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## The growing potential integration capacity of the acquis of the European Social Model\*

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**Abstract:** This paper engages in the discussion about the meaning of the open method of coordination (OMC) for the development of the European Social Model (ESM). It argues that, from a legal perspective, the OMC is a positive development rather than a threat for the ESM. To support this argument, the paper introduces an analytical model, based on suggestions of Dehousse and Weiler (1990), to assess the potential integration capacity of the acquis of the European Social Model (ESM) based on the legal dynamics of integration. From such the acquis of equal opportunity in employment and active labour market policies are assessed for their potential integration capacity. The analysis finds that over the course of time, the potential integration capacity of the respective acquis have become stronger since the introduction of the OMC. Therefore, the conclusion is that the utilisation of the OMC to govern these social policies is a positive process which has strengthened Europe's capacity to further develop the ESM.

**Keywords:** European social model; acquis communautaire; open coordination; employment policy; soft law; law

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## 1. Introduction

The core principle of the European Community (EC) is the creation of a Single Market which consists of the free movement of products (goods and services) and production factors (labour and capital). This economic integration would, in time, ensure the optimum allocation of resources throughout the Community, the optimum rate of economic growth and thus an optimum social system (Shanks 1977, 14). Although the non-interventionist approach to social policy did not last long, the precedence of economic objectives over social objectives is still apparent (Barnard 2006, 7-10). Integration within the EU social policy field is also hindered by the diversity of the welfare systems of the member states, which have made them reluctant to attribute an EU competence in the field and has forced the EC to be creative and flexible in developing its social policy (Barnard 2006, 75-83; Pochet 2005, 39-42). From a historical institutionalist perspective, the precedence of the Single Market over social policy and the diversity of the EU welfare states becomes palpable in the sort of measures the EC uses to regulate the respective policy fields. More precisely, the Single Market is mainly regulated by hard law measures, such as regulations and directives, while the European social model (ESM) is mainly governed by soft law measures, such as resolutions and action programmes (Copeland and ter Haar, forthcoming). Therefore compared to the Single Market, the ESM is much more vulnerable to political change. That is, should there be a lack of support for the ESM in the Commission or the governments of the member states, the significance of the soft law measures and their normative effect will be nihil. Such measures can be ignored by the member states without any significant consequences, such as, judicial review, which could maintain policy in the face of such changing political constellations (Copeland and ter Haar, forthcoming).

It is therefore unsurprisingly that the ESM - when defined by the sort of measures adopted to govern social policy issues, such as employment, social inclusion, health and safety at work, equal opportunities etc - is considered weak at integrating the national policies of the member states. It is also in this context that the emergence of the open method of coordination (OMC), as a new instrument to govern the complex and sensitive social policy subjects is controversially perceived. As Trubek and Mosher (2001, 1) have noted, some scholars see in the OMC as an innovative breakthrough with superior capacity to solve the problems the EU faces in the field of social policy; while others consider the OMC as a development which threatens the ESM. Accordingly, the move towards the OMC is at best a waste of time and at worst a smokescreen behind which the welfare state might be dismantled. The move away from efforts to construct uniform social and employment standards across the EU will contribute to the gradual erosion of the programs and policies that constitute the ESM.

This paper argues that from a legal perspective, rather than weaken the ESM, the OMC actually strengthens it. To substantiate such an argument the paper analyses the integration capacity of the ESM, based upon the legal dynamics of the European integration process. The legal dynamics of European integration are understood as the legal and institutional elements that condition both the magnitude and spatial scope of integration (Dehousse and Weiler 1990, 243). In other words, whether the political or economic dynamics can be executed depends on the magnitude and spatial scope provided by the dynamics of the legal and institutional elements involved with the integration process.

In order to conduct the analysis in a systematic manner, this paper introduces and utilises an analytical model (§2). The model comprises of five legal dynamics known as key parameters which are:

1. the competence conferred to the European Community for (further) rule-making;
2. the integration technique used;
3. the decision making capacity of the involved actors;
4. the incidence or effect of the legal instrument on the national legal order; and
5. the way in which compliance with the legal instrument is ensured.

Each of these parameters can manifest themselves in four dimensions, varying in four levels from strong integration capacity (level 1) to weak integration capacity (level 4). The more strong manifestations an integration instrument has, the stronger its overall integration capacity is and the more likely the instrument will actually integrate the laws and policies of the member states; the more weak manifestations an instrument has, the lower the instruments overall intention to integrating the laws and policies of the member states.

Rather than an extensive analysis of the integration capacity of the OMC, the paper assesses the integration capacity of the OMC and other measures that are regularly used to develop the ESM. Since the concern is with instruments that aim to influence, converge or harmonise the laws and policies of the member states, the Commission's Green and White Papers, as well as resolutions from the Parliament are excluded. Instruments that are included are directives, framework agreements, action programmes, resolutions and recommendations. To keep this analysis within manageable proportions, this assessment is done for the acquis of two policy fields in which the OMC is presumed to play a distinctive role, namely equal opportunities and employment (§3.1.) and active labour market policies (§3.2.).

Furthermore, the instruments are ordered into four roughly equal time periods, 1957/1963-1979; 1980-1989; 1990-1999; and 2000-2008. Therefore it is possible to construct a comparative analysis of the adoption of the number and variety of instruments regarding the respective subjects (see Figures 2 and 5). Finally, all selected instruments are analysed for their individual integration capacity. This means that a key-parameter is analysed by how the legal dynamic of the European integration process has manifested itself in the respective instrument. The instruments are then labelled according to the level of manifestation they resemble the most. Thus, instruments that have most of the manifestations of the legal dynamics in the lower half of the analytical model are labelled as level 1 or level 2 instruments. Those instruments that have most of their manifestations in the middle or upper half of the analytical model are labelled as level 2 or 3 and level 3 or 4 instruments.

Two results of this analysis (§4) are particularly noteworthy. Firstly, the analysis confirms that the ESM is mainly comprised by instruments with a weak integration capacity (level 3 and 4) and hardly involves instruments with a strong integration capacity (level 1 and 2). Secondly, the analysis shows that until the turn of the century mainly level four instruments are used in the policy fields of equal opportunities and employment and active labour market policies. After the turn of the century, a shift to level three instruments can be noticed. Not only does the number of level four instruments decrease for the first time, the number of level three instruments increases. This increase of the use of level three instruments is to be attributed to the OMC which is assessed with an overall integration capacity of level 3.

Based on this empirical analysis of the acquis of the two policy fields, the conclusion of the paper (§5) is that the overall potential integration capacity of both acquis has become stronger as a result of the OMC. Thus based on the legal dynamics of the EU integration process, the OMC is not a development that threatens the ESM; rather it is a positive development, as it entails a stronger potential integration capacity than the instruments previously used within the two policy fields.

## **2. Analytical model to assess the potential integration capacity of EU integration instruments**

To study the legal dynamics of European integration, Dehousse and Weiler (1990, 249-253) suggested a model with key-parameters, such as competence, decision making- capacity and effect on the legal order. These parameters can manifest themselves in several dimensions varying from weak integration capacity to strong integration capacity. This paper further develops the approach into a more comprehensive analytical model with five key-parameters and four levels of integration capacity varying from strong to weak in which they can manifest themselves. Before describing these five parameters and their manifestations (§2.2.), it is necessary to outline the definitions and principles underpinning this model (§2.1.).

## 2.1. Definitions and principles underpinning the analytical model

The aim of the analytical model is to assess the potential integration capacity of EU secondary integration instruments used to develop the ESM. Central to this is the concept of ‘integration’, which has several understandings. In this analytical model, integration is understood as ‘a process of change in national institutional and policy practices that can be attributed to European integration’ (Vink 2002, 1). More specifically, the expression ‘integration’ indicates a planned process to unite parts that were before autonomous. As such, ‘integration’ is not only about the harmonisation of the member states laws and policies, but also includes convergence of their laws and policies and all sorts of reforms that can be linked to EU influence.

Also central to the model is the concept of ‘legal’ in legal dynamics. This refers to the question: what is legal and when is the legal ambit exceeded? Such a clarification is particularly important for defining the four levels of manifestation of the key-parameters. Underpinning the analytical model is the concept of legalization, as used in international relations (Abbott et al 2000). As such, the analytical model covers EU hard law instruments, such as regulations, directives and decisions. Furthermore it includes legally non-binding instruments that have a normative effect (Senden 2004, 111-113), also called soft law instruments, such as resolutions, recommendations, action programmes and the open method of coordination.

The underlying principle of this analytical model is that the more strong manifestations an integration instrument has, the stronger its integration capacity is in the sense of actually integrating, converging or influencing the laws and policies of the member states. The more weak manifestations an instrument has, the lower the instruments intention to actually integrate, converge or influence the laws and policies of the member states. Integration capacity thus refers to the intention of the instrument to integrate, converge or influence the laws and policies of the member states based on its legal dynamics. Hence, this intention is “potential” because the complex process of European integration not only involves legal dynamics, but also political and economic. Whether the legal potential of an integration instrument – its magnitude and spatial scope – is applied to its fullest capacity depends on the political and economic dynamics that are also involved in the integration process.

## 2.2. The analytical model: key-parameters and manifestations

Based on the previous definitions and principles, the following five key-parameters are classified:

1. the competence conferred to the European Community for (further) rule-making;
2. the integration technique used;
3. the decision making capacity of the involved actors;
4. the incidence or effect of the legal instrument on the national legal order; and
5. the means to ensure compliance.

