



A Think Tank Network Research Report



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THE NEOLIBERAL LEGAL TURN

The Centre for European Politics (CEP) and its new
type of legal service provision in the EU

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has been set up to study the role and impact of think tanks in discourse coalitions and policy networks. Due to increasing complexity of policy making both research and normative direction have become instrumental to success. **Think Tanks have come to** perform crucial roles in the political struggle for leadership and political power. They link and bridge different sources of power such as academic, media and lobby groups or advocacy networks. They provide important public resources like policy briefs, studies and media experts on the one hand, and behind the scenes infrastructures and channels on which both lobbyists and politicians are keen to rely. By way of establishing and coordinating networks, think tanks often function as strategic hubs in the political mobilization process. We frequently publish on our website.

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SUMMARY

On the backdrop of the legal turn of neoliberal groups in the United States, Think Tank Research Network Initiative's first long read examines the European 'legal turn' with a focus on the Freiburg based Centre for European Policy (CEP). The report by Kardelen Günaydın and Dieter Plehwe examines the systematic analysis and assessment of European legislative proposals in different policy fields. United by an ordoliberal perspective CEP staff can be considered to both serve and educate interest groups and politicians. The examination and interpretation of European law from a clear normative perspective can be considered a novel type of legal service provision tailored to the European legal system.

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INTRODUCTION

The latest addition to an illustrious roster of trustees of the Centre for European Policy (CEP) in Freiburg is Günther Oettinger, a high-level Christian Democrat from Baden Württemberg. The former EU Commissioner (2014-2019, first digital economy, then budget and personnel) and head of government of Baden-Württemberg joined Prof. Leszek Balcerowicz (Polish economist, Mr. "shock therapy"), Prof. Frits Bolkestein (former Dutch EU Commissioner, Mr. "service directive"), Prof. Udo Di Fabio (former judge of German Constitutional Court), Prof. Jürgen Stark (former chief economist of the European Central Bank) and Holger Steltzner (former publisher of Frankfurter Allgemeine Zeitung) in June 2020. Frequently belittled because of allegedly poor English language capacity, Oettinger's inclusion demonstrates the close ties CEP's director Lüder Gerken (former head of Eucken Institut, of Stiftung Marktwirtschaft and trustee of the Initiative for a new Social Market Economy, INSM) maintains to top circles of Germany's (and Europe's) Christian Democracy. CEP was founded *inter alia* by former German president and judge of the German Constitutional Court (BVerfG), Roman Herzog (CDU) in 2005.

15 years of CEP's existence have produced an impressive record of publications, most of which are on hundreds of pieces of European legislation, which have not yet been subject to closer scrutiny. This might be considered a mistake from a normative point of view because CEP has to be acknowledged as a flagship of the European *legal turn* of neoliberal forces regarding European integration. It certainly must be considered a significant gap in the research on European think tanks and political consulting, which itself is not researched to an

extent similar to the U.S., for example.¹ And although the role of law in the neoliberal projects has finally arrived on the agenda of neoliberalism and legal studies,² the peculiar relevance of think tank network capacities dedicated to the provision of legal guidance must still be considered a novelty.

While public discourse increasingly centers around populism, racism and nationalism (Brexit, Black lives matter, refugee crisis etc.), a dedicated legal turn of organized neoliberals has been steadily advanced. In the United States, the work is driven by organizations like the American Legislative Exchange Council (ALEC, <https://www.alec.org/>), which produces template laws for state legislatures to restrict trade union rights and roll back environmental and consumer protection regulation, for example. In conjunction with state level think tanks in all American states (organized in the state policy network, <https://spn.org/>), ALEC is responding to its corporate and neoliberal constituencies. It has become a key organization in the Koch brother family of neoliberal para-political organizations around Americans for Prosperity (<https://americansforprosperity.org/>).³ A major aim of the alliance of the Koch empire (and behind the Trump administration in spite of significant differences between Koch and Trump) has been the further roll-back of much of the social and environmental regulation that has characterized U.S. legal code since the 1970s in spite of the Reagan administration's earlier hampering efforts.

¹ Exceptions are Kelstrup, Jesper Dahl, 2016, *The Politics of Think Tanks in Europe*. London: Routledge

² Brabarzuon, Honor, 2016, ed., *Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project*. New York: Routledge; Slobodian, Quinn, 2018, *Globalists. The End of Empire and the Birth of Neoliberalism*. Cambridge: Harvard University Press

³ Jane Mayer, 2016, *Dark money*, New York: Anchor Books. On Alec see Alexander Hertel-Fernandez, 2019, *State Capture: How Conservative Activists, Big Businesses, and Wealthy Donors Reshaped the American States -- and the Nation*. Oxford University Press

A similar process is taking place in Europe. In spite of all the attacks on the neoliberal character of the European Union,⁴ organized neoliberals have never unequivocally rallied behind European integration with the possible exception of the Single Market Program of the 1980s, and have in fact argued and campaigned against many of the steps taken to consolidate and deepen European integration.⁵ To such avail, various constituencies and interest groups from across Europe and from abroad have set up dedicated European affairs think tanks in Brussels since the early 1990s. Neoliberal groups organized the Centre for a New Europe (CNE) in the early 1990s. When CNE went out of business in 2008, several staff members moved to the New Direction Foundation of the European Party and European Parliament group "Conservatives and Reformers in Europe", which started its agenda of *partial disintegration* in 2009.⁶ Among the new think tanks also national think tanks with foreign offices like the British Open Europe Foundation (based in London, Brussels and Berlin) or the CEP (based in Freiburg and Paris, and registered to lobby EU officials in Brussels) can be counted.

