.
- Dawson, Mark (2018). 'New Governance and the Displacement of Social Europe: The Case of the European Semester', *European Constitutional Law Review*, 14: 1, 191–209.
- De la Porte, Caroline, and Elke Heins (2015). 'A New Era of European Integration? Governance of Labour Market and Social Policy Since the Sovereign Debt Crisis', *Comparative European Politics*, 13:1, 8–28.
- De la Porte, Caroline, and David Natali (2014). 'Altered Europeanisation of Pension Reform in the Context of the Great Recession: Denmark and Italy Compared', *West European Politics*, 37:4, 732–49.
- Chang, Michele, Martin Sacher, and Igor Tkalec (2019). 'Recent Changes in EU Economic Governance: Methodological and Institutional Dynamics', *Journal of Contemporary European Research*, 15:2, 134–42.
- Copeland, Paul, and Mary Daly (2018). 'The European Semester and EU Social Policy', *Journal of Common Market Studies*, 56:5, 1001–18.
- De Beer, Paul, and Maarten Keune (2018). 'Dutch Unions in a Time of Crisis', in Steffen Lehdorff, Heiner Dribbusch, and Thorsten Schulten (eds.), *Rough Waters: European Trade Unions in a Time of Crisis*. Brussels: ETUI, 235–258.
- Dekker, Ronald, Sonja Bekker, and Jan Cremers (2017). 'The Dutch Polder Model: Resilience in Times of Crisis', in Igor Guardiancich and Oscar Molina (eds.), *Talking Through the Crisis: Social Dialogue and Industrial Relations Trends in Selected EU Countries*. Geneva: ILO, 189–212.
- EC (2019a). 'Belgium Report prepared in accordance with Article 126(3) of the Treaty on the Functioning of the European Union', COM(2019) 531 final, Brussels, 5.6.2019.
- EC (2019b). Specific monitoring, Website available at [https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/macroeconomic-imbalance-procedure/specific-monitoring\\_en](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/macroeconomic-imbalance-procedure/specific-monitoring_en) (accessed November 12 2019).
- EC (2015). 'Country Report Netherlands 2015', COM(2015) 85 final, Brussels, 26-2-2015.

- Eihmanis, Edgars (2018). 'Cherry-Picking External Constraints: Latvia and EU Economic Governance, 2008–2014', *Journal of European Public Policy*, 25:2, 231–49.
- Ferrera, Maurizio (2014). 'Social Europe and Its Components in the Midst of the Crisis: A Conclusion', *West European Politics*, 37:4, 825–43.
- Guidi, Mattia, and Igor Guardiancich (2018). 'Intergovernmental or Supranational Integration? A Quantitative Analysis of Pension Recommendations in the European Semester', *European Union Politics*, 19:4, 684–706.
- Hartlapp, Miriam, and Andreas Hofmann (2020). 'The Use of EU Soft Law by National Courts and Bureaucrats: How Relation to Hard Law and Policy Maturity Matter', *West European Politics*. doi:10.1080/01402382.2020.1738095
- Hinarejos, Alicia (2016). 'Changes to Economic and Monetary Union and their Effects on Social Policy', *International Journal of Comparative Labour Law and Industrial Relations*, 32:2, 231–49.
- Louvaris Fasois, Christos (2018). 'Mechanisms of Policy Learning in the European Semester: Pension Reforms in Belgium', in Claire Dunlop, Claudio Radaelli and Philipp Trein (eds.), *Learning in Public Policy*. London: Palgrave Macmillan, 75–96.
- Maricut, Adina, and Uwe Puetter (2018). 'Deciding on the European Semester: The European Council, the Council and the Enduring Asymmetry between Economic and Social Policy Issues', *Journal of European Public Policy*, 25:2, 193–211.
- Martinsen, Dorte S., and Henk Vollaard (2014). 'Implementing Social Europe in Times of Crises: Re-Established Boundaries of Welfare?', *West European Politics*, 37:4, 677–92.
- Pecinovsky, Pieter (2019). *EU Economic Governance en het Recht op Collectief Onderhandelen*. Brussels: DieKeure.
- Sabato, Sebastiano, Bart Vanhercke, and Slavina Spasova (2017). 'Listened to, But Not Heard? Social Partners' Multilevel Involvement in the European Semester', OSE Paper Series, 35, Brussels, OSE.
- Sabel, Charles F., and Jonathan Zeitlin (2008). 'Learning from Difference: The New Architecture of Experimentalist Governance in the EU', *European Law Journal*, 14:3, 271–327.
- Saurugger, Sabine (2014). 'Europeanisation in Times of Crisis', *Political Studies Review*, 12:2, 181–92.
- Schmidt, Vivienne A. (2018). 'Rethinking EU Governance: From "Old" to "New" Approaches to Who Steers Integration', *Journal of Common Market Studies*, 56: 7, 1544–61.
- Saurugger, Sabine, and Fabien Terpan (2020). 'Normative Transformations in the European Union: on Hardening and Softening Law', *West European Politics*.
- Terpan, Fabien (2015). 'Soft Law in the European Union: The Changing Nature of EU Law', *European Law Journal*, 21:1, 68–96.
- Van den Bosch, Xavier (2014). 'The European Semester in Belgium: A State of Play', European Policy Brief, 32, October 2014.
- Vanheuverzwijn, Pierre, and Amandine Crespy (2018). 'Macro-Economic Coordination and Elusive Ownership in the European Union', *Public Administration*, 96:3, 578–93.
- Van Gyes, Guy, Laurianne Terlinden, and Sem Vandekerckhove (2017). 'Belgian Social Dialogue Since the Crisis: The Ups and Downs of an Organized System of Industrial Relations', in Igor Guardiancich and Oscar Molina (eds.), *Talking*

*Through the Crisis: Social Dialogue and Industrial Relations Trends in Selected EU Countries.* Geneva: ILO, 59–82.

Verdun, Amy, and Jonathan Zeitlin (2018). 'Introduction: The European Semester as a New Architecture of EU Socioeconomic Governance in Theory and Practice', *Journal of European Public Policy*, 25:2, 137–48.

Zeitlin, Jonathan (2016). 'EU Experimentalist Governance in Times of Crisis', *West European Politics*, 9:5, 1073–94.

Zeitlin, Jonathan, and Bart Vanhercke (2018). 'Socializing the European Semester: EU Social and Economic Policy co-Ordination in Crisis and Beyond', *Journal of European Public Policy*, 25:2, 149–74.