Each key-parameter has four different manifestations varying from weak integration capacity (manifestation level 4) to strong integration capacity (manifestation level 1). When putting all this together, the analytical model as shown in [Figure 1](#) is constructed.

[Figure 1 about here](#)

### 2.2.1. Competence

The first key-parameter, the attribution of competence for (further) rule-making, is basic to all other parameters, as without the attribution of competence the EU would be unable to adopt

any instrument to govern a subject. Overall, four manifestations can be distinguished: exclusive competence; concurrent or shared competence; coordinative competence; and supportive competence (cf Barnard 2006, 63-65).

Exclusive competence is the strongest form of competence that can be attributed to the EU. This is the matter when only the EU may legislate or adopt legally binding acts regarding a specific subject. Member states may legislate or adopt legally binding acts only when it is required for the implementation of EU acts or if it is empowered by the EU. The latter is even irrespective of whether or not the EU has acted itself (Barnard 2006, 68; ECJ Case 41/67; ECJ Case 804/79). Concurrent or shared competence is less strong, because this form of competence does not exclude the member states at all or at least in the first instance. In effect, with concurrent and shared competence member states maintain their competence to adopt measures for as long as they are in accordance with the EU law or until the EU has adopted a measure which either exhaustively or partially pre-empts their activities (Hervey 1998, 44; Cremona 1999, 185). The extent to which the EU may pre-empt the activities of the member states, depends on the outcome of the application of the principles of subsidiarity and proportionality (Kirchner 1997; Hervey 1998, 44).

Coordinative and supportive competences are the weakest forms of conferred competence, because they are both non-exclusive, complementary competences. Which means that the member states remain fully competent regarding a specific policy area, while it allows for the EU to coordinate national policies regarding the achievement of common objectives in certain policy areas (coordinative competence) and to complement or stimulate the development of national policies (supportive competence) (Barents and Brinkhorst 2006, 463-465).

### **2.2.2. Integration technique**

The second key-parameter, the integration technique, refers to the techniques used to unite national laws and policies that were previously autonomous. Based on the EC-Treaty and the doctrinal literature regarding European integration, the following techniques can be distinguished (ranked from strong integration to weak integration): total harmonisation; minimum harmonisation; coordination; and procedural obligations.

Total harmonisation is the strongest manifestation of this key-parameter, because it implies the adjustment of national law in order to meet the specific objectives laid down in the EU integration instrument. Moreover, in the case of total harmonisation the national laws are replaced by a single EU rule, leaving no room for Member State action or diversity (Dehousse and Weiler 1990, 250; Curtin 2006, 12). As such, total harmonisation is a very direct integration technique to integrate the laws and policies of the member states. Although minimum harmonisation also aims at the approximation of national laws and policies, it is a weaker manifestation as it leaves some room for the member states 'to maintain and often introduce more stringent regulatory standards [...] for the purpose of advancing a particular social or welfare interest', 'provided that such additional requirements are compatible with the Treaty' (Dougan 2000, 855; Curtin 2006, 13). As such, minimum harmonisation takes away certain disparities, but also creates room for diversity. The disparities existing above the minimum requirements are compensated by the principle of mutual recognition. In short this means that member states have to recognise the legislation of each other (Curtin 2006, 13; ECJ Case 120/78).

The integration techniques "coordination" and "procedural obligations" do not aim for harmonisation. The former aims to promote the integration process 'by ensuring or encouraging coordination between national regulatory regimes' (Hervey 1998, 37). In other words, coordination is the activity to attune national policies, which is guided on European level and conducted by the member states. Thus, while the member states remain fully competent, they voluntarily limit their activities as they commit themselves to the common objectives and to follow the guidelines. Combined with a process of mutual learning this coordination should converge the activities of the member states in the sense of outcomes and policy ideas and accompanying legislation (Barents and Brinkhorst 2006, 311-312; Radaelli

2003, 9-10). The integration technique “procedural obligations”, for example the sole obligation for member states to exchange information, is to be distinguished from “coordination” because it is less structured and implies no limits at all to the member states activities. Nonetheless, “procedural obligations” may converge the laws and policies of the member states since it makes them aware of each others laws and policies. Some of those laws or policies may inspire new, or results in the adjustment of existing, laws and policies.

### 2.2.3. Decision-making capacity

The third key-parameter, the decision-making capacity of the involved actors, follows from the nature of the EC-Treaty. The EC-Treaty is a framework Treaty which sets an overall design that requires more specific amplification (Weatherill 2007, 28). For this amplification the EC-Treaty not only attributes the competence to the EU institutions, it also provides the instruments to do so. However, these instruments can be used for legislative as well as administrative tasks of the European institutions (Schütze 2005). Whether the instrument is meant to be a legislative measure or an administrative measure can be determined by the decision-making capacity of the institutions involved. Based on the general tasks the EC-Treaty attributes to the institutions(1), the following four decision-making capacities can be distinguished (ranked from strong integration to weak integration): EU-institutions acting as a law-maker; EU-institutions acting as an executive rule-maker; EU-institution, committee or agent acting in a specific function; and the (European) Council acting as moving spirit.

The capacity of the EU-institutions as law-maker is indicated as the strongest, because in this capacity the EU-institutions constitute amplifying legislative acts (cf Senden 2004, 35-37 and 41-55). There is a large variety of legislative procedures (Héritier 2003, 108; European Conventions Working Group IX 2002, 13-14), however all are generally based on three principles, also known as the Community Method. These principles are:

1. the Commission has an exclusive right to initiate proposals for new (or revised) legislation or policy;
2. only the Council, either as single legislator or as co-legislator with the European Parliament can give legal force to the Commissions proposal; and
3. the Council cannot alter the Commissions proposal unless by unanimity (Barents and Brinkhorst 2006, 167-168).

In most cases the legislative measures cannot fulfil administrative requirements and further executive amplification is needed. This is done by delegated or implementing acts, i.e. acts that ‘flesh out the detail or amend certain elements of a legislative act’ (Schütze 2005, 9). When European institutions adopt such acts, they act in their capacity as ‘executive rule-maker’. The EC-Treaty foresees in the adoption of these measures, since it provides the Council, acting either alone or together with the European Parliament, with the power to delegate this decision-making capacity by the legislative act that needs to be fleshed out. The Council can decide to reserve this right for itself or to delegate it to the Commission (Bergström 2005; Craig 1999, 46; ECJ Case 9/56; ECJ Case C-301/02). In terms of potential integration capacity, the capacity as executive rule-maker is of influence, since it is directly involved with the execution of the legislative measures. However, it is weaker than the law-making capacity, because it is subordinate to it: after all, they stem from the legislative measures (Lenaerts and Verhoeven 2000, 652; Schütze 2005, 8; ECJ Case 22/88).

Besides law-making and executive rule-making capacities, the EU-institutions have several specific functions and most of these functions are stipulated in specific policy-related treaty provisions. They vary from the establishment of a specific Committee by the Council or an executive Agency by the Commission (e.g. art. 144 EC-Treaty), to the adoption of budgetary decisions about the EC’s estimates (art. 272-276 EC-Treaty), the adoption of soft law measures (Hervey 1998, 52-53; Senden 2004, 55-56 and 118-119), and the adoption of political decisions, such as the communications of the Commission and the recommendations of the Council (Barents and Brinkhorst 2006, 200). Their integration capacity is rather weak because some of them just affect the laws and policies of the member states indirectly, for example, the

establishment of a committee to support the Commission in its work. Some others, which are directly aimed at the member states, have a weak integration capacity, because they are merely political declarations of intentions, or guidelines about how national laws and policies should or could – and not shall and will – develop.

The weakest form of decision-making is found in the decisions of the European Council: the European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof (article 4 of the EU-Treaty). In practice, this means that the European Council is the moving spirit behind the European integration process, because it sets the pace and the shape of Community policy and establishes the parameters within which the other institutions operate (cf Craig and De Búrca 2008, 55-58; Weatherill 1995, 64-65). This form of decision making is thus mainly an internal affair of the EU, rather than an external affair directed at the member states.

#### **2.2.4. Effect on the national legal order**

The last two parameters, the effect on the national legal order and the means to ensure compliance, concern the relationship between the legal instrument and the domestic law, in the sense of implementation, enforcement, impact and compliance (Snyder 1993, 19). Both parameters involve complex legal doctrines and principles. In short, the basic principle of this relationship is defined by the European Court of Justice (ECJ) as monistic, meaning that the EC-Treaty created its own legal order, which is an ‘integral part’ of the legal systems of the member states (Craig and De Búrca 2008, 344-346). Moreover, the ECJ enunciated the primacy of EC law over national law (ECJ Case 26/62; ECJ Case 6/64; cf De Witte 1999, 177-183 and 189-193). Furthermore, the relationship is based on the doctrine of ‘direct effect’ of EC law, which, oversimplified, means that ‘the provisions of binding EC law which are clear, precise, and unconditional enough to be considered justifiable can be invoked and relied on by individuals before national courts’ (Craig and de Búrca 2008, 268; Prechal 2000).

When it comes to the effect on the national legal order, some EU measures have a very strong integration capacity, since they are directly effective and applicable. In practice, however, not all EU measures are supreme, nor are all of them directly effective and applicable. Some measures are, for instance, not ‘sufficiently operational to be directly applied by a court in a certain situation’. It therefore needs further implementation by European or national legislative or executive actors (Timmermans 1979, 534; Craig and De Búrca 2008, 281-282). This is especially the case with instruments that use the technique of minimum harmonisation. These instruments only establish minimum requirements to achieve a certain objective, the choice of form and measure to fulfil these requirements are left to the discretion of the member states (art. 249 EC-Treaty). member states are given a certain period of time to transpose the instrument into national measures. Despite the transposition and the conditions for the applicability of the provisions of these instruments, they have a rather strong integration capacity, since a minimum standard of harmonisation is guaranteed. Moreover, when the instrument is not implemented during the transposition period, a self-executing provision has vertical direct effect, meaning that an individual can rely on it in a case against the state.