⁴ Wolfgang Streeck, *Buying Time: The Delayed Crisis of Democratic Capitalism* (New York: Verso, 2014).

⁵ Slobodian, Quinn/Plehwe, Dieter (2020): "Neoliberals against Europe". In: William Callison/Zachary Manfredi (Eds.): *Mutant Neoliberalism. Market Rule and Political Rupture*. New York, NY: Fordham University Press, S. 89-111.

⁶ Plehwe, Dieter (2014): "Durchmarsch der nationalen Neoliberalen? Die AfD und die neue europäische Rechte". In: *Blätter für deutsche und internationale Politik*, Jg. 59, H. 2, S. 63-72.

EUROPEAN NEOLIBERALS AND THE LAW: A NEW BREED OF LEGAL EXPERTS

In terms of neoliberal Europe, a lot of attention has been paid to the rulings of the European Court of Justice in landmark cases like the *Cassis de Dijon* case of 1979 setting the principle of mutual recognition for product law, or the *Laval* case in 2007 prohibiting a strike in Sweden in the name of economic freedom,⁷ and the overall redirection of European integration from the Single Market Project onward favoring market making or “negative integration”.⁸ While the European Communities still featured a significant regulatory mix pursuing both positive (promoting common regulatory standards and protecting public services) and negative integration (European market creation), the balance shifted in favor of the latter after the mid-1980s. Since increasing European competencies in fields like social and environmental policy making and the considerable shift of legislative activity to Brussels⁹ have nevertheless increased both the number and relevance of European legislation and regulation, interest groups from all sectors and from across and outside of Europe are forced to pay increasing attention to the everyday legal processes both in Brussels and the Member States. Because of the challenges emanating from Brussels and the considerable resources required to monitor and assess the

⁷ Scharpf, Fritz W. “Weshalb Die EU Nicht Zur Sozialen Marktwirtschaft Werden Kann.” *Zeitschrift Für Staats- Und Europawissenschaften (ZSE) / Journal for Comparative Government and European Policy*, vol. 7, no. 3/4, 2009, pp. 419-434. JSTOR, www.jstor.org/stable/26165468. Accessed 9 July 2020.

⁸ Scharpf, Fritz W. (1996) *Negative and Positive Integration in the Political Economy of European Welfare States*. In: Marks, Gary et al. (eds.) *Governance in the European Union*. London: Sage 15-36.

⁹ Plehwe, Dieter, 2008. *Transformation europäischer Governance im Bereich Verkehrspolitik, Integration*, 31 (3), 290-306.

legal process – let alone to intervene – the space for dedicated professional services has been steadily increasing. Incidentally, German conservatives and neoliberals like Roman Herzog and Lüder Gerken started to attack the shift of legislative power to Brussels in the new millennium by way of suggesting that the EU Member States and Germany in particular are no longer real democracies. More than 80 percent of the national legislation was claimed to have a Brussels origin. This 80 percent myth has circulated widely in German media.¹⁰ In retrospect, the “legal threat” from Brussels may have been conjured by Herzog and Gerken to secure funding for the new think tank charged with the task of monitoring, evaluating, and in quite many cases: preventing European legislation from a neoliberal vantage point.

Does CEP in conjunction with other organizations exert influence similar to the work of ALEC and the state policy network across the Atlantic? Rather unlikely, because of the complexity of the European legislative process and a different constellation of social forces in Europe. However, in order to assess the European legal turn and to compare it to the American counterpart we first need to weigh the work of CEP and their partners.

¹⁰ Plehwe, Dieter (2007): "Zahlenpolitik. EU-Recht und nationalstaatliche Gesetzgebung". In: WZB-Mitteilungen, H. 117, S. 7-11.

LAW AND ECONOMICS FREIBURG STYLE: APPLIED ORDOLIBERALISM

The Centre for European Policy (CEP) is the Freiburg-based think tank arm of the Foundation for Ordoliberal Policy (*Stiftung Ordnungspolitik*), which was founded in 1999 in honor of Walter Eucken commemorating his death 50 years prior. CEP is charged with analyzing European Union's policy- and law-making in various fields and evaluates relevant pieces of legislation based on an ordoliberal economic, legal and ideological perspective. The think tank has been a member of the European Stockholm Network and has a partnership with the Atlas Network, both networks connecting more than hundred neoliberal, market-oriented think tanks worldwide.^{11 12}

The Executive Board consists of Prof. Dr. Lüder Gerken, the Chairperson and Christoph Ehlers, who is the other half of the two-member Board. While Gerken has held executive positions within well-known ordoliberal and conservative German foundations and think tanks like *Walter-Eucken-Institut*, *Stiftung Marktwirtschaft*, *Friedrich-August-von-Hayek-Stiftung*, Ehlers has founded a number of tech companies, held senior management positions in investment banking (Commerzbank),

¹¹ https://powerbase.info/index.php/Stockholm_Network, Fischer, Karin; Plehwe, Dieter: Neoliberal Think Tank Networks in Latin America and Europe. Strategic Replication and Cross-National Organizing. In: Alejandra Salas-Porras/Georgina Murray (Hg.): *Think Tanks and Global Politics*, New York: Palgrave S. 159-186.