Not all the integration instruments are adopted by the institutions of the EU, some of them are concluded between the member states themselves. They are to be counted as an integration instrument because they intend to achieve one of the objectives of the EU, or to complement the EU and EC Treaties, or have to do something with the membership of the EU (Senden 2004, 56-58; De Witte 2001). Examples of such agreements are the EEX Convention and the Dublin Convention concerning requests for asylum. These agreements have no direct effect, unless the Member State adheres to a monist system, like the Netherlands. Most member states, however, have a dualist system, which means that in order to be effective on the national legal order, such an agreement first needs to be transposed or incorporated into that legal order (Hartley 1999, 134-135). Besides the fact that these agreements do not automatically become part of the national legal orders, like the instruments of the EU institutions, they neither have a settled time period by which they have to be transposed. As a result of this dependence on the national legislator, these agreements have a basically weaker

potential integration capacity.

Furthermore, the EU has at least two sorts of integration instruments that are only indirectly effective on the national legal orders. The first sort is formed by the instruments that need to be implemented in the national legal order. In the intervening period between adoption and implementation, these instruments are indirectly effective, in the sense that the national law needs to be interpreted in conformity with, or in the light of the unimplemented instrument, also known as the principle of harmonious interpretation (art. 10 EC-Treaty; Craig and De Búrca 2008, 287-296). The second sort of instrument is formed by the wide variety of soft law instruments the EU institutions utilise to further European integration (Senden 2004, 118-120). These instruments are called soft law, because they are legally non-binding and not upheld by the ECJ. This means, that even though they are part of the national legal order, their imperative to affect the laws and policies of the member states is weak. However, these instruments can also be indirectly effective, for instance, when they are taken into account for the harmonious interpretation of the national laws and policies (Senden 2004, 340-345).

### **2.2.5. The means to ensure compliance**

The means to ensure compliance is, from a legal point of view, the strongest when it is ensured by the European Court of Justice (Abbott et al 2000, 415-416). Depending upon the effect of the instrument on the national legal order, this can either be undertaken by a direct action (infringement procedure) or an indirect action (preliminary ruling). The infringement procedure is the strongest form to ensure compliance by the ECJ because of the direct involvement of the ECJ regarding national measures. The infringement procedure holds an action against a Member State for failure to fulfil an obligation under the EC-Treaty (art. 226-228 EC-Treaty; Lasok and Millet 2004, 3-4 and 23-44). If the ECJ is of the opinion that the Member State has indeed infringed an obligation under the Treaty, it specifies what act or omission the source is of the infringement. For instance, an incorrect or inadequate implemented directive (ECJ Case C-428/04), a directive that is not implemented in time (ECJ Case C-53/88), or national legislation that is not in harmony with EC-law (ECJ Case C-318/05)(2).

The aim of the preliminary ruling is to preserve the uniformity of EC law (art. 234 EC Treaty, ECJ Case C-166/73; Weatherill 1995, 107). Therefore the means to uphold EC law by a preliminary ruling is slightly weaker than that of the infringement procedure. Because the preliminary ruling is not about the national legislation, but about EC law, the influence of the ECJ regarding the national legislation is less direct. However, since the referring court, as well as the appellate bodies in that case, has to apply the interpretation of the ECJ, the influence is still strong (ECJ case C-320/88, Lasok and Millet 2004, 182).

Other means to ensure compliance are institutional or multilateral surveillance and persuasive pressure. The former, institutional surveillance, refers to compliance being ensured by one or more of the EU institutions - other than the Court of Justice. Besides the EU institutions multilateral surveillance involves the member states. The legal basis for surveillance is not arranged in a general provision of the EC-Treaty, hence it is arranged in several specific policy provisions (e.g. art. 88, 95, 99 and 128 EC-Treaty). The result of institutional and multilateral surveillance is that the member states have to give account of their activities regarding those specific subjects. The latter, persuasive pressure, is a method by which compliance is used for instruments that are either too vague or imprecise to be upheld by the ECJ or are soft law. Mechanisms used to create persuasive pressure are, for example, monitoring, peer reviews, benchmarks, recommendations and public "naming, shaming and blaming" (Trubek and Trubek 2005, 90-95). The underlying idea of these mechanisms is that member states will comply with soft law in order to avoid negative criticism (*idem*, 91; Brown Weiss 2000, 548). Although these two means to ensure compliance are rather weak in terms of potential integration capacity considered from a legal point of view, nevertheless, they are not necessarily less effective in practice (Shelton 2000).

### **3. Assessment of the legal dimension of integration of the acquis of the ESM**

The next step in determining from a legal point of view, whether or not the OMC is a positive evolvment for the further development ESM, is to assess the potential integration capacity of all of the integration instruments that have been used and are still used or in force, to further this development. This paper is confined to the assessment of the legal dimension of integration of the acquis of two social policy subjects: equal opportunities and employment (§3.1.); and active labour market policies (§3.2.). As mentioned in the introduction, the assessment is conducted in three steps: firstly, the respective acquis are identified; secondly, the identified and selected instruments are ordered in time; and thirdly, they are assessed by the model and labelled by their overall level of integration capacity, varying from level 1, a strong integration capacity, to level 4, a weak integration capacity.

#### **3.1. Legal dimension of the acquis of equal opportunities and employment**

##### **3.1.1. Identification of the acquis of equal opportunities and employment**

The identification of the acquis equal opportunities and employment is somewhat troublesome. It is not enough to select only those instruments that at least address the member states. A selection based on the material content of the instruments is also required. In particular, since there are many instruments that govern these policies directly as well as indirectly. For instance, the 1974 social action programme (OJ [1974] C13/1) holds several provisions that directly govern the principle of equal opportunities and employment. The Council's call 'to seek solutions to the employment problems confronting certain more vulnerable categories of persons (the young and the aged)' is just one example. On the other hand the 1975 Directive on the principle of equal pay (OJ [1975] L45/19) at first glance, has little to do with the principle of equal opportunities and employment, other than that it is about equal treatment of men and women when it comes to pay for the same or equal work. However, there are several instruments that claim that this Directive plays 'a dynamic role in improving the situation of women' (COM (81) 758). These kind of equal treatment measures equalise the opportunities of women, since they do not directly affect the position of the men. They equalise the opportunities of women, because they 'counteract the prejudicial effects on women in employment which arise from social attitudes, behaviour and structures' (Council recommendation 1984), and 'the disadvantage faced by men with regard to participating in family life' (Mixed council resolution 2000a).

Other instruments that at first glance appear to have little connection with equal opportunities and employment are those that give material effect to this principle. The mixed resolution on the social inclusion of young people (Mixed council resolution 2000b), for example, does neither mention equal opportunities nor employment; however, the activities that are called for qualify as positive actions in order to create a situation of equal opportunities for young people to take an active part in social, political, cultural and economic life.

All of the above instruments are selected as part of the acquis of equal opportunities and employment. In total 84 instruments have been selected (see [Figure 2](#) and [Appendix 1](#)). This selection includes directives, collective agreements, decisions, action programmes, mixed and Council resolutions, Council and Commission recommendations, and two charters. Furthermore, the selection includes the EES and the OMC Social Protection and Social Inclusion (further: OMC SP/SI).

[Figure 2 about here](#)

### **3.1.2. The assessment of the acquis equal opportunities and employment**

Most of the instruments of the acquis of equal opportunities and employment clearly fit into one level, but there are several instruments that fall between two levels. This was particularly the case with the more recent action programmes. The action programmes adopted in the 1970s, 1980s and early 1990s aim to provide a basis for the development of future EU law and policy (Senden 2004, 128-132), as such they are assessed as level 4 instruments. The action programmes adopted since the mid 1990s are considerably different. On the one hand they constitute suggestions for activities to be undertaken by the member states, while on the other hand they create procedural obligations on how to invoke the funding rules. In the first part of the action programmes the suggestions for activities are merely indirectly effective on the national legal orders of the member states and cannot be invoked before the ECJ. Together with the assessment of the other key-parameters, this would result in an assessment of the weakest manifestation of the last two key-parameters, and an overall assessment indicating that it is a level 4 instrument. However, the second part of these action programmes, the procedural obligations regarding the funding rules, are directly effective and can be enforced with direct action by the ECJ. This would result in an assessment of the last two parameters on the strongest manifestation level, level 1, and an overall assessment of a level 2 instrument. In the latter situation the instrument would thus have a significantly stronger potential integration capacity than in the former (see [Figure 3](#)). Since the latter part of these action programmes is not aimed at integrating the national laws and policies of the member states and the former part of the action programmes is, these action programmes are assessed on their first part, and finally indicated as level 4 instruments.

[Figure 3 about here](#)

Overall, the assessment of the acquis equal opportunities and employment has resulted in the legal dimension as shown in [Figure 4](#) (see for the assessment results per parameter [Appendix 1](#)).

[Figure 4 about here](#)

## **3.2. Legal dimension of the acquis of active labour market policies**

### **3.2.1. Identification of the acquis of active labour market policies**

The EU promotes seven active labour market policies (ALMPs), namely:

1. vocational training;
2. the improvement of and the improvement of the access to public employment services;
3. job-creation;
4. wage subsidies;
5. employment subsidies;
6. access and entitlements to benefit systems; and
7. earned income tax credit.

Unlike the EU integration instruments used to further the integration of equal opportunities and employment, EU integration instruments that promote ALMPs were not so easy to identify. This is due to the fact that, except for vocational training, they have no explicit legal base in the EC-Treaty. Consequently, there are also no instruments adopted with explicit reference in their title to these subjects. For instance, an instrument titled “employment services” or “wage subsidies”, cannot to be found, instead the promotion of such policies is found in instruments entitled “action to assist the long term unemployed”. Therefore, the identification of EU integration instruments governing ALMPs is based on the material content of instruments that, according to their title, were most likely to contain ALMPs. Furthermore, the selection took place through references made in the preamble of the instruments that could be identified by its

title. For instance the 1990 Council resolution on action to assist the long term unemployed (OJ [1990] C157/4), refers to three other integration instruments that are adopted during the 1980s. Based on this method, a total of 69 instruments are identified (see [Figure 5](#) and [Appendix 2](#)).

[Figure 5 about here](#)

### **3.2.2. The assessment of the acquis of the active labour market policies**

Part of the selected instruments are also the action programmes described above. For the assessment of the acquis of the ALMPs, the action programmes have been treated in the same way as they were for the assessment of the acquis of equal opportunities and employment.

Other instruments that were rather difficult to assess are the Council resolutions from the 1980s. Some of them were clearly level four instruments, while three of them have remarkable resemblance with the EES and OMC SP/SI (level three instruments), except for the manner in which compliance is ensured. These instruments seem to arrange an embryonic form of institutional surveillance. For instance, in the 1984 Resolution on action to combat long-term employment (OJ [1985] C2/3), the Council requests the Commission to not only to undertake several supplementary activities and to further develop Community activities, but also to inform the Council every two years about the progress made in the implementation of these actions. In its 1986 Resolution on an action programme on employment growth (OJ [1986] C340/2), the Council invites the Commission to assist with the rapid dissemination of information and best practices throughout the Community, to promote coordinated activities, to make analysis and to write a summary report every six months on the implementation of the programme and on future developments. All in all, these resolutions clearly show an embryonic state of institutional surveillance. Therefore, these resolutions are on the last key-parameter “ensuring compliance” and are assessed as manifesting institutional surveillance, which has resulted in an overall assessment of these resolutions as a level 3 instrument.

The assessment of all the integration instruments used to govern ALMPs results in the legal dimension as shown in [Figure 6](#) (see for the assessment results per parameter [Appendix 2](#)).

[Figure 6 about here](#)

## **4. Analysis of the policy fields equal opportunities and employment and ALMPs**

### **4.1. Analysis of the acquis of the policy fields**

A large part of the acquis of these policy fields overlap. This is not coincidentally, since many of the activities suggested to improve the opportunities of specific groups, such as women, youth, elderly and disabled persons regarding employment are ALMPs, and vice versa, many measures promoting the use of ALMPs, require specific attention for special groups. Thus, the 1984 Council recommendation on the promotion of positive action for women (OJ [1984] L331/34), for example, recommends the member states to ensure that positive action includes, among other things and as far as possible, active labour market policies such as (better access to) vocational training and public employment services, that are better attuned to the needs of women. Another example is the 1986 Council resolution concerning the action programme on employment growth (OJ [1986] C340/2), which requires specific attention for the position of women and disabled persons regarding the application of specific ALMPs, such as vocational training and access to and functioning of, public employment services.

Consequently, both acquis have a large resemblance of the sort of instruments that are part of the acquis and their legal dimension. Regarding the acquis of both policy fields, the

identification of instruments has resulted in an acquis that almost completely consists of the so called soft law integration instruments including resolutions, recommendations and action programmes (see Figures 2 and 5). The use of directives and collective agreements, which are hard law instruments, is very modest in both policy fields with the adoption of just two or three of the hard law instruments in each time period and none for ALMPs during the last period (2000-2008).

By far the most popular instruments are the resolutions and the recommendations. During the first three time-periods (1957/1963-1979; 1980-1989; and 1990-1999) they count in both policy fields for at least 50% of all the instruments adopted in those periods. It is only in the last period (2000-2008) that their popularity declines to merely 25% of the total number of instruments adopted in that period. The identification of the acquis further shows that the action programme is also a frequently used instrument during all the periods. This is particularly the case regarding equal opportunities and employment where it even gained popularity during the last period. Like the resolutions and recommendations, the action programmes are generally considered as soft law.

The last period (2000-2008) shows the upsurge of the OMC as means to govern the integration of these two policy fields. In the field of equal opportunities and employment, the OMC counts for almost 50% of the instruments used to further integration and in the field of ALMPs the OMC accounts for almost 75%. It should be noted though, that the EES, which is part of both policy fields, counts as a sort of double, since two of its instruments, the guidelines and recommendations, are identified as part of the acquis. Furthermore, it can be noticed that, since this is the only time-period in which the number of resolutions and recommendations remains the same (equal opportunities and employment) and even declines (ALMPs), it seems that the OMC has replaced – a part of - those instruments.

The conclusion of this analysis is thus that the acquis of both the policy fields consist almost completely of soft law instruments. During the first three periods their acquis was mainly comprised by resolutions, recommendations and action programmes, while during the last period the acquis of these policy fields is complemented by the OMC SP/SI and EES, which seems to have (partly) replaced some of the instruments previously used.

## **4.2. Analysis of the legal dimension of acquis of the policy fields**

Since the acquis of both the policy fields is mainly comprised by soft law instruments, i.e. resolutions, recommendations, action programmes and OMCs, it is to be expected that the legal dimension of these policy fields is rather weak in terms of potential integration capacity. This is also confirmed by the assessment results as shown in Figures 4 and 6.

Overall the legal dimension of the acquis of these policy fields comprises only a few level 2 integration instruments, these are the directives and collective agreements. Conversely, the main body of the legal dimension is comprised by level 4 instruments. This is due to the fact that the acquis of these policy fields mainly consists of resolutions, recommendations and action programmes. These are all level four instruments, since they have most of their manifestations in the upper part of the analytical model, consequently , the legal dimension during the first three periods (1957/1963-1979; 1980-1989; 1990-1999) exists of 50% to 67% of instruments with a very weak integration capacity.

The last period (2000-2008) shows a different legal dimension. One that mainly exists of level 3 instruments, i.e. 50% to 75%. This is the result of the introduction of the OMC, which is assessed as a level three instrument and is an instrument that in terms of potential integration capacity is stronger than the resolutions, recommendations and action programmes. In this sense the introduction of the OMC has resulted in a growing potential integration capacity of the acquis of these policy fields.

## 5. Conclusions

Central to this paper is the capacity of the EC to integrate the laws and policies of the member states with respect to social issues, such as equal opportunities and employment, based on its legal dynamics. In this paper it remains undisputed that compared to the Single Market, the ESM is less successful in doing so. This is not only due to the fact that the core focus of the EC is and always has been on the creation of a Single Market, but it is also due to the different welfare systems of the member states which are to be respected by the EC. Consequently, social policies are a complex and sensitive subject which makes it hard to create uniform standards. Instead efforts are undertaken to govern these policies by more flexible tools which strive for convergence while allowing diversity (Pochet 2005, 39-45). Thus, instead of using hard law measures such as regulations and directives to approximate the laws and policies of the member states, the EC applies mainly soft law measures such as resolutions, recommendations, action programmes and since 2000 the OMC. As shown in paragraph 3 of this paper, the *acquis* of equal opportunities in employment and the *acquis* of active labour market policies are comprised by approximately 80-90% soft law and merely 20-10% of hard law measures.

As such, the introduction of the OMC, being also soft law, is a negative development, as it adds one more soft law measure that detracts from the efforts to agree on hard law measures, in particular minimum standard directives and collective agreements. However, when all selected instruments are assessed for their potential integration capacity based on the legal dynamics of the European integration process, a more optimistic image arises. Although, the OMC is also a soft law instrument, its overall potential integration capacity is stronger than that of the other soft law instruments, in particular the resolutions, recommendations and action programmes. This is due to the fact that the OMC uses the technique of coordination (level 3), while most of the resolutions, recommendations and action programmes use the technique of setting procedural obligations (level 4). Furthermore, the compliance of the OMC is ensured by institutional surveillance (level 3), and that of the resolutions, recommendations and action programmes by means of persuasive pressure (level 4) (see for the assessment result of each of the instruments per parameter Appendix 1 and 2). In total the OMC has just one parameter assessed as level 4, while the other soft law instruments have three parameters that manifest themselves in the weakest form. Consequently, the overall integration capacity of the OMC is indicated as level 3 and that of the others as level 4 (see [Figure 7](#)).

[Figure 7 about here](#)

It remains a fact though that the *acquis* of the ESM is mainly comprised of soft law instruments with a weak integration capacity of level three and four, based on the legal dynamics of the European integration process. However, the OMC as applied in the field of social policies, has raised the overall integration capacity from mainly level four to mainly level three of at least two of the policy fields within the ESM. As such, it is not a development that threatens the ESM; rather it is a positive development, as it entails a stronger potential integration capacity than the instruments previously used for the further development of, at least these two subjects that are part of, the ESM. Whether it is also an innovative breakthrough with superior capacity to solve the problems the EU faces in the field of social policies cannot be concluded from this analysis. This also depends on the political dynamics of the European integration process, such as the willingness of the involved actors among the institutions of the EU, the social partners and the member states to apply the OMC to its fullest potential. Based on the numerous researches in this respect, there seems currently to be a lack of such a willingness (Copeland and ter Haar; Zeitlin and Pochet, with Magnussen 2005). When such willingness is there, the OMC might not only be a positive development in terms of integration capacity based on the legal dimensions of European integration, but also in politically solving certain problems in the field of social policy.