¹² https://lobbypedia.de/wiki/Atlas_Network, Marie Laure Djelic and Reza Mousavi, 2020, How the neoliberal think tank went global: the atlas network, 1981 to the present. In: Plehwe, Dieter, Slobodian, Quinn, Mirowski, Phil. Ed. *Nine Lives of Neoliberalism*. London: Routledge

and is a member of transatlantic networks like young leaders of *Altantikbrücke*¹³ and Global Bridges.

Apart from these directors and the trustees mentioned above who are all well-known in neoliberal and *Wirtschaftsunion* business circles of Christian Democracy, the think tank's reverence for ordoliberalism is clearly outlined on the CEP website in the 'mission' section:

- The strengthening of structures which uphold democracy and the Rule of Law in Europe,
- A free Europe,
- Conclusion of the internal market,
- Exercise of powers in accordance with the treaties and the principle of subsidiarity,
- Keeping regulation and bureaucracy to a necessary minimum.

These values can be summed under the umbrella of a dedicated market-liberal economic worldview with a strong emphasis on public interventions to promote and secure economic freedom and property rights. But in order to see what these principles mean in practice we need to take a closer look at the legal interpretation work emanating from CEP: This can be done by way of using descriptive statistics, which reveals the quantitative distribution of efforts in favor and in opposition to European legislation and by way of deeper qualitative analysis. In this study, we will focus on the quantitative dimension to set the stage for subsequent case studies, but we will also offer a glimpse

¹³ See Anne Zetsche's analysis of German-American Atlantic elite networks <http://www.transatlanticperspectives.org/>.

into the evaluation of policy-proposals the think tank carries and its implications on the neoliberal dismantling of a social Europe.

AN OVERVIEW OF THE THINK TANK PRODUCT

From 2006 until 2019 CEP published 676 documents of various type and content. The think tank publishes four types of publications: *cepAdhoc*, which provides specific assessments on relevant EU policy discussions, e.g. EU's taxonomy on "sustainable green finance". *cepPolicyBriefs*¹⁴ on the other hand, are concise 4-pagers with a clear focus on EU's legislative proposals (Regulations, Directives, Green Papers etc.), followed by a legal assessment of the proposal. The third publication type is the *cepInput*, which offers regular commentaries on current developments in EU and the world, e.g. on crypto currencies and artificial intelligence (AI). The last type of document, *cepStudy* is more packed in style and content. These studies often produce an original methodological analysis, using quantitative and qualitative tools such as surveys and statistical data. Some of these studies are commissioned by external customers, wholesale giant Metro,¹⁵ financial sector lobby organizations¹⁶ and media holdings¹⁷, for example. From Graph 1, it is clear that an overwhelming majority of publications consists of *cepPolicyBriefs*.

¹⁴ In the original German version, they are called *cepAnalyse*.

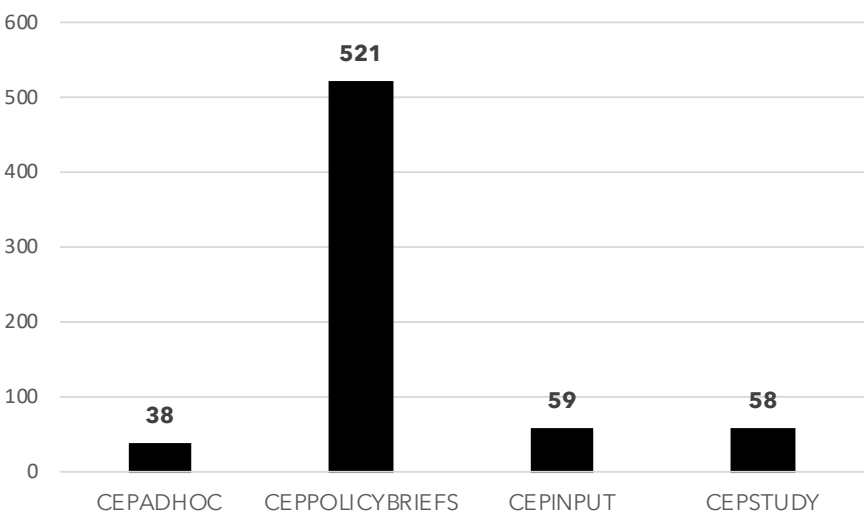
¹⁵ Metro AG commissioned the study "What do trade companies perceive as discriminatory national restrictions against their business in the Internal Market?", published on August 2017 and which overviews the results of an EU-wide survey.

¹⁶ The fpmi Munich Financial Centre Initiative commissioned the *cepStudy* "European Supervisory Authorities: Room for improvement at Level 2 and Level 3", published on 4 October 2016.

¹⁷ Hubert Burda Media Holding commissioned the study "Competition Challenges in the Consumer Internet Industry: How to Ensure Fair Competition in the EU", published on February 2016.

The team of twenty policy analysts who draft these documents have academic backgrounds. All hold at least a masters’ degree, often a PhD in economics or law, thereby ensuring the scientific quality of the reports. While a common normative orientation appears to be required in contrast to academic think tanks, CEP does also set a high bar on professional quality. How high the bar has been set exactly would need to be established by legal scholarship taking a closer look at the CEP publications, which is beyond the scope of our research with a focus on the normative purpose.