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## Endnotes

(\*) Researcher project Social Security Reform at the University of Leiden. The author is thankful for the comments of the participants of the ESPAnet Young Researchers Workshop "The European Social Model and Beyond", held in Göttingen from 6-8 December 2007 and those of the anonymous reviewers of this Journal. Special thanks are for Paul Copeland who edited the paper in decent English. Financial support of Stichting Instituut Gak is gratefully acknowledged.

(1) See art. 189 j° 192 EC-Treaty for the European Parliament; art. 202 EC-Treaty for the Council; art. 211

EC-Treaty for the Commission; art. 220 EC-Treaty for the Court of Justice; and art. 246 for the Court of Auditors.

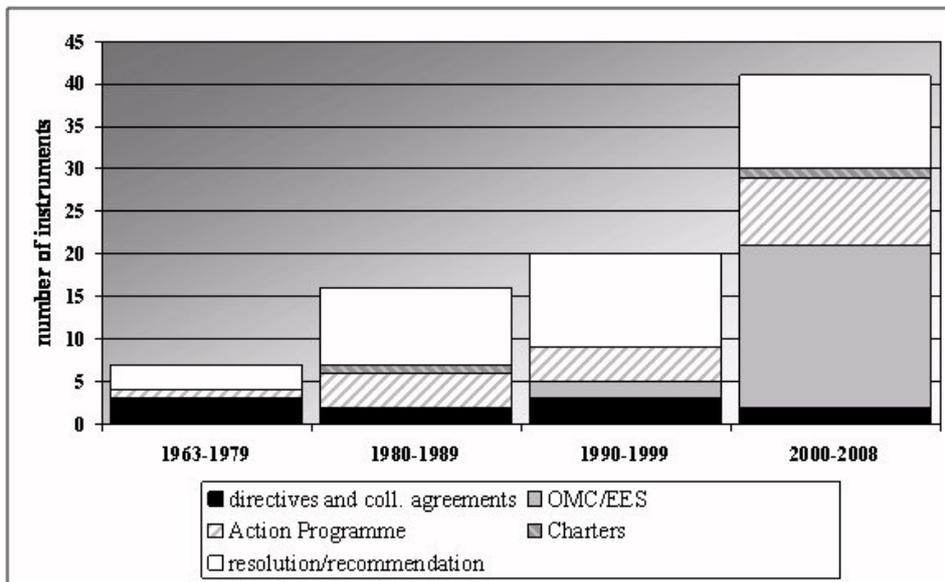
(2) Mark that the ECJ can only specify the act or omission that constitutes the failure, it cannot annul the national law concerned. Cf Lasok and Millet 2004, 41.

## List of Appendices and Figures

Figure 1: Analytical model

weak integration ↓ Strong integration	4	Supportive competence	Procedural obligations	Moving spirit	Indirectly effective	Persuasive pressure
	3	Coordinative competence	Coordination	Specific function	Ratification	Institutional Surveillance
	2	Shared competence	Minimum harmonisation	Executive rule-maker	Conditionally effective & applicable	ECJ: preliminary ruling
	1	Exclusive competence	Total harmonisation	Law-maker	Directly effective & applicable	ECJ: direct action
Manifestation level		1.	2.	3.	4.	5.
		Conferred competence	Integration technique	Decision-making capacity	Effect national legal order	Ensuring compliance

Figure 2: Acquis equal opportunities and employment arranged in four time-periods

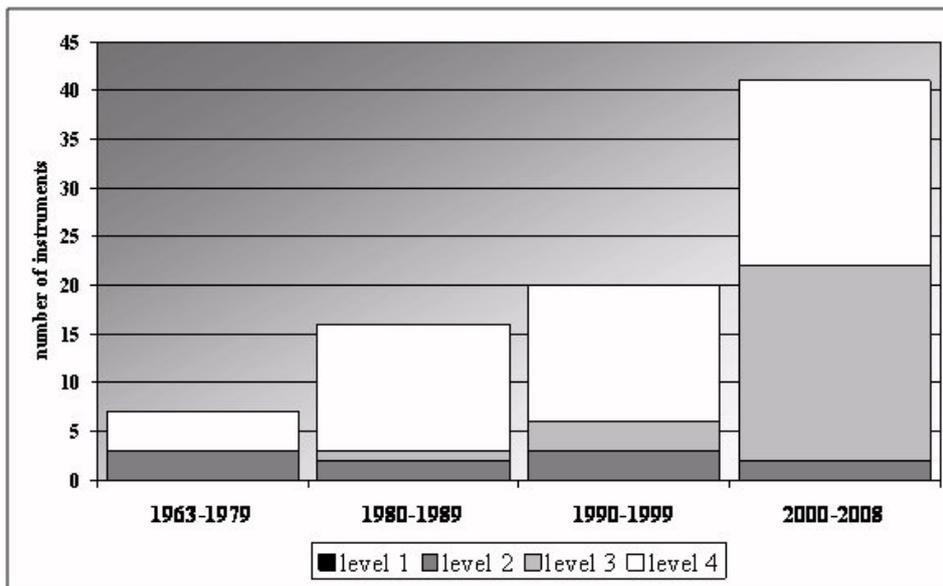


**Figure 3: Assessment of the action programmes**

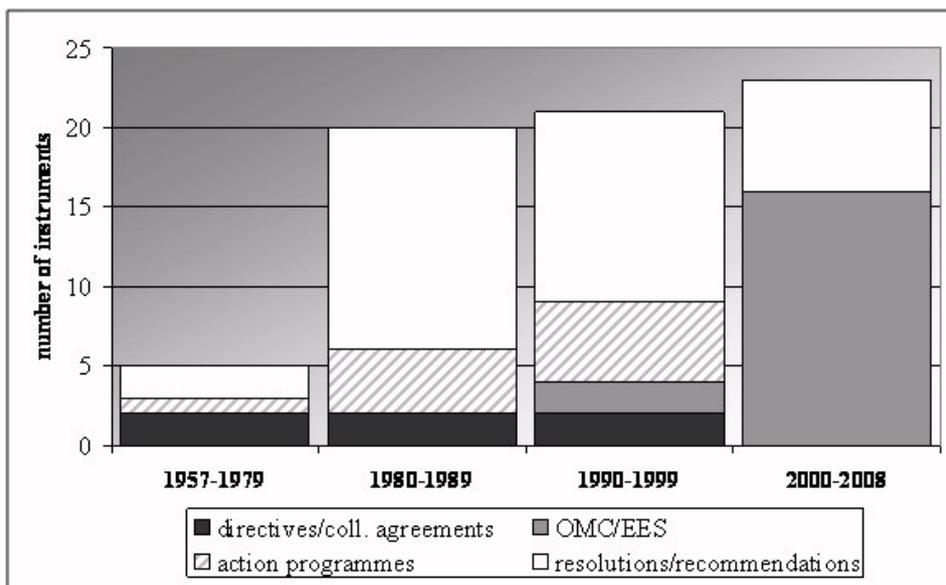
Supportive	<b>Procedural obligation</b>	Moving spirit	<b>Indirectly</b>	<b>Persuasive pressure</b>	<b>4</b>
Coordinative	Coordination	<b>Specific function</b>	Ratification	Institutional surveillance	3
<b>Shared</b>	Min. harm.	Executive rule-maker	Conditionally effect. & appl.	ECJ: prelim. ruling	<b>2</b>
Exclusive	Total harm.	Law-maker	<b>Directly effect. &amp; appl.</b>	<b>ECJ: direct action</b>	1
<b>Conferred competence</b>	<b>Integration technique</b>	<b>Decision-making capacity</b>	<b>Effect on national legal order</b>	<b>Ensure compliance</b>	Level

Action programme assessed on its second part: rules for funding of the activities
Action programme assessed on its first part: suggestions for activities

**Figure 4: Legal dimension of the acquis of equal opportunities and employment policy**



**Figure 5: Acquis ALMPs arranged in four time-periods**



**Figure 6: Legal dimension of the acquis of ALMPs**

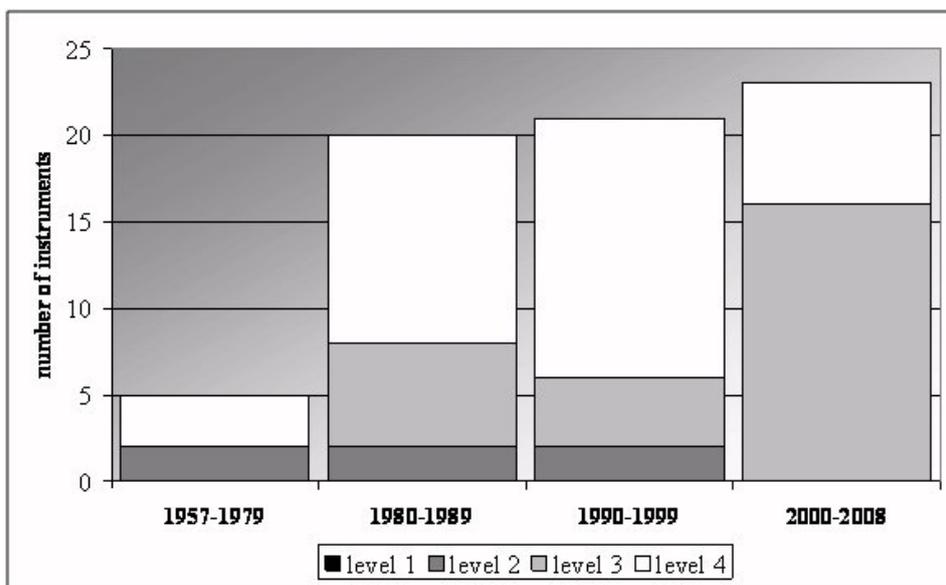
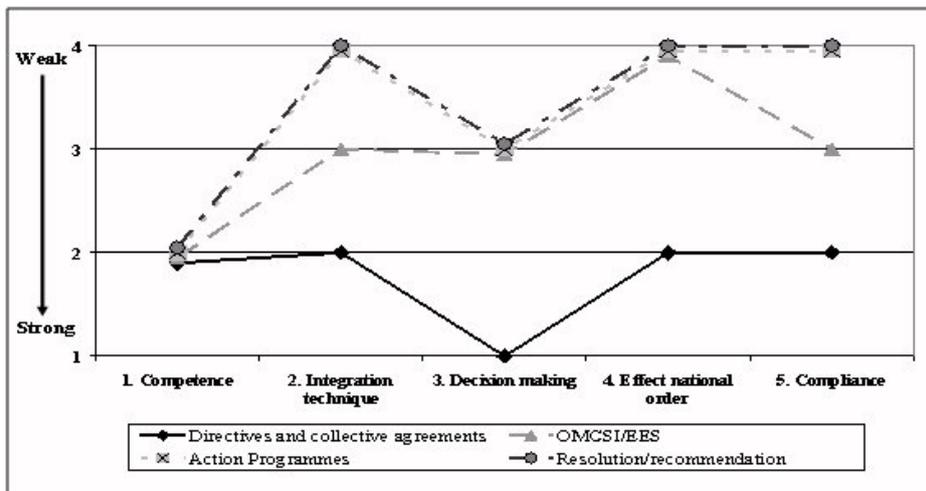


Figure 7: Assessment of several instruments in general



Appendix 1: Assessment table acquis equal opportunities and employment policies acquis

No. Instrument						
Assessed for: indicated level	1. Conferred competence	2. Integration technique	3. Decision-making capacity	4. Effect on legal order	5. Ensure compliance	
1.	63/266/EEC: Council decision of 2 April 1963 laying down general principles for implementing a common vocational training policy OJ 036/1338					
	level 4	Coordinative	Coordination (=Guidelines/principles)	Specific function	Indirectly	Persuasive pressure
2.	Council Resolution of 21 January 1974 concerning a social action programme OJ C13/1					
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure
3.	Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relation to the application of the principle of equal pay for men and women OJ L45/19					
	level 2	Shared	Harmonisation	Law-maker	Conditionally	Preliminary ruling
4.	Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions OJ L39/40					
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling
5.	Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security OJ L6/24					
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling
6.	Council Resolution of 18 December 1979 on linked work and training for young persons OJ (1980) C1/1					
	level 4	Supportive	Procedural obligations	Specific function	Indirectly	Persuasive pressure
7.	Council Resolution of 18 December 1979 on the adaptation of working time OJ (1980) C2/1					
	level 4	Coordinative	Coordination (= common objectives)	Specific function	Indirectly	Persuasive pressure
8.	Commission Communication A new Community action programme on the promotion of equal opportunities for women 1982 1985 (first mid term AP) COM (81) 758 Bulletin Suppl 1/82					
	level 4	Shared	Procedural obligation	Executive rule-maker	Indirectly	Persuasive pressure
9.	Council Resolution of 12 July 1982 on the promotion of equal opportunities for women OJ C186/3					
	level 4	Shared	Procedural obligation	Specific function	Indirectly	Persuasive pressure

10.	Council resolution of 23 January 1984 on the promotion of employment for young people OJ C29/1					
	level 4	Coordinative	Coordination (=Guidelines)	Specific function	Indirectly	Persuasive pressure
11.	84/635/EEC: Council recommendation of 13 December 1984 on the promotion of positive action for women OJ L331/34					
	level 4	Shared	Procedural obligation	Moving spirit	Indirectly	Persuasive pressure
12.	Council Resolution of 7 June 1984 on action to combat unemployment amongst women OJ C161/4					
	level 4	Shared	Coordination (=Guidelines)	Specific function	Indirectly	Persuasive pressure
13.	Resolution of the Council and of the Ministers for Education, meeting within the Council, of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education OJ C166/1					
	level 4	Shared	Coordination	Moving Spirit	Indirectly	Persuasive pressure
14.	Commission Communication Equal opportunities for women 1986-1990 (second mid term AP) COM (85) 801 EC Bulletin Suppl 3/86					
	level 4	Shared	Procedural obligation	Executive rule-making	Indirectly	Persuasive pressure
15.	Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes OJ L225/40					
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling
16.	86/379/EEC: Council recommendation of 24 July 1986 on the employment of disabled people in the Community OJ L225/43					
	level 3	Shared	Coordination (=Guidelines)	Executive rule-maker	Indirectly	Persuasive pressure
17.	Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood OJ L359/56					
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling
18.	Second Council Resolution of 24 July 1986 on the promotion of equal opportunities for women OJ C203/2					
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure
19.	87/567/EEC: Commission Recommendation of 24 November 1987 on vocational training for women OJ L342/35					
	level 24	Supportive	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure
20.	87/569/EEC: Council decision of 1 December 1987 concerning an action programme for the vocational training of young people and their preparation for adult and working life OJ L346/31					
	level 4	Coordinative	Coordination (= common objectives)	Specific function	Indirectly	Persuasive pressure
21.	Council Resolution of 16 December 1988 on the reintegration and late integration of women into working life OJ C333/1					
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure
22.	Council Resolution of 5 June 1989 on continuing vocational training OJ C148/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
23.	Community Charter of Fundamental Social Rights - draft - COM (89) 471 final					
	level 4	Shared	Min. stand. harmonisation	Moving spirit	Indirectly	Persuasive pressure
24.	Council Resolution of 29 May 1990 on the protection of the dignity of women and men at work OJ C157/3					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
25.	Commission Communication Equal Opportunities for Women and Men. The third medium-term community action programme (1991-1995) COM (90) 449 final					
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure (towards Institutional surveillance)

26.	Council resolution of 21 May 1991 on the third medium- term Community action programme on equal opportunities for women and men (1991 to 1995) OJ [1991] C142/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
27.	92/241/EEC: Council Recommendation of 31 March 1992 on child care OJ L123/16					
	level 4	Shared	Coordination (= common objectives)	Specific function	Indirectly	Persuasive pressure
28.	Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) OJ L348/1					
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling
29.	93/404/EEC: Council Recommendation of 30 June 1993 on access to continuing vocational training OJ L181/37					
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure
30.	94/819: Council decision of 6 December 1994 establishing an action programme for the implementation of a European Community vocational training policy (Leonardo da Vinci Programme) OJ L340/8					
	level 3	Coordinative	Coordination (= common obj.)	Executive rule-maker	Indirectly	Institutional surveillance
31.	Council regulation of 22 June 1994 on the promotion of equal opportunities for men and women through action by the European Structural Funds OJ C231/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
32.	Resolution of the Council and of the representatives of the Governments of the Member States meeting within the Council of 6 December 1994 on equal participation by women in an employment-intensive economic growth strategy within the European Union OJ C368/3					
	level 4	Shared	Coordination (= common objectives)	Moving spirit	Indirectly	Persuasive pressure
33.	95/593/EC: Council Decision of 22 December 1995 on a medium-term Community action programme on equal opportunities for men and women (fourth: 1996 to 2000) OJ L335/37					
	level 4	Shared	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure (towards Institutional surveillance)
34.	Resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 29 June 1995 on the employment of older workers OJ C228/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure (if any)
35.	Resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 5 October 1995 on the fight against racism and xenophobia in the fields of employment and social affairs OJ C296/13					
	level 4	Shared	Procedural obligations (+ common objectives)	Moving spirit	Indirectly	Persuasive pressure (towards Institutional surveillance)
36.	Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC OJ L145/4					
	level 2	Shared	Min. stand. harmonisation	Specific function	Conditionally	Preliminary ruling
37.	Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council of 20 December 1996 on equality of opportunity for people with disabilities OJ (1997) C012/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
38.	Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC OJ L14/9					
	level 2	Shared	Min. stand. harmonisation	Specific function	Conditionally	Preliminary ruling
39.	Council Resolution on the 1998 Employment Guidelines OJ [1998] C30/1					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
40.	Resolution of the Council and the Ministers of Youth meeting within the Council of 8 February 1999					