Graph 1: Number of documents published, 2006-2019, per type of publication



Source: Own compilation from the CEP website

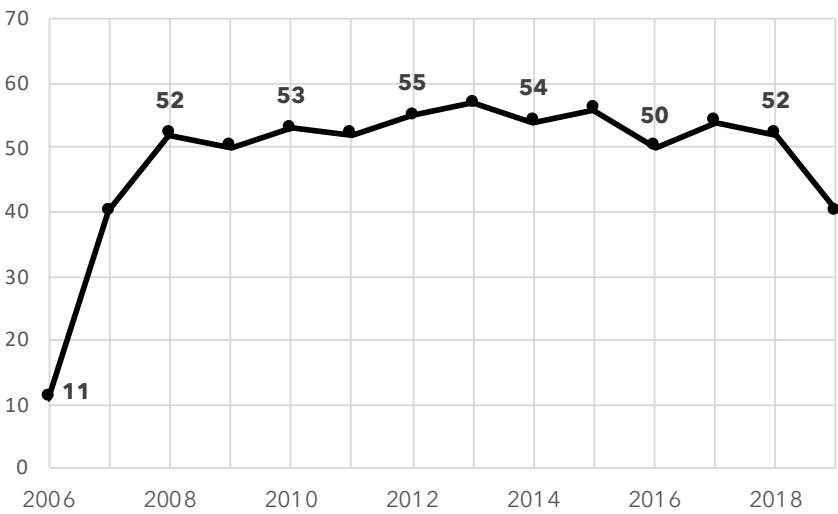
Looking at Graph 2, we can see a steady increase in the number of documents published until 2012, followed by a plateau between 50 and 60 documents published annually since. The average number of

documents published per year is 48, which is relatively small when compared to major Brussels think tanks such as Bruegel and Centre for European Policy Studies (CEPS),¹⁸ which focus on economic policy and EU affairs.

However, quantity is not everything. Compared to Bruegel and CEPS, the CEP has a clearly defined focus on providing legal expertise and thereby addresses somewhat different target groups across many policy fields. Its core audience consists of public affairs managers in family firms, corporations and business associations on the one hand, and political representatives of the center-right of the political spectrum in particular on the other hand, who need to be informed of the latest EU legislative proposals and reforms in order to develop lobbying, negotiation and decision-making strategies that can 'nudge' these policy proposals in a particular direction (we will provide a few examples below). The normative and directive purpose of CEP analysis is visually expressed by a traffic light symbol of the flagship publication, *cepPolicyBriefs* (*cep Analyse*).

¹⁸ Considering the same time frame between 2006 and 2019, Bruegel and CEPS published 819 and 2739 documents, respectively.

Graph 2: Number of published CEP documents per year, 2006-2019



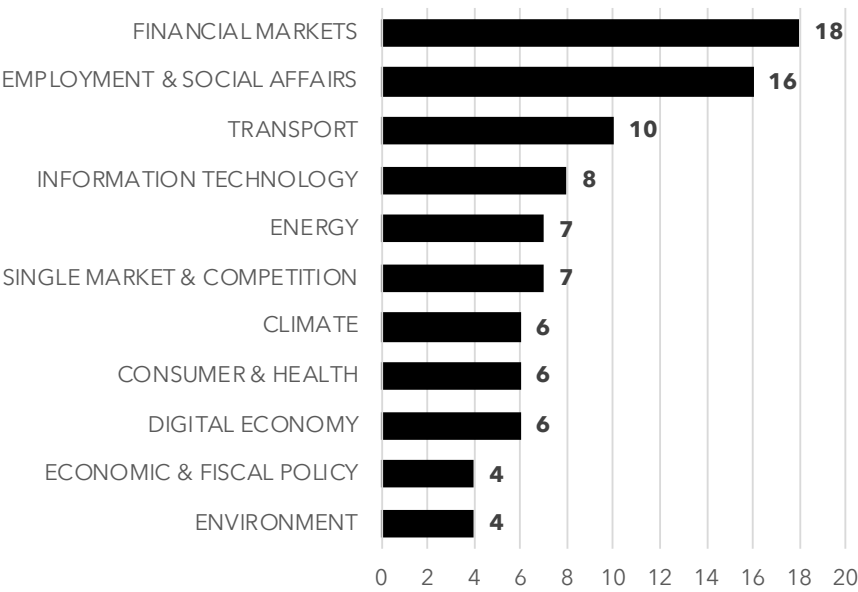
Source: own compilation from the CEP website

CEP’s traffic light system, used in its *cepPolicyBriefs*, gives us a very good clue on its stance in policy developments. The traffic light system shows when CEP is completely opposed to a legislative proposal (red light), when a piece of legislation has elements that can be debated and need further work (red-yellow, yellow and yellow-green), or when the proposal completely corresponds to CEP’s stance (green). Looking at all the legislative proposals that have received a red light from CEP, a pattern emerges:

Among the 521 *cepPolicyBriefs* from 2006 to 2019, 65 received a red light, meaning the think tank was completely against the proposal. In Graph 3 illustrates the number of policy issue tags used for *ceppolicy-*

Briefs.¹⁹ The most argued against proposals are in the policy fields financial market and social policy whereas least objections are made to policy proposals on climate, environment and energy.

Graph 3: Number of cepPolicyBrief categories marked with a red light, 2006-2019



Source: own compilation from the CEP website

Let’s have a closer look at these proposals: the 16 documents with a red light in social policy include legislative proposals on EU’s Corporate Social Responsibility Strategy, protection of workers’ rights, parental leave, female quota in the workplace, non-discrimination practices ba-

¹⁹ The CEP author use multiple tags for the publications. Therefore, the numbers shown in the graph exceed the overall umber of cepPolicyBriefs.

sed on gender and, last but not least, maternity rights. The main line of argument against these proposals is that they endanger economic growth and employment²⁰ and go against the grain of ordoliberal principles, especially in terms of the State's (and/or the EU's) involvement in the market.²¹ For example, proposals aimed at strengthening anti-discrimination laws "cause encroachment of economic freedom" in EU Member States that do not have a strong anti-discrimination legal framework like Germany.²² Furthermore, "it is highly questionable, whether there is a strong preference to dismantle discrimination in all Member States".²³ The EU proposal on maternal rights in the workplace is similarly rejected due to inevitably increasing non-wage labor costs and the subsequent negative impact on employment.²⁴

The key take-away from the think tank's assessment of these policy proposals is that markets are better left to self-regulation. CEP rarely accepts any reason for encroaching upon the economic freedom of EU Member States and specifically, of firms. Apart from this ordoliberal interpretation of European Commission's legislative initiatives, the CEP additionally provides a closer judicial analysis. One obvious reason for this is to verify whether the EU policies are actually in line with the Trea-

²⁰ cepAnalyse, „ARBEITSRECHT“ 09.05.2007. Link: https://www.cep.eu/fileadmin/user_upload/cep.eu/Analysen_KOM/KOM_2006_708_Gruenbuch_Arbeitsrecht/cepAnalyse_Kom_2006_708_Arbeitsrecht.pdf

²¹ cepAnalyse, „Ökodesign: Umweltgerechte Produktgestaltung (Richtlinie)“. 19.09.2008. Link: <https://www.cep.eu/eu-themen/details/cep/oekodesign-umweltgerechte-produktgestaltung-richtlinie.html> (last access: 17.05.2020)

²² cepAnalyse, „Gleichbehandlung ausserhalb von Beschäftigung und Beruf“, 20.08.08. Link: https://www.cep.eu/fileadmin/user_upload/cep.eu/Analysen_KOM/KOM_2008_426_Gleichbehandlung/cepAnalyse_KOM_2008_426_Gleichbehandlung.pdf

²³ Ibid. Full quote in German: "Es ist allerdings sehr fraglich, ob in allen Mitgliedstaaten der EU eine starke Präferenz zum Abbau jeglicher Diskriminierungen vorliegt."

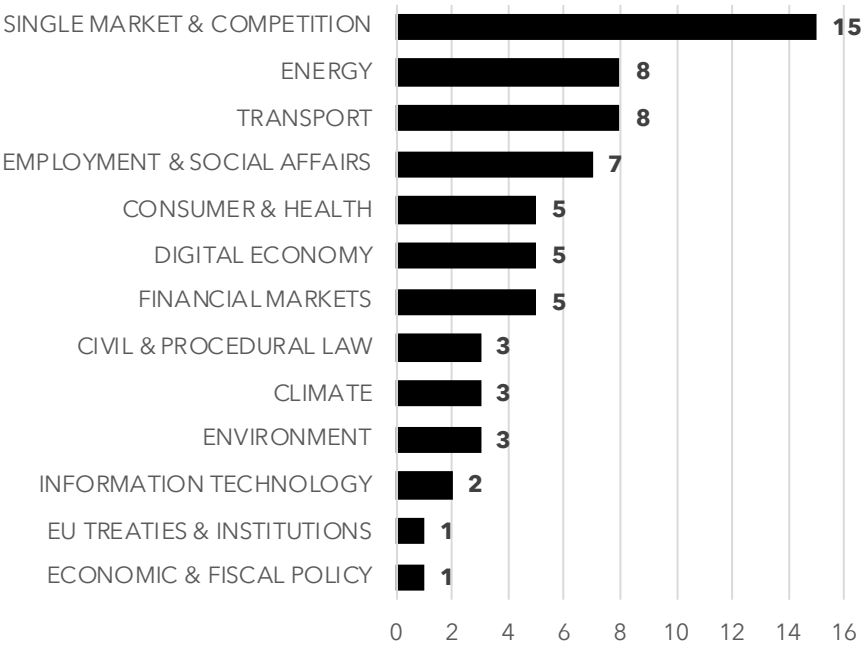
²⁴ cepAnalyse, „VERBESSERUNG DES MUTTERSCHUTZES“, 07.11.08. Link: https://www.cep.eu/fileadmin/user_upload/cep.eu/Analysen_KOM/KOM_2008_637_Mutterschutz/cepAnalyse_KOM_2008_637_Mutterschutz.pdf

ties, and to prevent a potential encroaching on sovereign Member State's powers. However, another practical function is to provide interested parties with the legal knowledge to challenge the proposals based on their compatibility with EU and German law. This way, the legislative proposals can be challenged at the European Court of Justice or the German Constitutional Court (or other national constitutional courts). Best known example of this is when conservative German economists from different mainstream and right-wing parties took the European Central Bank to the German Constitutional Court due to the unconventional monetary policies it implemented.