	on youth participation OJ C42/1					
	level 4	Supportive	Procedural obligations	Moving spirit	Indirectly	Institutional surveillance
41.	Resolution on a youth policy for Europe OJ C175/48					
	level 4	Supportive	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
42.	Council Resolution of 17 June 1999 on equal employment opportunities for people with disabilities OJ C186/3					
	level 4	Coordinative	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
43.	Council Resolution on the 1999 Employment Guidelines OJ [1999] C69/2					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
44.	2000/164/EC Council Recommendation on the implementation of Member States' employment policies OJ [2000] L52/32					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
45.	Decision No. 1031/2000/EC of the European Parliament and the Council of 13 April 2000 establishing the 'Youth' Community action programme OJ L117/1					
	level 4	Supportive	Procedural obligations	Specific function	Indirectly	Persuasive pressure
46.	Council directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation OJ L303/16					
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling
47.	Resolution of the Council and the Ministers for Employment and Social Policy meeting within the council of 29 June 2000 on the balanced participation of women and men in family and working life OJ C218/5					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
48.	Charter of Fundamental Rights of the European Union OJ C364/1					
	level 4	Shared	Min. stand. harmonisation	Moving spirit	Indirectly	Persuasive pressure
49.	Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council of 14 December 2000 on the social inclusion of young people OJ C374/4					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
50.	2001/51/EC: Council decision of 20 December 2000 establishing a Programme relating to the Community framework strategy on gender equality (2001-2005; fifth med term AP) OJ L17/22					
	level 4	Shared	Coordination	Executive rule-maker	Indirectly	Persuasive pressure
51.	2000/228/EC Council Decision on Guidelines for Member States' employment policies for the year 2000 OJ [2000] L72/15					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
52.	2000 first cycle OMC Poverty and combat Social Exclusion (2001-2003)					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
53.	2001/63/EC Council Decision on Guidelines for Member States' employment policies for the year 2001 OJ [2001] L22/18					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
54.	2001/64/EC Council Recommendation on the implementation of Member States' employment policies OJ [2001] L22/27					
	level 3	Shared	Coordination	Specific function	Indirectly	Institutional surveillance
55.	2001/309/EC: Council Decision of 3 December 2001 on the European Year of People with Disabilities 2003 OJ L335/15					
	level 4	Shared	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure
56.	Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council of 28 June 2001 on promoting young people's initiative, enterprise and creativity: from exclusion to empowerment OJ C196/2					

	level 4	Supportive	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
57.	Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council of 24 June 2002 regarding the framework of European cooperation in the youth field OJ C168/2					
	level 4	Supportive	Coordination	Moving spirit	Indirectly	Persuasive pressure
58.	2002/177/EC Council Decision on Guidelines for Member States' employment policies for the year 2002 OJ [2002] L60/60					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
59.	2002/178/EC Council Recommendation on the implementation of Member States' employment policies OJ L60/70					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
60.	2002 Second cycle OMC Poverty and combat Social Exclusion (2003-2005)					
	level 3	Shared	Coordination	Specific function	Indirectly	Institutional surveillance
61.	Decision No 50/2002/EC of the European Parliament and of the Council of 7 December 2001 establishing a programme of Community action to encourage cooperation between Member States to combat social exclusion OJ (2002) L10/1					
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure
62.	Council Resolution of 6 February 2003 on Social Inclusion - through social dialogue and partnership OJ C39/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
63.	Council resolution of 5 May 2003 on equal opportunities for pupils and students with disabilities in education and training OJ C134/6					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
64.	Council resolution of 15 July 2003 on promoting the employment and social integration of people with disabilities OJ C175/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
65.	Council resolution of 27 November 2003 on equal access to and participation of women and men in the knowledge society for growth and innovation OJ C317/3					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
66.	2003/578/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2003] L197/13					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
67.	2003/579/EC Council Recommendation on the implementation of Member States' employment policies OJ [2003] L197/22					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
68.	Decision No 848/2004/EC establishing a Community action programme to promote organisations active at European level in the field of equality between men and women OJ L157/18					
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure
69.	2004/740/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2004] L326/45					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
70.	2004/741/EC Council Recommendation on the implementation of Member States' employment policies OJ [2004] L326/47					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
71.	Decision No 1554/2005/EC of the European Parliament and of the Council of 7 September 2005 amending Council Decision 2001/51/EC establishing a programme relating to the Community framework strategy on gender equality and Decision No 848/2004/EC establishing a Community action programme to promote organisations active at European level in the field of equality between men and women OJ [2005] L255/9					

	level 4	Shared	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure
72.	2005/600/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2005] L205/21					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
73.	Decision No 771/2006/EC of the European Parliament and of the Council of 17 May 2006 establishing the European Year of Equal Opportunities for All (2007) - towards a just society OJ L146/1					
	level 3	Shared	Coordination	Executive rule-maker	Indirectly	Persuasive pressure
74.	Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) OJ L204/23					
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling
75.	2006/544/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2006] L215/26					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
76.	Decision No 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity - Progress OJ L315/1					
	level 4	Shared	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure
77.	Decision No 1719/2006/EC of the European Parliament and of the Council of 15 November 2006 establishing the 'Youth in Action' programme for the period 2007 to 2013 OJ L327/30					
	level 4	Supportive	Coordination	Specific function	Indirectly	Persuasive pressure
78.	2007/209/EC Council Recommendation on the 2007 up-date of the broad guidelines for the economic policies of the Member States and the Community and on the implementation of Member States' employment policies OJ [2007] L92/23					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
79.	2007/491/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2007] L183/25					
	level 3	Shared	Coordination	Specific function	Indirectly	Institutional surveillance
80.	Council resolution of 5 December 2007 on the follow-up of the European Year of Equal Opportunities for All (2007) OJ C308/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
81.	Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 25 May 2007 on creating equal opportunities for all young people - full participation in society OJ C314/1					
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure
82.	2008/399/EC Council Recommendation on the 2008 update of the broad guidelines for the economic policies of the Member States and the Community and on the implementation of Member States' employment policies OJ [2008] L139/57					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
83.	2008/618/EC Council Decision on guidelines for the employment policies of the Member States OJ [2008] L198/47					
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance
84.	2008 Fourth cycle OMC Social Protection and Social Inclusion (2008-2010)					
	level 3	Shared	Coordination	Specific function	Indirectly	Institutional surveillance

Appendix 2: Assessment table *acquis* active labour market policies

nr Instruments							ALMPs
Assessed for:	1. Conferred competence	2. Integration technique	3. Decision-making capacity	4. Effect on legal order	5. Ensure compliance		
indicated level							
1.	Council Decision 63/226/EEC laying down general principles for implementing a common vocational training policy OJ [1963] 63/1338						VT
level 4	Coordinative	Coordination	Specific function	Indirectly	Persuasive pressure		
2.	Council Resolution concerning a social action programme OJ [1974] C13/1						PES; VT; BS
level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure		
3.	76/207/EEC Directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions OJ [1976] L39/40						VT
level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling		
4.	Commission Recommendation on vocational preparation for young people who are unemployed or threatened by unemployment OJ [1977] L180/18						VT; BS
level 4	Supportive	Procedural obligations	Moving Spirit	Indirectly	Persuasive pressure		
5.	79/7/EEC Directive on the progressive implementation of the principle of equal treatment for men and women in matters of social security OJ [1979] L6/24						BS
level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling		
6.	Council Resolution on linked work and training for young persons OJ [1980] C1/1						VT
level 4	Supportive	Procedural obligations	Specific function	Indirectly	Persuasive pressure		
7.	Council Resolution on the adaptation of working time OJ [1980] C2/1						JC
level 4	Coordinative	Coordination	Specific function	Indirectly	Persuasive pressure		
8.	Council Resolution on guidelines for a Community labour market policy OJ [1980] C168/1						PES; VT
level 3	Coordinative	Coordination	Specific function	Indirectly	Persuasive pressure		
9.	Commission Communication A new Community action programme on the promotion of equal opportunities for women 1982-1985 COM (81)758						VT; BS
level 4	Shared	Procedural obligation	Executive rule-maker	Indirectly	Persuasive pressure		
10.	Council Resolution on Community action to combat unemployment OJ [1982] C186/1						VT; JC
level 3	Coordinative	Coordination (=Guidelines)	Specific function	Indirectly	Institutional surveillance (embrionic)		
11.	Council Resolution concerning vocational training policies in the European Community in the 1980s OJ [1983] C193/2						VT
level 4	Coordinative	Coordination	Specific function	Indirectly	Persuasive pressure		
12.	84/635/EEC Council recommendation on the promotion of positive action for women OJ [1984] L331/34						PES; VT
level 4	Shared	Procedural obligation	Moving spirit	Indirectly	Persuasive pressure		
13.	Council Resolution on the promotion of employment for young people OJ [1984] C29/1						VT; PES; JC; WS; BS
level 4	Coordinative	Coordination	Specific function	Indirectly	Persuasive pressure		
14.	Council Resolution on the contribution of local employment initiatives to combat unemployment OJ [1984] C161/1						VT; JC; ES
		Coordination (=	Specific		Institutional		