On the other hand, of 521 *cepPolicyBriefs* only 66 (around <13%) of the legislative proposals received a straight 'green light' from the think tank, where common market and competition-related policies form a relative majority (see Graph 4). This confirms the EU's neoliberal affinities when it comes to competition rules for the internal market where it enjoys exclusive competency.²⁵

²⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Aai0020>

Graph 4: Number of cepPolicyBrief categories marked with a 'green light', 2006-2019

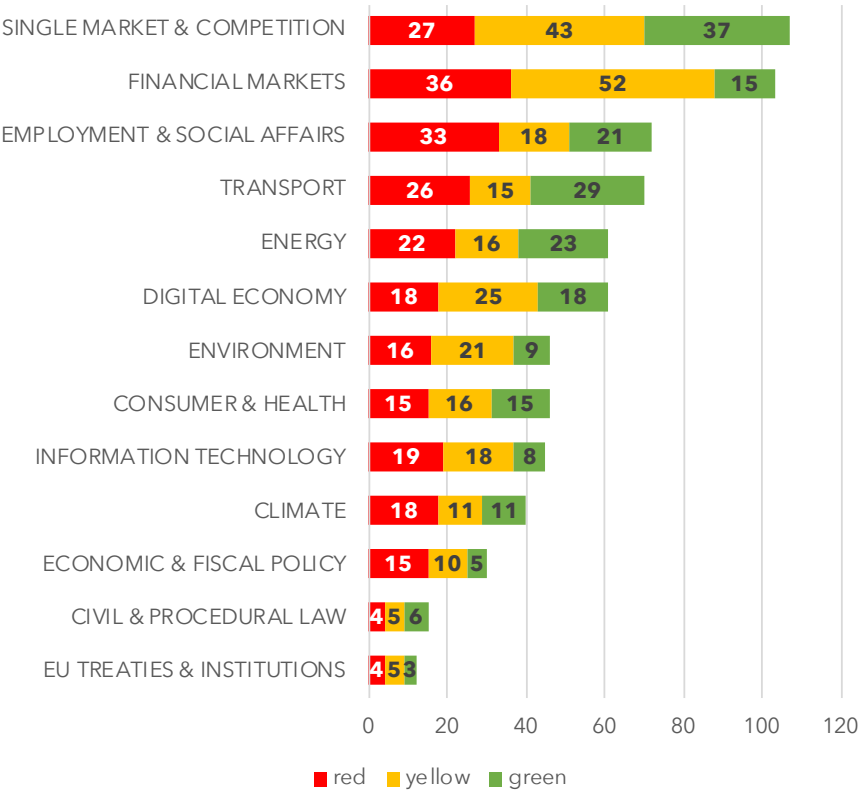


Source: Own compilation from CEP website

The following graph brings red, green and yellow lights together in order to provide greater detail with regard to the distribution of CEP judgement in the policy fields. For this purpose and for easier reading we have grouped all the policy briefs in the yellow category which are not straight green endorsements or straight red rebuffs²⁶.

²⁶ The corresponding tables listed in the appendix present the detailed results.

Graph 5: CEP - Analyses per category



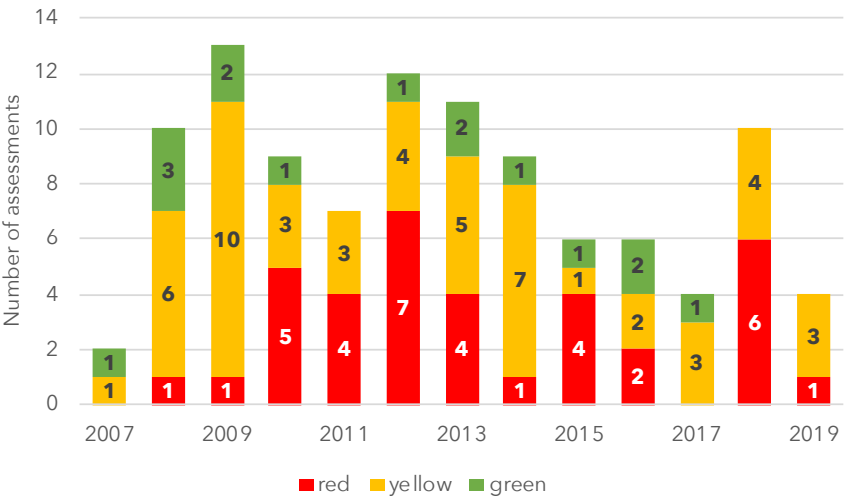
Source: own compilation from CEP Website

Apart from the large number of red lights in Financial Markets and Labor and Social Policy and apart from the large number of green lights in Internal Market and Transport we can see that 15 (finance) and 21 (labor and social policy) European legislative proposals are supported by CEP analysts and that 27 (internal market) and 26 (transport) are opposed not to speak about the large number of proposals in which CEP finds both sun and rain – the yellow field. In the labor and social

policy field CEP endorses legislation in support of entrepreneurship, for example. In order to more clearly see the neoliberal and ordoliberal perspective, however, it is necessary to look at the assessment of the proposals in each policy field in more detail, subject of subsequent research endeavors.

Still based on quantitative analysis and descriptive statistics it is possible to explore the evolution of CEP assessments. With regard to the financial market, CEP was highly critical in the aftermath of the global financial crisis when the EU attempted to impose stricter regulations on the financial sector, for example. But also in 2018, the judges from Freiburg voiced a lot of criticism about European legislation in this field.

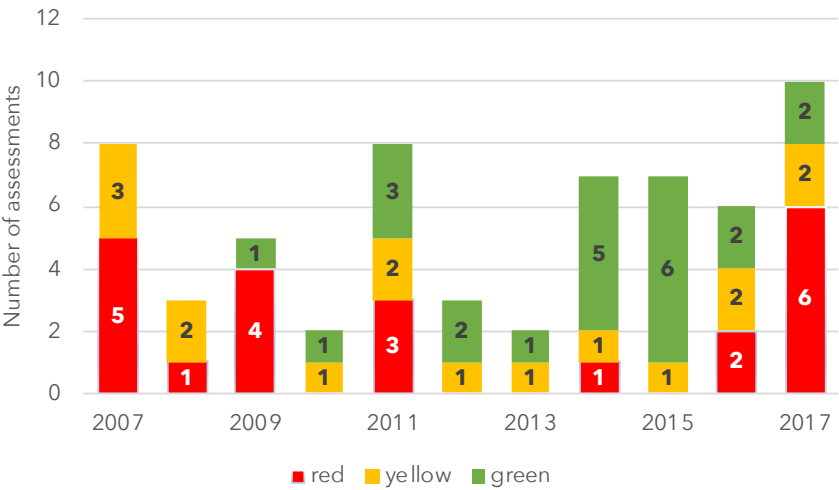
Graph 6: CEP assessments: Financial markets



Source: CEP proposals, own compilation

In the energy field we can observe a good deal of objections in the early and the late period under discussion. Between 2011 and 2016, many proposals have been endorsed with little criticism.

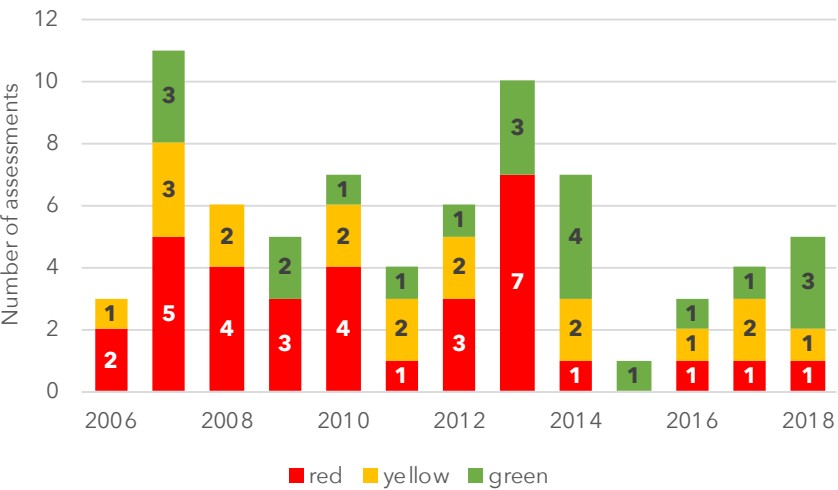
Graph 7: CEP assessments: Energy



Source: CEP proposals, own compilation

With regard to labor and social policy, it is evident that CEP was mostly unhappy about proposals from 2006 until 2014. The second half of the 2010s were less difficult from the normative viewpoint taken in Freiburg.

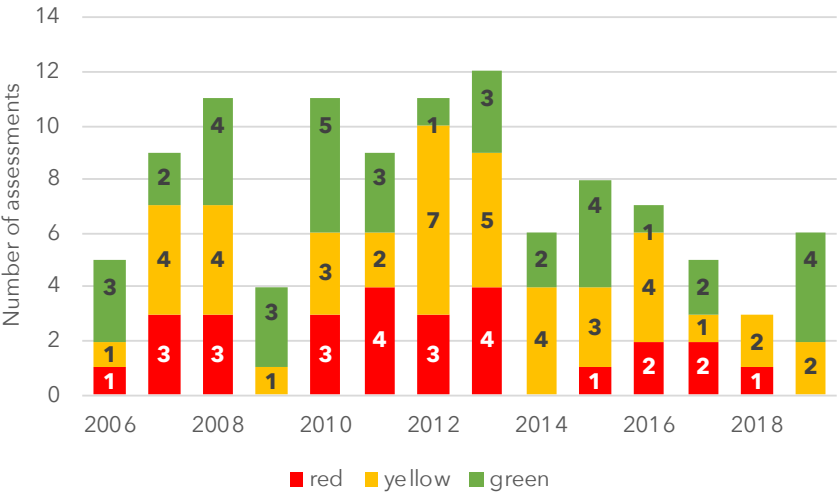
Graph 8: CEP assessments: Employment & social affairs



Source: CEP proposals, own compilation

Last but not least we can see a somewhat stronger concern with policy proposals in the internal market and competition field in the aftermath of the global financial crisis, though CEP analysts seem to lend qualified support to most proposals in this field and offer more green lights than in any other field as mentioned before.