	level 3	Coordinative	guidelines)	function	Indirectly	surveillance (embrionic)	
15.	Council Resolution on action to combat unemployment amongst women OJ [1984] C161/4						PES; VT; JC
	level 4	Shared	Coordination	Specific function	Indirectly	Persuasive pressure	
16.	Council Resolution on action to combat long-term unemployment OJ [1985] C2/3						PES; VT; JC; BS
	level 3	Coordinative	Coordination (=Guidelines)	Specific function	Indirectly	Institutional surveillance (embrionic)	
17.	86/378/EEC Directive on the implementation of the principle of equal treatment for men and women in occupational social security schemes OJ [1986] L225/40						BS
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling	
18.	Council Recommendation on the employment of disabled people in the Community OJ [1986] L225/43						PES; VT; JC; ES
	level 3	Shared	Coordination (=Guidelines)	Executive rule-maker	Indirectly	Persuasive pressure	
19.	86/613/EEC Directive on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood OJ [1986] L359/56						BS
	level 2	Shared	Min. stand. harmonisation	Law-maker	Conditionally	Preliminary ruling	
20.	Council Resolution (2nd) on the promotion of equal opportunities for women OJ [1986] C203/2						JC
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure	
21.	Council Resolution on an action programme on employment growth OJ [1986] C340/2						PES; VT; JC
	level 3	Coordinative	Coordination (=Guidelines)	Specific function	Indirectly	Institutional surveillance (embrionic)	
22.	Commission Recommendation on vocational training for women OJ [1987] L342/35						VT; BS
	level 4	Supportive	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure	
23.	Council Decision 97/569/EEC concerning an action programme for the vocational training of young people and their preparation for adult and working life OJ [1987] L346/31						VT
	level 4	Coordinative	Coordination (= common obj.)	Specific function	Indirectly	Persuasive pressure	
24.	Council Resolution the reintegration and late integration of women into working life OJ [1988] C333/1						VT
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure	
25.	Council Resolution on continuing vocation training OJ [1989] C148/1						VT
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure	
26.	Council Decision 90/267/EEC establishing an action programme for the development of continuing vocational training in the European Community (force) OJ [1990] L156/1						VT
	level 4	Shared	Coordination (=Guidelines)	Specific function	Indirectly	Persuasive pressure	
27.	Council Resolution on action to assist the long-term unemployed OJ [1990] C157/4						PES; VT
	level 4	Coordinative	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure	
28.	Commission Communication third medium-term action programme on equal opportunities for women and men COM (90) 449 final.						VT; JC
	level 4	Shared	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure (towards inst. surv)	
29.	Council Resolution on the third medium-term Community action programme on equal opportunities for women and men (1991 to 1995) OJ [1990] C142/1						VT; JC
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure	
30.	Council Recommendation 92/441/EEC on common criteria concerning sufficient resources and social assistance in social protection systems OJ [1992] L245/46						BS

	level 3	Coordinative	Coordination (=Guidelines)	Specific function	Indirectly	Institutional surveillance (embrionic)	
31.	Council Resolution on the need to tackle the serious and deteriorating situation concerning unemployment in the Community OJ [1992] C49/3						PES; VT
	level 4	Coordinative	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure	
32.	Council Recommendation on access to continuing vocational training OJ [1993] L181/37						VT
	level 4	Shared	Procedural obligations	Specific function	Indirectly	Persuasive pressure	
33.	Council Decision 94/819/EC establishing an action programme for the implementation of a European Community vocational training policy OJ [1994] L340/8						VT
	level 3	Coordinative	Coordination (= common obj.)	Executive rule-maker	Indirectly	Institutional surveillance	
34.	Mixed Resolution on equal participation by women in an employment intensive economic growth strategy OJ [1994] C368/3						VT; JC
	level 4	Shared	Coordination (= common obj.)	Moving spirit	Indirectly	Persuasive pressure	
35.	Mixed Resolution on the employment of older workers OJ [1995] C228/1						VT; BS
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure (if any)	
36.	Mixed Resolution on the fight against racism and xenophobia in the fields of employment and social affairs OJ [1995] C296/13						VT
	level 4	Shared	Procedural obligations (+ com. obj.)	Moving spirit	Indirectly	Persuasive pressure (if any)	
37.	Council Decision on a medium-term Community action programme on equal opportunities for men and women (1996 to 2000) OJ [1995] L335/37						VT; JC
	level 4	Shared	Procedural obligations	Executive rule-maker	Indirectly	Persuasive pressure towards inst. surv.	
38.	96/34/EC Council directive on the framework agreement on Parental leave, concluded by UNICE, CEEP and ETUC. OJ [1996] L145/4						JC; BS
	level 2	Shared	Min. stand. harmonisation	Specific function	Conditionally	Preliminary ruling	
39.	Council Resolution on the role of social protection systems in the fight against unemployment OJ [1996] C386/3						ES; BS; EIT
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure (if any)	
40.	97/81/EC Council Directive concerning the Framework Agreement on part-time work concluded by UNICE CEEP and the ETUC OJ [1997] L14/9						JC
	level 2	Shared	Min. stand. harmonisation	Specific function	Conditionally	Preliminary ruling	
41.	Mixed Resolution on equality of opportunity for people with disabilities OJ [1997] C012/1						VT
	level 4	Shared	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure	
42.	European Council Resolution on the Growth and Employment Pact Amsterdam OJ [1997] C236/2						VT; JC; WS; BS; EIT
	level 4	Coordinative	Coordination (guidelines)	Moving spirit	Indirectly	Persuasive pressure	
43.	Council Resolution on the 1998 Employment Guidelines OJ [1998] C30/1						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
44.	Mixed Resolution on the employment and social dimension of the information society OJ [1999] C8/1						VT; JC; PES
	level 4	Coordinative	Procedural obligations	Moving spirit	Indirectly	Persuasive pressure	
45.	Council Resolution on the 1999 Employment Guidelines OJ [1999] C69/2						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	

46.	Council Resolution on equal employment opportunities for people with disabilities OJ [1999] C186/3	PES; VT; BS
	level 4    Coordinative    Procedural obligations    Moving spirit    Indirectly    Persuasive pressure	
47.	2000/164/EC Council Recommendation on the implementation of Member States' employment policies OJ [2000] L52/32	PES; VT; JC; WS; BS; EIT
	level 3    Coordinative    Coordination    Specific function    Indirectly    Institutional surveillance	
48.	2000/228/EC Council Decision on Guidelines for Member States' employment policies for the year 2000 OJ [2000] L72/15	PES; VT; JC; WS; BS; EIT
	level 3    Coordinative    Coordination    Specific function    Indirectly    Institutional surveillance	
49.	2001/63/EC Council Decision on Guidelines for Member States' employment policies for the year 2001 OJ [2001] L22/18	PES; VT; JC; WS; BS; EIT
	level 3    Coordinative    Coordination    Specific function    Indirectly    Institutional surveillance	
50.	2001/64/EC Council Recommendation on the implementation of Member States' employment policies OJ [2001] L22/27	PES; VT; JC; WS; BS; EIT
	level 3    Coordinative    Coordination    Specific function    Indirectly    Institutional surveillance	
51.	Council Resolution on the role of education and training in employment related policies OJ [2001] C204/1	VT
	level 4    Coordinative    Procedural obligations    Moving spirit    Indirectly    Persuasive pressure	
52.	2002/177/EC Council Decision on Guidelines for Member States' employment policies for the year 2002 OJ [2002] L60/60.	PES; VT; JC; WS; BS; EIT
	level 3    Coordinative    Coordination    Specific function    Indirectly    Institutional surveillance	
53.	2002/178/EC Council Recommendation on the implementation of Member States' employment policies OJ L60/70	PES; VT; JC; WS; BS; EIT
	level 3    Coordinative    Coordination    Specific function    Indirectly    Institutional surveillance	
54.	Council Resolution on the promotion of enhanced European cooperation in vocational education and training OJ [2002] C013/2	VT
	level 4    Supportive    Procedural obligations    Moving spirit    Indirectly    Persuasive pressure	
55.	Mixed resolution on the social inclusion of young people OJ [2002] C374/04	VT
	level 4    Shared    Procedural obligations    Moving spirit    Indirectly    Persuasive pressure	
56.	Council Resolution on equal opportunities for pupils and students with disabilities in education and training OJ [2003] C134/6	VT
	level 4    Shared    Procedural obligations    Moving spirit    Indirectly    Persuasive pressure	
57.	Council Resolution on transforming undeclared work into regular employment OJ [2003] C260/1	WS; BS; EIT
	level 4    Coordinative    Coordination (guidelines)    Specific function    Indirectly    Persuasive pressure	
58.	Council resolution on Social and Human Capital Building social and human capital in the knowledge society: learning, work, social cohesion and gender OJ [2003] C175/2	VT; JC
	level 4    Shared    Procedural obligations    Moving spirit    Indirectly    Persuasive pressure	
59.	Council Resolution on equal access to and participation of women and men in the knowledge society for growth and innovation OJ [2003] C317/6	JC; ES
	level 4    Shared    Procedural obligations    Moving spirit    Indirectly    Persuasive pressure	
60.	2003/578/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2003] L197/13	PES; VT; JC; WS;

							BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
61.	2003/579/EC Council Recommendation on the implementation of Member States' employment policies OJ [2003] L197/22						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
62.	2004/740/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2004] L326/45						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
63.	2004/741/EC Council Recommendation on the implementation of Member States' employment policies OJ [2004] L326/47						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
64.	2005/600/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2005] L205/21						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
65.	2006/544/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2006] L215/26						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
66.	2007/209/EC Council Recommendation on the 2007 up-date of the broad guidelines for the economic policies of the Member States and the Community and on the implementation of Member States' employment policies OJ [2007] L92/23						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
67.	2007/491/EC Council Decision on Guidelines for the employment policies of the Member States OJ [2007] L183/25						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
68.	2008/399/EC Council Recommendation on the 2008 update of the broad guidelines for the economic policies of the Member States and the Community and on the implementation of Member States' employment policies OJ [2008] L139/57						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	
69.	2008/618/EC Council Decision on guidelines for the employment policies of the Member States OJ [2008] L198/47						PES; VT; JC; WS; BS; EIT
	level 3	Coordinative	Coordination	Specific function	Indirectly	Institutional surveillance	

### Abbreviations used to indicate the ALMPs addressed by the instrument

PES = Public Employment Services	ES = Employment Subsidies
VT = Vocational Training	BS = Benefit Systems
JC = Job-creation	EIT = Earned Income Tax
WS = Wage Subsidies	