Graph 9: CEP assessments: Single market & competition



Source: CEP proposals, own compilation

PRELIMINARY CONCLUSIONS

With the first part of this series on the CEP, we introduced what we propose to think of as a new type of European policy think tank dedicated to legal interpretation services from a normative standpoint. Unlike ALEC in the United States and its emphasis on neoliberal template legislation for state legislatures, the CEP helps its constituencies and clientele to assess new legislation from a normative and systematic legal perspective that supports less regulation and less intervention along with concerns of subsidiarity and rule of law. Certain parts of the American right-wing agenda clearly differ from the European CEP agenda. ALEC's model bills promote more radical ideas compared to CEP in certain fields (corporate immunity from environmental regulations, privatization of public education etc.). However, their role as legal interpretation agents and knowledge producers result in a specific function of normative legislative "service provision", which make ALEC and CEP comparable and research-worthy. Important differences between the U.S. and Europe are obviously related to the legal system in operation on each side of the Atlantic. European law making is supra- as well as transnational and multi-level. European rules take immediate effect in the case of regulations and can be subject of limited modification only in the case of European Directives. If interest groups are successful in the European arena they can have an impact in many countries at the same time whereas they need strategic replication efforts even within the United States in many fields. At the same time there is no way but to influence each legislation of concern at the European level in order to create legal and institutional conditions across the EU that are advantageous for the corporate and neoliberal constituencies of the CEP. A lot can be achieved at the supranational level, but a great deal of attention is required as well.

Although the legal turn in the U.S. and in the EU takes different forms and requires tailor-made strategies for the legal processes in each place, the common concern is to shape the social, political and economic order in a lasting way. To this end, the forces rallied behind ALEC on the one hand and CEP on the other hand do not only attempt to block legislation they dislike. They also invest considerable resources to achieve legislative results in support of their goals. The constant effort under display in this legal turn demonstrates attention way beyond the electoral and protest arenas, and a new type of deeper understanding and lobbying of the political system. In this process of proactive social ordering, high level think tanks come to play an increasingly important role. When the European economic policy think tank *Bruegel* was pushing for Euro-bond proposals during the global financial crisis, CEP became the counterweight of the opposition to European mutualization of debt charged by the INSM of the metal industry associations. In spite of Bruegel's powerful position in Brussels, the pro-austerity forces prevailed (Chancellor Merkel: Eurobonds "only over my dead body")²⁷, though CEP currently may find itself fighting an uphill battle due to the impact of the Corona pandemic. Building up capacities needed to influence European policy making does not by itself secure desired outcomes. But without dedicated legal interpretation services like those provided by CEP, a number of actors may find themselves disadvantaged in many a policy field. Neoliberal and more specifically ordoliberal forces in Europe have embraced the field of legislation and created dedicated capacities in Freiburg, Paris and via (eight) mobile lobbyists (EP access card holders) in Strasbourg and Brussels²⁸. CEP's latest board member, the former EU Commissioner Günther Oettinger in the meantime de-

²⁷ Plehwe, Dieter: Fighting the Financial Crisis or Consolidating Austerity? The Eurobond Battle Reconsidered. In: Stephen McBride/Bryan M. Evans (Hg.): *The Austerity State*, S. 189-218.

²⁸ <https://lobbyfacts.eu/representative/9f86f73f06d1492192827fbfd11755e7>

monstrated good humor in Germany's satiric TV news *Heute Show*. Accepting the invitation to talk about Brexit he declined the invitation from Fabian Köster to speak in English.²⁹ But his willingness to be taken for a ride in a critical environment catering to young people in particular demonstrates that he is up even for complicated public communication tasks, English speaking or not.

²⁹ <https://www.youtube.com/watch?v=6lYBd0-gg-8>, Oettinger had a second appearance again reacting competently to the mockery: <https://www.youtube.com/watch?v=YJChFhRydFo>.

APPENDIX:

**Table 1: CEP assessments: Financial markets
(extended)**

financial markets	red	red- yellow	yellow	yellow- green	green
2007			1		1
2008	1		6	1	2
2009		1	10	1	1
2010	2	3	3	1	
2011	3	1	3		
2012	4	3	4	1	
2013	1	3	5	2	
2014	1		7	0	1
2015	1	3	1	1	
2016	2		2	2	
2017			3	1	
2018	2	4	4		
2019	1		3		
Total	18	18	52	10	5

Source: CEP proposals, own compilation

**Table 2: CEP assessments: Energy
(extended)**

energy	red	red- yellow	yellow	yellow- green	green
2007	1	4	3		
2008	1		2		
2009		4		1	
2010			1	1	
2011	2	1	2	2	1
2012			1	1	1
2013			1		1
2014		1	1	4	1
2015			1	3	3
2016		2	2	2	
2017	3	3	2	1	1
Total	7	15	16	15	8

Source: CEP proposals, own compilation

**Table 3: CEP assessments: Employment & social affairs
(extended)**

employment & social affairs	red	red- yellow	yellow	yellow- green	green
2006	1	1	1		
2007	2	3	3		3
2008	4		2		
2009	2	1			2
2010	1	3	2	1	
2011		1	2	1	
2012	2	1	2	1	
2013	4	3		3	
2014		1	2	3	1

2015				1	
2016		1	1	1	
2017		1	2		1
2018		1	1	3	
Total	16	17	18	14	7

Source: CEP proposals, own compilation

Table 4: CEP assessments: Single market & competition (extended)

single market & competition	red	red-yellow	yellow	yellow-green	green
2006		1	1		3
2007	1	2	4		2
2008	1	2	4	3	1
2009			1	2	1
2010		3	3	2	3
2011	1	3	2	2	1
2012	3		7		1
2013	1	3	5	3	
2014			4	1	1
2015		1	3	2	2
2016		2	4	1	
2017		2	1	2	
2018		1	2		
2019			2	4	
Total	7	20	43	22	15

Source: CEP proposals, own compilation

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